RESOLUTION AMENDING THE CITY'S ANTI-DRUG/ALCOHOL MISUSE PROGRAM TO ENSURE CONTINUED COMPLIANCE WITH THE REGULATIONS OF THE FEDERAL DEPARTMENT OF TRANSPORTATION

WHEREAS, the Omnibus Transportation Employee Testing Act of 1991 requires drug and alcohol testing of safety-sensitive transportation employees in transportation industries, and

WHEREAS, on January 10, 2012 by Resolution No. 2012-10, the Council of the City of Modesto approved amending the Anti-Drug/Alcohol Misuse Program, and

WHEREAS, the City of Anti-Drug/Alcohol Misuse Program and Procedure is governed by both the Federal Motor Carrier Safety Administration and the Federal Transit Administration, and

WHEREAS, there is a need to revise the City’s Anti-Drug/Alcohol Misuse Program to ensure compliance with the Federal regulations of the Department of Transportation,

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

SECTION I. POLICY AMENDMENT. The Anti-Drug/Alcohol Misuse Program attached hereto is hereby approved.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after September 2, 2014.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2014, 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 LINDGREN, City Attorney
City of Modesto
ANTI-DRUG PROGRAM/ALCOHOL MISUSE PROGRAM
As required by the Department of Transportation
Adopted and approved by Modesto City Council
on September 2, 2014

City of Modesto
1010 Tenth Street
PO Box 642
Modesto, CA 95353
Phone 209-577-5446 • Fax 209-576-7069
Please Note:

The following policy contains information in regards to the City’s federally mandated drug and alcohol misuse policy for commercial license holders and safety sensitive positions covered by these regulations.

Employees and supervisors should be aware that there are other rules and policies that pertain to the subject of drug and alcohol use and this policy should not be considered a sole source for direction in all circumstances.

Additional related information may be found in the following documents as well as other sources not listed:

- Employee Handbook
- Personnel Rules
- City Alcohol and Drug Abuse Policy
- Memorandums of Understanding

Please contact Human Resources for guidance and questions.

The Drug and Alcohol Program Manager/Designated Employer Representative for the City of Modesto is the Risk and Loss Control Coordinator, 209-577-5446.
# Table of Contents

1. Purpose of Policy ................................................................. 4
2. Statement of Philosophy .................................................... 4
3. Scope ................................................................................. 5
4. Prohibited Substances ....................................................... 6
5. Prohibited Conduct ............................................................ 6
6. Testing Procedure .............................................................. 6
7. Employee admission of alcohol and controlled substances use .......... 11
8. Prescription Drug Use ....................................................... 12
9. Over-The-Counter Medications ........................................ 12
10. Evaluation/Rehabilitation ................................................ 12
11. Employee and Supervisor Training .................................... 13
12. Medical Review Officer (MRO) ....................................... 13
13. Testing Laboratory .......................................................... 14
14. Reporting of Anti-Drug/Alcohol Testing Results ...................... 14
15. Confidentiality ............................................................... 14

Terms and Definitions ............................................................. 15

Classifications covered by the DOT Drug & Alcohol Testing Policy - FMCSA ..... 19
Classifications covered by the DOT Drug & Alcohol Testing Policy - FTA .......... 20
DOT Post-Accident Drug and Alcohol Testing Decision and Documentation Form ................................................................. 21

Reasonable Suspicion Test Memorandum .................................. 23
Alcohol Fact Sheet ................................................................ 25
Amphetamine Fact Sheet ....................................................... 27
Cocaine Fact Sheet .............................................................. 29
Cannabinoids (Marijuana) Fact Sheet ..................................... 31
Opiates (Narcotics) Fact Sheet .............................................. 33
Phencyclidine (PCP) Fact Sheet .............................................. 34
Council Adoption Resolution .................................................. 34
City of Modesto Employee Acknowledgement Form ......................... 36
1. Purpose of Policy

This policy complies with 49 CFR Part 655, as amended, 49 CFR Part 40, as amended, and 49 CFR Part 382, as amended. All drug and alcohol testing is conducted in accordance with these regulations.

Copies of Parts 382, 655 and 40 are available in the Anti-Drug Program/Alcohol Misuse Program Manager’s office and can be found on the internet at the Office of Drug & Alcohol Policy & Compliance’s website http://www.dot.gov/ost/dapc/index.html.

The City of Modesto has written and implemented its Anti-Drug/Alcohol Misuse Program to ensure compliance with Federal Regulations of the Department of Transportation. This program is implemented in addition to the City’s Drug-Free Workplace Program. This policy and these procedures are adjunct to the City of Modesto’s Alcohol and Drug Abuse Policy, dated October 7, 2009. In the event that Federal Regulations conflict with the City’s Drug-Free Workplace Program, the Federal Regulations shall prevail. In the event that Federal Regulations fail to provide language for a particular situation, the employee shall be subject to this policy, the City’s 2009 Drug-Free Workplace Program or other applicable City Policies.

It is the goal of the City of Modesto to attract and maintain a work force that is free of alcohol or drugs that impair judgment, impact job performance or result in accident or injury to employees or the general public. For the purpose of this program an employee who tests positive on a drug test, as defined by DOT, shall be considered impaired.

2. Statement of Philosophy

A. City Philosophy

As stated in the City of Modesto’s Alcohol and Drug Abuse Policy, employees shall not utilize or be impaired by alcohol or drugs while in City vehicles, at work locations, or while on duty or paid standby; shall not possess alcohol or drugs while on duty, or in City vehicles; shall not sell or provide or participate in or arrange for the selling or provision of prescription or illegal drugs to any other employee or to any person while such employee is on duty or paid standby; nor have their ability to work impaired as a result of the use of alcohol or drugs. Employees must be able to perform their duties safely and efficiently, in the interest of the public and their fellow workers, as well as themselves. The influence of drugs and alcohol on employees is not consistent with this objective.

The City will act to eliminate any substance abuse. Examples include alcohol, illegal drugs, prescription drugs, or any other substance which could impair an employee’s ability to perform safely and effectively the functions of the particular job that increases the potential for accidents, absenteeism, substandard performance, poor employee morale, or damage to the City’s reputation.
3. Scope

A. Covered Employees

This policy applies to every employee whose position requires the possession of a commercial driver’s license (CDL); every employee performing a “safety-sensitive function” as defined herein, and any employee applying for such positions. Compliance with all required testing is a condition of employment.

Under Federal Motor Carrier Safety Administration (FMCSA), an employee is performing a safety-sensitive function if they are:

- Driving a commercial motor vehicle which requires the driver to have a commercial driver’s license (CDL),
- Inspecting, servicing, or repairing any commercial motor vehicle,
- Waiting to be dispatched to operate a commercial motor vehicle,
- Performing all other functions in or upon a commercial motor vehicle,
- Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipment being loaded or unloaded,
- Performing driver requirements associated with an accident, or
- Repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle.

Under Federal Transportation Authority (FTA), you are a safety-sensitive employee if you perform any of the following:

- Operation of a revenue service vehicle, whether in or out of revenue service,
- Operation of a non-revenue vehicle requiring a CDL,
- Controlling movement or dispatch of a revenue service vehicle,
- Security personnel who carry firearms,
- Maintenance (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment being used on revenue service, or
- Contract employees that stand in the shoes of Transit System employees who have to comply.

Covered employee means a person, including an applicant or transferee, who performs or will perform a safety-sensitive function. A volunteer is a covered employee if: (1) The volunteer is required to hold a commercial driver’s license to operate the vehicle; or (2) The volunteer performs a safety-sensitive function for an entity subject to CFR 49 Part 655, 40 or 382 and receives remuneration in excess of his or her expenses incurred while engaged in the volunteer activity.

See Attachment A and B for a list of covered positions by job title.

B. Contact

For questions regarding the City’s anti-drug use and alcohol misuse program, please contact the Risk & Loss Control Coordinator at 209-577-5446.
4. **Prohibited Substances**

- Marijuana
- Cocaine
- Amphetamines
- Opiates
- Phencyclidine (PCP)

Use of these five substances is prohibited at all times and a covered employee may be tested for these drugs any time while on duty.

5. **Prohibited Behavior- Alcohol**

Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report to duty. If the covered employee claims ability to perform his or her safety-sensitive function despite prior consumption of alcohol, they must take an alcohol test, with a negative result, before being allowed to work.

No department shall permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.

Each covered employee is prohibited from reporting to work or remaining on duty requiring performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.

No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

6. **Testing Procedure**

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability using techniques, equipment and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (HHS). All testing will be conducted consistent with the procedures as required in 49 CFR Part 40 (as amended). The following types of tests and testing protocols apply:

A. **Pre-Employment Testing**

Pre-employment tests are conducted after making a conditional offer of employment or transfer that is subject to the employee passing the pre-employment test.

**FTA Procedures:** A negative pre-employment drug test result is required before an employee can first perform safety-sensitive duties.

A pre-employment test, with a verified negative result, is required for covered employees who are away from work for more than 90 consecutive calendar days, are removed from the random testing pool, during that time, and plan to return to a safety-sensitive function.
When a covered employee or applicant has previously failed or refused a DOT pre-employment drug and/or alcohol test, the employee must provide proof of having successfully completed a referral, evaluation and treatment plan meeting DOT requirements.

**FMCSA Procedures:** A negative pre-employment drug test result is required before an employee can first perform safety-sensitive duties. An employer is required to administer a pre-employment controlled substances test if:

1. The driver has participated in a controlled substances testing program that meets the requirements of this part within the previous 30 days; and

2. While participating in that program, either:
   a) Was tested for controlled substances within the past six months (from the date of application with the City of Modesto), or
   b) Participated in the random controlled substances testing program for the previous twelve months (from the date of application with the City of Modesto); and

3. The City of Modesto ensures that no prior employer of the driver (of whom the City of Modesto has knowledge) has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months.

4. A pre-employment test, with a verified negative result, is required for covered employees who are away from work for more than 30 consecutive calendar days, are removed from the random testing pool during that time, and plan to return to a safety-sensitive function.

**B. Reasonable Suspicion Testing**

As currently provided in the City of Modesto’s Alcohol and Drug Abuse Policy, the City shall conduct a drug and/or alcohol test when the City has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse.

The determination that reasonable suspicion exists shall be based on specific, contemporaneous, objective observations concerning the appearance, behavior, speech, or body odors of the covered employee. A supervisor or other City official, trained in detecting the signs and symptoms of drug use and alcohol misuse, must make the required observations and document them in writing on the form provided. (Attachment D)

The City allows you to ask to have a representative with you prior to being tested for non-DOT reasons. We will provide access to a telephone to contact a representative. Your representative must be present within one and one half hours of the time we directed you to take the test. If the representative cannot be present or is not present within that time, we may allow additional time at our discretion or we may choose to have you undergo the evaluation and/or testing without your representative being present.

The City of Modesto may direct a covered employee to undergo DOT reasonable suspicion testing for alcohol only while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions. However, all City employees (DOT and non-DOT) can be tested under the City’s Alcohol and Drug Abuse Policy for reasonable suspicion.
If an alcohol test is not administered within two (2) hours following the determination to conduct a reasonable suspicion test, the supervisor shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight (8) hours following the determination to test, the City shall cease attempts to administer an alcohol test and update the record with the reasons for not administering the test in a timely manner.

Where there is reasonable suspicion that the employee is impaired by alcohol or drugs, the manager or supervisor should arrange for the employee to be safely transported home after the employee has undergone testing. The employee shall be placed on paid administrative leave pending the outcome of the test.

C. Post-Accident Testing

**FMCSA and FTA Procedures:** Covered employees shall be subject to post-accident alcohol and controlled substances testing under the following circumstances:

**Fatal Accidents:** As soon as possible following an accident involving the loss of human life, DOT drug and alcohol tests are conducted on all surviving covered employees. In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, is tested.

**Non-Fatal Accidents:** Post-accident testing is required if one of the following conditions is met,

- An accident results in injuries requiring immediate medical treatment away from the scene, and the covered employee may have contributed to the accident,
  
or
- One or more vehicles receive disabling damage and have to be towed from the scene, and the covered employee may have contributed to the accident.

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, is tested.

Disabling damage means damage which prevented the departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs.

Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, tail lights, turn signals, horn, or windshield wipers that makes them inoperative.

If an alcohol test is not administered within two hours following the time of the accident, the supervisor shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight hours following the determination to test, the City shall cease attempts to administer an alcohol test and update the record with the reasons for not administering the test in a timely manner. The drug test should be taken as soon as possible. Attempts to conduct the drug test shall cease after 32 hours.
Any decision not to administer a drug and/or alcohol test under this section shall be based on the City's determination, using the best available information at the time of the determination that the employee's performance could not have contributed to the accident. Such a decision must be documented in detail, including the decision-making progress used to reach the decision not to test (Attachment C).

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

D. Random Testing

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing must be conducted at all times of the day when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimal annual percentage rate set each year by the DOT Administrator. The current year testing rates can be viewed on line at http://www.dot.gov/ost/dapc/rates.html. The FMCSA minimum testing requirement is to annually perform drug tests on 50% and alcohol tests on 10% of the average number of commercial driver positions. The FTA minimum testing requirement is to annually perform drug tests on 25% and alcohol tests on 10% of the average number of safety-sensitive employees. If a given agency or driver is subject to random alcohol or controlled substances testing under the random alcohol or controlled substances testing of more than one DOT agency for the same employer, the drivers shall be subject to random alcohol and/or controlled substances testing at the annual percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the driver's function.

The selection of employees for random drug and alcohol testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.

Each employee selected for testing shall be tested during the selection period. A covered employee shall only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

Each covered employee who is notified of selection for random drug or random alcohol testing shall proceed to the test site immediately.

E. Test Refusal

You have refused to take a test if you:

1. Fail to provide a breath or urine sample,
2. Provide an insufficient volume without valid medical explanation,
3. Fail to appear within a reasonable time,
4. Leave the scene of an accident without just cause,
5. Fail to permit an observed or monitored collection when required,
6. For an observed collection, fail to follow the observer’s instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process,

7. Possess or wear a prosthetic or other device that could be used to interfere with the collection process,

8. Admit to the collector or MRO that you adulterated or substituted the specimen. Fail to take a second test when required,

9. Fail to undergo a medical examination when required,

10. Fail to cooperate with any part of the testing process,

11. Fail to sign Step 2 of alcohol test form,

12. Once test is underway, fail to remain at site and provide a specimen, or

13. The MRO verifies that you provided an adulterated/substituted sample.

For pre-employment tests only, failure to appear, aborting the collection before the test commences, or failure to remain at site prior to commencement of test is NOT a test refusal.

F. Shy Bladder

If an employee is unable to provide at least 45 milliliters of urine, collection site personnel shall direct the individual to drink not more than 40 ounces of fluids and, after a period up to three (3) hours time, attempt to provide a complete sample. If employee is still not able to give an adequate sample the MRO shall refer the individual for a medical evaluation to determine if the individual’s inability to provide a sample is a genuine medical condition or constitutes a refusal to test. An employee’s refusal to be examined by a physician shall be regarded as a refusal to test.

G. Dilute Samples

In instances where the employee produces a dilute negative specimen, he or she must undergo a second test. Dilute negative results of 2-5 mg/dl require an immediate recollection under direct observation (see §40.155(c)). The result of the second test is the result of record.

H. Split Sample

Any covered employee who questions the results of a required drug test under this policy may request that the split sample be analyzed. The analysis must be conducted on the split sample that was provided by the employee at the time of the primary specimen. The employee’s request must be made to the Medical Review Officer within 72 hours of notice of the verified results from the original sample. Requests after 72 hours will only be accepted at the discretion of the MRO. The split specimen test will be sent to a different DHHS-certified laboratory to analysis for presence of the drug(s) for which a positive result was obtained in the test of the primary specimen. The split specimen analysis will be at the employee’s expense if it confirms the original result.

I. Consequences

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee is immediately removed from safety-sensitive duties, referred to a substance abuse professional (SAP), and put on administrative leave pending disciplinary action.
FTA Procedures: Following a BAC of 0.02 or greater, but less than 0.04, the employee is immediately removed from safety-sensitive duties for at least eight hours unless a retest results in the employee's alcohol concentration of less than 0.02.

FMCSA Procedures: Following a BAC of 0.02 or greater, but less than 0.04, the employee is immediately removed from safety-sensitive duties until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

J. Return to Duty Testing

Any employee who is allowed to return to duty after a refusal to submit to a test or failing an alcohol and/or drug test, must first be evaluated by a substance abuse professional (SAP), and provide a negative drug, alcohol (or both) return-to-duty test result.

K. Follow-Up Testing

Employees returning to duty following a leave for substance abuse rehabilitation will be required to undergo unannounced follow-up alcohol and/or drug testing as directed by the SAP. The number and frequency of such follow-up testing shall be directed by the SAP. The employee will be subject to follow-up testing for a period of 1 to 5 years as determined by the SAP. All testing will be conducted in accordance with 49 CFR Part 40, subpart O.

L. Compensation

Time spent in conjunction with pre-duty (first test to add into the Random pool), post-accident, random and reasonable suspicion testing shall be considered as paid time. The City shall also pay for the cost of these tests, pre-employment tests and the initial evaluation by the SAP. Cost of SAP-required treatment and testing, time spent while testing for return to duty, and time spent on follow-up testing shall be borne by the employee.

7. Employee admission of alcohol and controlled substances use

All employees are encouraged to make use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under the City of Modesto's policy, any employee who voluntarily discloses a substance abuse problem before a disciplinary matter develops and/or before notification for a required test, will be subject to return-to-duty and follow-up testing under the City of Modesto's authority (using non-DOT testing paperwork). The purpose of the return to duty testing is to provide a degree of assurance that the employee is drug and alcohol free and that the employee is able to return to work without undue concern of continued drug abuse or alcohol misuse.

The employee must be referred to EAP and evaluated by a substance abuse counselor and pass a non-DOT return-to-duty test. The non-DOT return-to-duty test must include both drug and alcohol testing as well as meet other return-to-duty requirements. The employee must have a verified negative drug test result and a breath alcohol test result of less than 0.02 before returning to his/her safety-sensitive functions. Once returned and as a condition of ongoing employment, the employee must follow the recommended frequency and duration of follow-up testing from the EAP/substance abuse counselor. Any employee who refuses or fails to comply with requirements for treatment, after care, or return-to-duty shall be subject to disciplinary action, up to and including termination. The cost of any treatment or rehabilitation services will be paid for directly by the employee or their insurance provider.
Employees will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program.

Any follow-up testing will be apart from and in addition to participation in the random testing program.

8. Prescription Drug Use

The appropriate use of legally prescribed drugs and non-prescription medication is not prohibited. It is however, the employee's responsibility to explain to their physician their job duties and ask their physician, or other health care professional, whether or not the prescribed drug may impair their job performance or mental or motor function. It is the responsibility of the employee to remove themselves from service if they are unfit for duty due to prescription drug use.

The City requires employees to report the use of medically authorized drugs or other substances that may create a direct threat by impairing performance of safety-sensitive functions to his/her supervisor, and to provide written medical authorization to work from a physician.

Failure to report the use of such drugs or failure to provide proper evidence of medical authorization to work may result in disciplinary action, up to and including termination.

9. Over-The-Counter Medications

The City requires it's employees, when selecting an over-the-counter medication, to read all warning labels before selecting medications for use while performing safety-sensitive function. Medications known to affect mental function, motor skills or judgment should not be selected. The advice of a pharmacist, if available at the purchase site may be helpful in making a selection that is appropriate for the safety-sensitive functions. If no alternate medication is available for the condition, the employee should seek professional assistance from a pharmacist or physician. Ultimately, the employee may be the best judge of how a substance is impacting him/her. It is the responsibility of the employee to refrain from using any over-the-counter medication that may cause altering side effects inconsistent with doing their job.

10. Evaluation/Rehabilitation

The Substance Abuse Professional (SAP) must be a licensed physician (medical doctor or doctor of osteopathy), licensed or certified psychologist, social worker, employee assistance professional; or an addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse.

The SAP will perform responsibilities and retain confidential records as required by 49 CFR Part 40 (as amended).

An employee who fails a drug test, alcohol test (0.02 or greater), or refuses to be tested will be referred to a substance abuse professional who shall determine what assistance the employee needs in resolving problems associated with alcohol misuse or drug use. Applicants not hired and employees who are to be disciplined as a result of a violation of this policy shall also be referred to the SAP. Each employee identified as needing assistance in resolving problems associated with alcohol misuse or drug use shall be evaluated by a substance abuse
professional to determine if the employee has properly followed a rehabilitation program and shall be subject to unannounced follow-up alcohol and controlled substance testing.

Participation in rehabilitation through the SAP will not result in disciplinary action. However, successful completion of the prescribed program, if it is determined that participation in such a program is needed, will be required for the employee to continue in the employment of the City of Modesto. The employee shall be placed on sick leave, vacation leave, or leave without pay if sick or vacation leave is not available, in order to enter into an approved rehabilitation program.

Participation in rehabilitation through the SAP will not prevent or prohibit disciplinary action where warranted for violations of rules and regulations.

Return to duty will be conditioned upon agreement to substance/alcohol retesting as determined by the SAP for a time period not to exceed 60 months. City policy states that positive results on a follow-up test or other evidence of relapse will be grounds for disciplinary action, up to and including termination.

The SAP’s determination that an employee is medically qualified to be returned to duty will not prevent or prohibit disciplinary action for violation of rules and regulations.

Employees who have been determined to need treatment to resolve an alcohol misuse or drug use problem shall be referred to the City’s Employee Assistance Program.

11. Employee and Supervisor Training

Every safety-sensitive employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Part 40 and Part 655 (as amended) on the City’s Intranet, by contacted the Program Manager, or by contacting the Risk & Loss Control Coordinator.

All covered employees will undergo a minimum of 60 minutes of initial training on the signs and symptoms of drug use including the side effects and consequences of drug use on personal health, safety, and the work environment. Follow-up training will be done as regulations and requirements change. The initial training also includes manifestations and behavioral cues that may indicate prohibited drug use. Upon completion of the training, employees will sign and date the Employee Acknowledgement Form to confirm receiving the document and the training. Training forms will be forwarded to Human Resources for retention.

All supervisory and management personnel who are in a position to determine employee fitness for duty will receive a minimum of 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. Follow-up training will be done as regulations and requirements change.

Information on the signs, symptoms, health effects, and consequences of substance abuse is found in Attachment G of this policy.

12. Medical Review Officer (MRO)

The MRO must be a licensed physician or doctor of osteopathy who is responsible for receiving laboratory results generated by the drug testing program and who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual’s
confirmed positive test result together with his/her medical history and any other relevant biomedical information.

The MRO will perform responsibilities, perform notifications, and retain confidential records as required by 49 CFR Part 40 as amended.

13. Testing Laboratory

The City shall use a drug testing laboratory certified under HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; 53 FR 11970, April 11, 1988 and subsequent amendments.

The testing laboratory will comply with all methods and procedures of 49 CFR Parts 40, 382, and 655 (as amended). The laboratory shall have a qualified individual to assume professional, organizational, educational, and administrative responsibilities for the laboratory’s urine drug testing facility.

14. Reporting of Anti-Drug/Alcohol Testing Results

The City shall prepare and maintain an annual calendar year summary of the results of its alcohol and controlled substances testing programs. By March 15 of each year, the City shall complete the annual summary covering the previous calendar year.

If the City is notified, during the month of January, of a request by the FMCSA and/or FTA to report the employer’s annual calendar year summary information, the City shall prepare and submit the report to FMCSA and/or FTA by March 15 of that year. The report shall be in the form and manner prescribed by FMCSA and/or FTA in their requests. When the report is submitted to FMCSA and/or FTA by mail or electronic transmission, the information requested shall be typed, except for the signature of the certifying official.

Each annual calendar year, a summary containing information on controlled substances and alcohol screening test results shall include all informational elements as required by the FTA.

15. Confidentiality

Each individual’s record of testing and results under this policy will be maintained as private and confidential. Except as provided by law or expressly authorized by DOT regulations, the results of individual drug/alcohol tests will not be released to anyone without the specific, written consent of a safety-sensitive employee authorizing release of the information to an identified person. Prior to testing, the individual will be informed about who will receive test data (e.g., testing laboratory, MRO, Program Manager, or Department Administrator if removal from safety-sensitive function is necessary).

All written records will be stored in locked containers or in a secure location with access available only by the Program Manager and DOT upon request. Drug and alcohol testing and/or rehabilitation records shall only be released to subsequent DOT covered employers upon written consent from the covered employee. Under these circumstances, only the specific information requested by the employee shall be released.
Terms and Definitions

Accident – The types of accidents requiring testing can be found under Post-Accident Testing.

Air Blank – A reading by an Evidential Breath Testing Device (EBT) of ambient air containing no alcohol.

Alcohol – The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.

Alcohol Concentration – The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath testing device.

Alcohol Use – The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Blind Sample or Blind Performance Test – A urine specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from employee specimens. This specimen is spiked with known quantities of specific drugs or can be blank, containing no drugs.

Breath Alcohol Technician – An individual who instructs and assists individuals in the alcohol testing process and operates an EBT.

Canceled or Invalid Test – In drug testing, a drug test that has been declared invalid by a Medical Review Officer. A canceled test is neither a positive nor a negative test. A sample that has been rejected for testing by a laboratory is treated the same as a canceled test. In alcohol testing, a test that is deemed to be invalid under §40 Subpart N – Problems in Alcohol Testing is considered canceled or invalid.

Certification – A recipient's (of federal funds) written statement, authorized by the organization's governing board or other authorizing official, that the recipient has complied with the provisions of this part (FTA).

Chain of Custody – Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an appropriate drug testing custody form from a Department of Health & Human Services (DHHS) certified laboratory be used from time of collection to receipt by the laboratory.

Collection Site – A place designated by the employer where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.

Collection Site Person – A person who instructs and assists individuals at a collection site and who receives and makes a screening examination of the urine specimen provided by those individuals.

Commercial Motor Vehicle (CMV) – means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor 1) Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight of more than 10,000 pounds; or 2) Has a gross vehicle weight rating of 26,001 pounds; or 3) Is designed to transport 16 or more passengers, including the driver; or 4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous
Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulation (49 CFR Part 172, subpart F).

**Confirmation Test** – For alcohol testing this means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration. For controlled substances testing this means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy.

**Covered Position (Safety-Sensitive position)** – A duty position or job category that requires the performance of safety-sensitive (covered) function(s).

**Covered Function (Safety-Sensitive Function)** (1) FMCSA: operation of a commercial motor vehicle. (2) FTA: (a) Operating a revenue service vehicle, including when not in service; (b) Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver’s License; (c) Maintaining a revenue service vehicle or equipment used in revenue service; (d) Carrying a firearm for security purposes; (e) Controlling the movement or dispatch of a revenue service vehicle.

**Dilute Specimen** – A specimen with creatinine and specific gravity values that are lower than expected for human urine.

**DOT Agency** – An agency of the United States Department of Transportation administering regulations related to drug or alcohol testing. The Federal Motor Carrier Safety Administration and Federal Transit Administration are DOT agencies.

**Drug Metabolite** – The specific substance produced when the human body metabolizes a given drug as it passes through the body and is excreted in the urine.

**Drug Test** – The laboratory analysis of urine specimen collected in accordance with 49 CFR part 40 and analyzed in a DHHS-approved laboratory.

**Education** – Efforts that include the display and distribution of informational materials, a telephone number for employee assistance, and the City’s policy(ies) regarding drug use in the workplace.

**Employee Assistance Program (EAP)** – A program provided to assist employees in dealing with drug or alcohol dependency and other personal problems. Rehabilitation and reentry to the work force are usually arranged through the EAP.

**Employer or operator** – (1) FMCSA: means any person who owns or leases a commercial motor vehicle or assigns persons to operate such a vehicle. (2) FTA: A recipient or other entity that provides mass transportation service or which performs a safety-sensitive function for such recipient or other entity.

**Evidential breath testing device (EBT)** – A device approved by the National Highway Traffic Safety Administration (NHTSA) for evidential testing of breath and placed on NHTSA’s conforming products list of evidential breath measurement devices (CPL), and identified on the CPL as conforming with the model specifications available from the National Highway Traffic Safety Administration, Office of Alcohol and State Programs.

**Federal Motor Carrier Safety Administration (FMCSA)** – The DOT operating authority that regulates commercial motor vehicles.
Large Operator – 1) FMCSA: an employer who has more than 50 covered employees, 2) FTA: A recipient or sub-recipient primarily operating in an area of 200,000 or more in population.

Medical Review Officer (MRO) – A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer’s drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual’s confirmed positive test result together with his or her medical history and any other relevant biomedical information.

Performing a Covered Function: An employee is considered to be performing a covered function during any period in which he or she is actually performing, ready to perform, or immediately available to perform such covered functions.

Permanent Employee – An employee hired for a period of more than 120 days

Post-Accident Test – A drug test administered to an employee when an accident has occurred and the employee performed a safety-sensitive function that either contributed to the accident, or cannot be completely discounted as a contributing factor in the accident.

Pre-Employment Test – A drug test given to an applicant or employee who is being considered for a safety-sensitive position. The applicant or employee must be informed of the purpose for the urine collection prior to actual collection.

Prohibited Drug – Marijuana (including all hemp products), cocaine, opiates, phencyclidine (PCP), and amphetamines.

Random Test – A drug test of safety-sensitive employees who are selected on a scientifically defensible random and unannounced basis. The number of tests performed is based on a percentage of safety-sensitive employees as directed by DOT.

Reason to Believe – Objective information indicating that a particular individual may alter or substitute a urine specimen.

Recipient – FTA: An entity receiving Federal financial assistance under Section 3, 9, or 18, of the FT Act, or under Section 103(e)(4) of Title 23 of the United States Code.

Refuse to Submit to Test – means, among other things, that a covered employee (1) Fails to provide adequate breath for testing without a valid medical explanation after he/she has received notice of the requirement for breath testing; (2) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he/she has received notice of the requirement for urine testing; or (3) Engages in conduct that clearly obstructs the testing process.

Return to Duty Test – An initial drug or alcohol test prior to return to duty and additional unannounced drug tests (Follow-up Tests) given to employees performing in safety-sensitive functions who previously tested positive, or refused a drug/or alcohol test and are returning to safety-sensitive positions.

Revenue Service Vehicle – A vehicle used to transport passengers, including a bus, van, car, railcar, locomotive, trolley car, trolley bus, ferry boat, or a vehicle used on a fixed guideway or inclined plane.

Screening Test (Initial Test) - In alcohol testing, it means an analytical procedure to determine whether a covered employee may have a prohibited concentration of alcohol in his/her system.
In controlled substances testing, it means an immunoassay screen to eliminate “negative” urine specimens from further consideration.

*Specimen Bottle* – The bottle that, after being labeled and sealed, is used to transmit a urine sample to the laboratory.

*Split Specimen* – An additional specimen collected with the original specimen, to be tested in the event the original specimen tests positive for drugs.

*Substance Abuse Professional (SAP)* – The Substance Abuse Professional for this program must be a 1) licensed physician (medical doctor or doctor of osteopathy), licensed or certified psychologist, social worker, employee assistance professional; or 2) an addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse.

*Training* – Providing information about the effects and consequences of drug use on personal health, safety, and the work environment; and about manifestations and behavioral clues that may indicate drug use or abuse.

*Verified Positive (Drug Test Result)* – A drug test result reviewed by a Medical Review Officer and determined to have evidence of prohibited drug use.

*Volunteer* – A permanent, temporary, or part-time worker who is not compensated for his/her service. Volunteers are included in the requirements of FTA drug and alcohol regulations if a CDL is required to operate the vehicle.
ATTACHMENT A

Classifications covered by the DOT Drug & Alcohol Testing Policy - FMCSA

Incumbents in the following Classifications are “covered employees” if they perform “safety sensitive functions” as described in Section C of the DRUG AND ALCOHOL TESTING POLICY.

Airport Maintenance Crewleader
Airport Maintenance Worker
Electrician Assistant I/II/III
Electrician-Traffic & Buildings
Equipment Mechanic
Equipment Mechanic Crewleader
Equipment Service Technician
Equipment Operator
Heavy Equipment Mechanic
Heavy Equipment Mechanic Crewleader
Maintenance Worker I (only when hired with a Class B)
Maintenance Worker II
Operations Crewleader
Parks Equipment Mechanic
Parks Maintenance Mechanic
Parks Maintenance Crewleader
Senior Equipment Operator
Tree Trimmer
Tree Trimmer Crewleader
Wastewater Collection Systems Operator I/II
Wastewater Collections System Crewleader
Water Distribution Operator I/II/III
Water Division Crewleader
Water Meter Tech
Water Production Operator I/II
Water Quality Control Technician I/II
Water Services Equipment Operator I/II

Exempt Classifications

Building Maintenance Technician
Compost Heavy Equipment Mechanic
Cross Connection Specialist
Custodian I/II
Electrician-Utilities (5210)
Environmental Compliance Inspector I/II
Environmental Compliance Technician
Fire Engineers
Fleet Procurement Technician
Groundskeeper (3522)
Head Groundskeeper (3522)
Instrumentation Technician
Laboratory Analyst I/II/II
Parking Facilities Crewleader
Production Technician
Senior WWTP Operator
Traffic Operations Crewleader
Water Conservation Specialist
Welder/Fabricator
Wastewater Treatment Plant Operator I/II/II
ATTACHMENT B

Classifications covered by the DOT Drug & Alcohol Testing Policy - FTA

Incumbents in the following Classifications are “covered employees” if they perform “safety sensitive functions” as described in Section C of the DRUG AND ALCOHOL TESTING POLICY.

Bus Fueler
Equipment Mechanic
Equipment Mechanic Crewleader
Equipment Service Technician
Equipment Operator
Fire Equipment Mechanic
Heavy Equipment Mechanic
Heavy Equipment Mechanic Crewleader
Maintenance Worker I (when working at Bus Facility)
Senior Equipment Operator
Senior Fire Equipment Mechanic

Exempt Classifications
Police Transit Center Duty
Police Command Unit
ATTACHMENT C

DOT Post-Accident Drug and Alcohol Testing Decision and Documentation Form

Accident Information:

Date of Accident ________________ Time of Accident ________________ a.m./p.m.

Employee Name ________________ Location of Accident ________________

Covered under ____ FTA or _____ FSCMA?

Decision Questions:

Was there a fatality? Yes ____ No ____ (If yes, DOT drug and alcohol testing required)

If there was NO fatality, answer the following questions:

Did any individual involved in the accident suffer bodily injury and immediately receive medical treatment away from the scene of the accident?

Yes ____ (If yes, drug and alcohol testing required) No ____

Did the commercial vehicle or any other vehicle involved in the accident sustain disabling damage* requiring any of the vehicles to be transported away from the scene by a tow truck or other vehicle?

Yes ____ (If yes, drug and alcohol testing required) No ____

If there was No fatality AND you checked YES for either or both of the answers above, a DOT Post-Accident DRUG and ALCOHOL test is required unless you determine, using the best information available at the time of the decision, that the employee’s performance can be completely discounted as a contributing factor in the accident. Any reason for discounting the employee’s performance as a contributing factor to the accident MUST be documented on page two of this form.

Could the actions of any other safety-sensitive employee have contributed to the accident (e.g., mechanic)?

Yes ____ (If yes, contact the employee’s supervisor to report the testing requirement)

No ____

*DISABLING DAMAGE is damage that precludes the departure of any vehicle from the scene of an accident in its usual manner in daylight hours after simple repairs. Disabling damage includes: damage to vehicles that could have been operated, but would have caused further damage if so operated. Disabling damage does not include: damage that could be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without
other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperable.

If **ALCOHOL testing is not conducted within 2 hours after the accident**, document the reason for the delay on page two of this form. If no alcohol test is administered within 8 hours, cease all efforts to have the test administered and update the documentation.

If **DRUG testing is not conducted within the first 8 hours after the accident**, document the reason for the delay on page two of this form. If no drug test is administered within 32 hours, cease all efforts to have the test administered and update the documentation.

DOT Alcohol Testing Location: __________________________

DOT Alcohol Testing Time: __________________________

DOT Urine Drug Testing Location: __________________________

DOT Urine Drug Testing Time: __________________________

If testing is delayed, document the reasons below:

Reason the **ALCOHOL test was not conducted within 2 hours after the accident**. Update this statement if no test conducted within 8 hours.

________________________________________________________________________

________________________________________________________________________

Reason the **DRUG test was not conducted within 8 hours after the accident**. Update this statement if no test conducted within 32 hours.

________________________________________________________________________

________________________________________________________________________

Reason the employee’s **performance was completely DISCOUNTED** as a contributing factor to the accident and therefore, FTA post-accident testing was not conducted.

________________________________________________________________________

________________________________________________________________________

__________ (Supervisor Initial) I have evaluated the employee and determined that there is no reasonable suspicion to believe that the employee was under the influence of drugs and alcohol. If reasonable suspicion exists, document per Reasonable Suspicion Test Memorandum (Attachment D)

Supervisor Signature: __________________________
Reasonable Suspicion Test Memorandum

Date:__________

TO: ____________________________________________________________

FROM: __________________________________________________________

__________________________ (Department Director or designee or
designated city management staff) is directing you to submit to a drug or alcohol
screening test and/or a medical evaluation. You are being directed to submit to the
screening and/or evaluation because I suspect you have misused alcohol or drugs so
that your ability to perform the functions of your job efficiently and safely is impaired. I
observed or have information regarding the following:

- Odor of alcoholic beverage on breath
- Slurred and/or thick speech
- Staggered gait (Unsteady walking and movement)
- Vertical and/or horizontal nystagmus (involuntary eye movement)
- Abnormally constricted pupils (below 2.5 mm), which are non-responsive to light
- Abnormally dilated pupils (above 6.5 mm), which are non-responsive to light
- Loss of attention span under controlled conditions
- Inability to comprehend under controlled conditions
- Hallucinating
- An accident involving City property, where there is reason to believe that
  employee impairment may have been a factor
- Possession of alcohol on the job
- Possession of an illegal drug
- Possession of a prescription drug without a valid prescription
- Objective symptoms of drug usage identified by a trained medical practitioner or
  law enforcement officer
- Other ____________________________________________________________________

This/these were observed by________________________ at __________________

You will be transported to _________________________________.

- 23 -
There you may be evaluated by professional health care staff. At the site, you may also be required to provide a sample for drug and/or alcohol testing. If you refuse to submit to the testing, you may be disciplined, up to and including termination. If you leave the worksite or testing site without my permission or the permission of ____________ prior to testing or evaluation, you may be disciplined. Because I believe your ability to drive may be impaired, I may arrange for you to be transported home at an appropriate time.

You may ask to have a representative with you prior to being tested. We will provide access to a telephone to contact a representative. Your representative must be present within one and one half hours of the time we directed you to take the test. If the representative cannot be present or is not present within that time, we may allow additional time at our discretion or we may choose to have you undergo the evaluation and/or testing without your representative being present.
ATTACHMENT E

Alcohol Fact Sheet

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for the enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

Signs and Symptoms of Use

- Dulled mental processes
- Lack of coordination
- Odor of alcohol on breath
- Possible constricted pupils
- Sleepy or stupor like condition
- Slurred speech

(Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

Health Effects

The chronic consumption of alcohol (average of three servings per day of beer [12 ounces/serving], whiskey [1 ounce/serving], or wine [6 ounce/serving]) over time may result in the following health hazards:

- Decreased sexual functioning
- Dependency (up to 10 percent of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed "alcoholic")
- Fatal liver diseases
- Pancreatitis
- Spontaneous abortion and neonatal mortality
- Ulcers
- Birth defects (up to 54 percent of all birth defects are alcohol related).

Social Issues

- Two-thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
- Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.
- The rate of separation and divorce in families with alcohol dependency problems is 7 times the average.
- Forty percent of family court cases are alcohol problem related.
- Alcoholics are 15 times more likely to commit suicide than are other segments of the population.
- More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.
The Annual Toll

- 24,000 people will die on the highway due to the legally impaired driver.
- 16,000 more will die on the highway due to the alcohol-affected driver.
- 15,800 will die in non-highway accidents.
- 30,000 will die due to alcohol-caused liver disease.
- 15,000 will die due to alcohol-induced brain disease or suicide.
- Up to another 125,000 will die due to alcohol-related conditions or accidents.

Workplace Issues

- It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body.
- Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
- A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.
Amphetamine Fact Sheet

Amphetamines are central nervous system stimulants that speed up the mind and body. The physical sense of energy at lower doses and the mental exhilaration at higher doses are the reasons for their abuse. Although widely prescribed at one time for weight reduction and mood elevation, the legal use of amphetamines is now limited to a very narrow range of medical conditions. Most amphetamines that are abused are illegally manufactured in foreign countries and smuggled into the U.S. or clandestinely manufactured in crude laboratories.

Description

- Amphetamine is sold in counterfeit capsules or as white, flat, double-scored "mini-bennies." It is usually taken by mouth.
- Methamphetamine is often sold as a creamy white and granular powder or in lumps and is packaged in aluminum foil wraps or sealable plastic bags. Methamphetamine may be taken orally, injected, or snorted into the nose.
- Trade/street names include Biphetamine, Delcobese, Desotyn, Detedrine, Chetrol, Ritalin, Speed, Meth, Crank, Crystal, Monster, Black Beauties, and Rits.

Signs and Symptoms of Use

- Hyper-excitability, restlessness
- Dilated pupils
- Increased heart rate and blood pressure
- Heart palpitations and irregular beats
- Profuse sweating
- Rapid respiration
- Confusion
- Panic
- Talkativeness
- Inability to concentrate
- Heightened aggressive behavior

Health Effects

- Regular use produces strong psychological dependence and increasing tolerance to drug.
- High doses may cause toxic psychosis resembling schizophrenia.
- Intoxication may induce a heart attack or stroke due to spiking of blood pressure.
- Chronic use may cause heart and brain damage due to severe constriction of capillary blood vessels.
- The euphoric stimulation increases impulsive and risk-taking behaviors, including bizarre and violent acts.
- Withdrawal from the drug may result in severe physical and mental depression.

Workplace Issues

Since amphetamines alleviate the sensation of fatigue, they may be abused to increase alertness because of unusual overtime demands or failure to get rest.

Low-dose amphetamine use will cause a short-term improvement in mental and physical
functioning. With greater use or increasing fatigue, the effect reverses and has an impairing effect. Hangover effect is characterized by physical fatigue and depression, which may make operation of equipment or vehicles dangerous.
Cocaine Fact Sheet
Cocaine is used medically as a local anesthetic. It is abused as a powerful physical and mental stimulant. The entire central nervous system is energized. Muscles are more tense, the heart beats faster and stronger, and the body burns more energy. The brain experiences an exhilaration caused by a large release of neurohormones associated with mood elevation.

Description
The source of cocaine is the coca bush, grown almost exclusively in the mountainous regions of northern South America. Cocaine Hydrochloride “snorting coke” is a white to creamy granular or lumpy powder that is chopped into a fine powder before use. It is snorted into the nose, rubbed on the gums, or injected in veins. The effect is felt within minutes and lasts 40 to 50 minutes per “line” (about 60 to 90 milligrams). Common paraphernalia include a single-edged razor blade and a small mirror or piece of smooth metal, a half straw or metal tube, and a small screw cap vial or folded paper packet containing the cocaine. Cocaine Base is a small crystalline rock about the size of a small pebble. It boils at a low temperature, is not soluble in water, and is up to 90 percent pure. It is heated in a glass pipe and the vapor is inhaled. The effect is felt within seven seconds. Common paraphernalia includes a “crack pipe” (a small glass smoking device for vaporizing the crack crystal) and a lighter, alcohol lamp, or small butane torch for heating. Trade/street names include Coke, Rock, Crack, Free Base, Flake, Snow, Smoke, and Blow.

Signs and Symptoms of Use
- Financial problems
- Frequent and extended absences from meetings or work assignment
- Increased physical activity and fatigue
- Isolation and withdrawal from friends and normal activities
- Secretive behaviors, frequent non-business visitors, delivered packages, phone calls
- Unusual defensiveness, anxiety, agitation
- Wide mood swings
- Runny or irritated nose
- Difficulty in concentration
- Dilated pupils and visual impairment
- Restlessness
- Formication (sensation of bugs crawling on skin)
- High blood pressure, heart palpitations, and irregular rhythm
- Hallucinations
- Hyper-excitability and overreaction to stimulus
- Insomnia
- Paranoia and hallucinations
- Profuse sweating and dry mouth
- Talkativeness

Health Effects
Research suggests that regular cocaine use may upset the chemical balance of the brain. As a result, it may speed up the aging process by causing irreparable damage to critical nerve cells. The onset of nervous system illnesses such as Parkinson’s disease could also occur. Cocaine use causes the heart to beat faster and harder and rapidly increases blood pressure. In addition, cocaine causes spasms of blood vessels in the brain and heart. Both effects lead to ruptured vessels causing strokes or heart attacks. Strong psychological dependency can occur
with one "hit" of crack. Usually, mental dependency occurs within days (crack) or within several months (snorting coke). Cocaine causes the strongest mental dependency of any known drug. Treatment success rates are lower than for other chemical dependencies. Cocaine is extremely dangerous when taken with depressant drugs. Death due to overdose is rapid. The fatal effects of an overdose are not usually reversible by medical intervention. The number of cocaine overdose deaths has tripled in the last four years. Cocaine overdose was the most common drug emergency.

**Workplace Issues**

- Extreme mood and energy swings create instability. Sudden noises can cause a violent reaction.
- Lapses in attention and ignoring warning signals greatly increase the potential for accidents.
- The high cost of cocaine frequently leads to workplace theft and/or dealing.
- A developing paranoia and withdrawal create unpredictable and sometimes violent behavior.
- Work performance is characterized by forgetfulness, absenteeism, tardiness, and missed assignments.
Cannabinoids (Marijuana) Fact Sheet

Marijuana is one of the most misunderstood and underestimated drugs of abuse. People use marijuana for the mildly tranquilizing and mood- and perception-altering effects it produces.

**Description**

Usually sold in plastic sandwich bags, leaf marijuana will range in color from green to light tan. The leaves are usually dry and broken into small pieces. The seeds are oval with one slightly pointed end. Less prevalent, hashish is a compressed, sometimes tar like substance ranging in color from pale yellow to black. It is usually sold in small chunks wrapped in aluminum foil. It may also be sold in an oily liquid. Marijuana has a distinctly pungent aroma resembling a combination of sweet alfalfa and incense. Cigarette papers, roach clip holders, and small pipes made of bone, brass, or glass are commonly found. Smoking "bongs" (large bore pipes for inhaling large volumes of smoke) can easily be made from soft drink cans and toilet paper rolls. Trade/street names include Marinol, THC, Pot, Grass, Joint, Reefer, Acapulco Gold, Sinsemilla, Thai Sticks, Hash, and Hash Oil.

**Signs and Symptoms of Use**

- Reddened eyes (often masked by eye drops)
- Slowed speech
- Distinctive odor on clothing
- Lackadaisical "I don't care" attitude
- Chronic fatigue and lack of motivation
- Irritating cough, chronic sore throat

**Health Effects**

- When marijuana is smoked, it is irritating to the lungs. Chronic smoking causes emphysema-like conditions.
- One joint causes the heart to race and be overworked. People with undiagnosed heart conditions are at risk.
- Marijuana is commonly contaminated with the fungus Aspergillus, which can cause serious respiratory tract and sinus infections.
- Marijuana smoking lowers the body's immune system response, making users more susceptible to infection. The U.S. government is actively researching a possible connection between marijuana smoking and the activation of AIDS in positive human immunodeficiency virus (HIV) carriers.

**Pregnancy Problems and Birth Defects**

The active chemical, tetrahydrocannabinol (THC), and 60 other related chemicals in marijuana concentrate in the ovaries and testes. Chronic smoking of marijuana in males causes a decrease in sex hormone, testosterone, and an increase in estrogen, the female sex hormone. The result is a decrease in sperm count, which can lead to temporary sterility. Occasionally, the onset of female sex characteristics including breast development occurs in heavy users. Chronic smoking of marijuana in females causes a decrease in fertility and an increase in testosterone. Pregnant women who are chronic marijuana smokers have a higher than normal incidence of stillborn births, early termination of pregnancy, and higher infant mortality rate during the first few days of life. In test animals, THC causes birth defects, including malformations of the brain, spinal cord, forelimbs, and liver and water on the brain and spine.
Offspring of test animals who were exposed to marijuana have fewer chromosomes than normal, causing gross birth defects or death of the fetus. Pediatricians and surgeons are concluding that the use of marijuana by either or both parents, especially during pregnancy, leads to specific birth defects of the infant’s feet and hands. One of the most common effects of prenatal cannabinoid exposure is underweight newborn babies. Fetal exposure may decrease visual functioning and causes other ophthalmic problems.

**Mental Function**

Regular use can cause the following effects:

- Delayed decision-making
- Diminished concentration
- Impaired short-term memory, interfering with learning
- Impaired signal detection (ability to detect a brief flash of light), a risk for users who are operating machinery
- Impaired tracking (the ability to follow a moving object with the eyes) and visual distance measurements
- Erratic cognitive function
- Distortions in time estimation
- Long-term negative effects on mental function known as "acute brain syndrome," which is characterized by disorders in memory, cognitive function, sleep patterns, and physical condition

**Acute Effects**

- Aggressive urges
- Anxiety
- Confusion
- Fearfulness
- Hallucinations
- Heavy sedation
- Immobility
- Mental dependency
- Panic Paranoid reaction
- Unpleasant distortions in body image

**Workplace Issues**

The active chemical, THC, stores in body fat and slowly releases over time. Marijuana smoking has a long-term effect on performance. A 500 to 800 percent increase in THC concentration in the past several years makes smoking three to five joints a week today equivalent to 15 to 40 joints a week in 2008. In 2009 over 16.7 million Americans admitted to using marijuana at least once a month. Combining alcohol or other depressant drugs and marijuana can produce a multiplied effect, increasing the impairing effect of both the depressant and marijuana.
Opiates (Narcotics) Fact Sheet

Opiates (also called narcotics) are drugs that alleviate pain, depress body functions and reactions, and, when taken in large doses, cause a strong euphoric feeling.

Description

Varieties of opiates include natural and natural derivatives—opium, morphine, codeine, and heroin as well as synthetics such as meperidine (Demerol), oxymorphone (Numorphan), and oxycodone (Percodan). Opiates may be taken in pill form, smoked, or injected, depending upon the type of narcotic used. Trade/street names include Smack, Horse, Emma, Big D, Dollies, Juice, Syrup, and China White.

Signs and Symptoms of Use

- Mood changes
- Impaired mental functioning and alertness
- Constricted pupils
- Depression and apathy
- Impaired coordination
- Physical fatigue and drowsiness
- Nausea, vomiting, and constipation
- Impaired respiration

Health Effects

IV needle users have a high risk for contracting hepatitis and AIDS due to the sharing of needles. Narcotics increase pain tolerance. As a result, people could more severely injure themselves or fail to seek medical attention after an accident due to the lack of pain sensitivity. Narcotics’ effects are multiplied when used in combination with other depressant drugs and alcohol, causing increased risk for an overdose.

Social Issues

There are over 600,000 heroin addicts in the U.S., most of whom are IV needle users. An even greater number of medicinal narcotic-dependent persons obtain their narcotics through prescriptions. Because of tolerance, there is an ever-increasing need for the narcotic to produce the same effect. Strong mental and physical dependency occurs. The combination of tolerance and dependency creates an increasing financial burden for the user. Costs for heroin can reach hundreds of dollars a day.

Workplace Issues

Unwanted side effects such as nausea, vomiting, dizziness, mental clouding, and drowsiness place the legitimate user and abuser at higher risk for an accident. Narcotics have a legitimate medical use in alleviating pain. Workplace use may cause impairment of physical and mental functions.
Phencyclidine (PCP) Fact Sheet

Phencyclidine (PCP) was originally developed as an anesthetic, but the adverse side effects prevented its use except as a large animal tranquilizer. Phencyclidine acts as both a depressant and a hallucinogen, and sometimes as a stimulant. It is abused primarily for its variety of mood-altering effects. Low doses produce sedation and euphoric mood changes. The mood can change rapidly from sedation to excitement and agitation. Larger doses may produce a coma-like condition with muscle rigidity and a blank stare with the eyelids half closed. Sudden noises or physical shocks may cause a "freak out" in which the person has abnormal strength, extremely violent behavior, and an inability to speak or comprehend communication.

Description

PCP is sold as a creamy, granular powder and is often packaged in one-inch square aluminum foil or folded paper "packets." It may be mixed with marijuana or tobacco and smoked. It is sometimes combined with procaine, a local anesthetic, and sold as imitation cocaine. Trade/street names include Angel Dust, Dust, and Hog.

Signs and Symptoms of Use

- Impaired coordination
- Severe confusion and agitation
- Extreme mood shifts
- Muscle rigidity
- Nystagmus (jerky eye movements)
- Dilated pupils
- Profuse sweating
- Rapid heartbeat
- Dizziness.

Health Effects

The potential for accidents and overdose emergencies is high due to the extreme mental effects combined with the anesthetic effect on the body. PCP is potentiated by other depressant drugs, including alcohol, increasing the likelihood of an overdose reaction. Misdiagnosing the hallucinations as LSD induced, and then treating with Thorazine, can cause a fatal reaction. Use can cause irreversible memory loss, personality changes, and thought disorders. There are four phases to PCP abuse. The first phase is acute toxicity. It can last up to three days and can include combativeness, catatonia, convulsions, and coma. Distortions of size, shape, and distance perception are common. The second phase, which does not always follow the first, is a toxic psychosis. Users may experience visual and auditory delusions, paranoia, and agitation. The third phase is a drug-induced schizophrenia that may last a month or longer. The fourth phase is PCP-induced depression. Suicidal tendencies and mental dysfunction can last for months.

Workplace Issues

PCP abuse is less common today than in recent years. It is also not generally used in a workplace setting because of the severe disorientation that occurs. However, use in the workplace can expose the user and others to extreme safety hazards.
ATTACHMENT G

COPY OF MODESTO CITY COUNCIL RESOLUTION AUTHORIZING THE ADOPTION OF THE ANTI-DRUG PROGRAM/ALCOHOL MISUSE PROGRAM.
ATTACHMENT H

City of Modesto Employee Acknowledgement Form

Name: ______________________  Date: ______________________

Job Title: ______________________

In accordance with the City’s Department of Transportation’s Anti-Drug/Alcohol Misuse Program, please be advised that you have been placed in the pool of employees subject to the drug/alcohol testing procedures as mandated by the Federal Department of Transportation.

Attached is a copy of the Anti-Drug/Alcohol Misuse Program, version dated September 2, 2014. Your signature below certifies that you have received the Program. Please sign and return this form to the DOT Program Manager. Contact the Program Manager at 209-571-5134 if you have any questions.

______________________________
Signature of Employee
A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE PURCHASING AGREEMENTS FOR THE SOLE SOURCE PROCUREMENT OF VARIOUS HARDWARE AND SOFTWARE MAINTENANCE SUPPORT AGREEMENTS THROUGHOUT FISCAL YEAR 2014-2015 FROM HARDWARE AND SOFTWARE MANUFACTURERS FOR THE INFORMATION TECHNOLOGY DIVISION FOR AN ESTIMATED ANNUAL COST NOT TO EXCEED $1,061,232

WHEREAS, the City has an ongoing need to issue purchase maintenance contracts/support agreements for hardware and software assets utilized by the City of Modesto and managed by the Information Technology Division, and

WHEREAS, the expenditures for maintenance contracts/support agreements have been approved by Council through the budget process, and

WHEREAS, staff requests the Purchasing Manager be authorized to issue purchase agreements for maintenance contract/support agreements throughout Fiscal Year 2014-2015 for the sole source procurement of various hardware and software maintenance support agreements from hardware and software manufacturers for an estimated budgeted amount not to exceed $1,061,232,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue purchase agreements for maintenance contract/support agreements for the sole source procurement of various hardware and software maintenance support agreements throughout the Fiscal Year 2014-2015.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2014, 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 LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-320

RESOLUTION APPROVING A WILL SERVE LETTER FOR THE PROPERTY LOCATED AT 872 CODONI AVENUE, (APN: 018-061-011) 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.2012-203, and

WHEREAS, it amended City of Modesto Municipal Code Section 11-1.05 and Council Policy 5.001 relating to water connection charges, and

WHEREAS, it required that the City Manager, upon the recommendation of the Director responsible for utility system planning, to request City Council approval for all extensions of water and sewer services into unincorporated areas, and

WHEREAS, the property located at 872 Codoni Avenue, is not connected to City’s water system, and

WHEREAS, this property is located outside Modesto City limits, and inside 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 872 Codoni Avenue.

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 2nd day of September, 2014, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Lopez

ATTEST: 

STEFANIE LOPEZ, City Clerk
(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, City Attorney
RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT
BETWEEN THE CITY OF MODESTO AND 872 CODONI AVE LLC, FOR
WATER SERVICE FOR THE PROPERTY LOCATED AT 872 CODONI
AVENUE, (APN: 018-061-011), AND AUTHORIZING THE CITY MANAGER,
OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the property located at 872 Codoni Avenue is not connected to
City’s water system, and

WHEREAS, this property is located outside Modesto City limits, and inside 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 872
Codoni Avenue, (APN: 018-061-011).

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 2nd day of September, 2014, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Lopez

ATTEST: ________________________________

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ________________________________

ADAM LINDGREN, City Attorney

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 2013-2014 and 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 2013-2014 and 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 2nd day of September, 2014, 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:  

(SEAL)

APPROVED AS TO FORM:

By:  

ADAM LINDGREN, City Attorney
EXHIBIT A

FISCAL YEAR 2013-14

CITY ATTORNEY’S OFFICE
A budget adjustment is necessary to appropriate $125,000 from General Fund Reserves (Fund 0100) to the City Attorney’s operating cost center (04010) in the Legal Services account (53450), to cover the costs of outside legal services provided in FY 2013-14 for various General Fund department legal matters.

PUBLIC WORKS
A budget adjustment is necessary to 1) establish a transfer in the amount of $164,824 from, Waste Water Fund Reserves to the General Fund; Fund 0100, for Outside Legal Services costs performed by Jarvis Fay Doporto & Gibson, LLP related to the Stanislaus Food Products Company case, and 2) allocate these funds to the City Attorney’s Office Outside Legal Services budget.

FISCAL YEAR 2014-15

UTILITIES DEPARTMENT
A budget adjustment is necessary to transfer $975,000 from Storm Drain Reserves, Fund 4480, to Capital Improvement Project #100789, 2014-2015 Storm Drain Improvements, to establish the Fiscal Year 2014-2015 Capital Improvement Project budget.

A budget adjustment is necessary to transfer $975,857 from Wastewater Reserves, Fund 4210, to Capital Improvement Project #100790, Sanitary Sewer Collection System Replacement, to establish the Fiscal Year 2014-2015 Capital Improvement Project budget.

A budget adjustment is necessary to transfer $140,000 from Wastewater Reserves, Fund 4210, to Capital Improvement Project #100791, River Trunk Rehabilitation, to establish the Fiscal Year 2014-2015 Capital Improvement Project budget.

A budget adjustment is necessary to transfer $132,081 from Wastewater Reserves, Fund 4210, to Capital Improvement Project #100792, California Lift Station, to establish the Fiscal Year 2014-2015 Capital Improvement Project budget.

A budget adjustment is necessary to transfer $325,000 from Wastewater Reserves, Fund 4210, to Capital Improvement Project #100793, Roosevelt Park Storm Cross Connection, to establish the Fiscal Year 2014-2015 Capital Improvement Project budget.

A budget adjustment is necessary to transfer $2,655,537 from Wastewater Reserves, Fund 4210, to Capital Improvement Project #100794, Dryden Box & Influent Flume Improvements, to establish the Fiscal Year 2014-2015 Capital Improvement Project budget.

A budget adjustment is necessary to transfer $1,350,000 from Wastewater Reserves, Fund 4210, to Capital Improvement Project #100808, Downtown Storm Drain Cross Connection Removal, to establish the Fiscal Year 2014-2015 Capital Improvement Project budget.
A budget adjustment is necessary to transfer $100,000 from Storm Drain Reserves, Fund 4480, to Capital Improvement Project #100814, Storm Drain On-Call Engineering, to establish the Fiscal Year 2014-2015 Capital Improvement Project budget.

A budget adjustment is necessary to transfer $200,000 from Wastewater Reserves, Fund 4210, to Capital Improvement Project #100815, Wastewater On-Call Engineering, to establish the Fiscal Year 2014-2015 Capital Improvement Project budget.
A RESOLUTION APPROVING AN ANNUAL RETAIL ADVERTISING CONTRACT WITH THE MODESTO BEE (MCCLATCHY NEWSPAPER GROUP); AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, the City of Modesto is currently using the Modesto Bee (McClatchy Newspaper Group) as its primary advertising source for its advertising requirements, and

WHEREAS, the advertising services are required for classified and legal advertisements as required by law, and for retail advertisements for public information purposes, and

WHEREAS, the City’s Purchasing Manager annually meets with the Modesto Bee and based on advertising volume commitments over the prior year identifies retail contract options which would best meet the City’s retail advertising needs, and

WHEREAS, the current retail contract has expired, and

WHEREAS, the City’s Purchasing Manager once again met with the Modesto Bee to discuss what contract renewal options would be available to the City, and

WHEREAS, the Modesto Bee has agreed to renew the retail advertising contract for another year, and

WHEREAS, the “non-profit no-commitment” will be at a contract rate of $51.68 per column inch, and

WHEREAS, once signed, the advertising contract shall be implemented and tracked by the City’s Purchasing Manager,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an annual retail advertising contract with the Modesto Bee
(McClatchy Newspaper Group, consisting of one contract for a retail “no-commitment” non-profit rate of $51.68 per column inch, and

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 2nd day of September, 2014, by Councilmember Gunderson, 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 LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF THREE (3) TRUCKS WITH EH WACHS VALVE EXERCISERS FOR THE UTILITY DEPARTMENT, WATER SERVICES DIVISION, THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO ALBANY FORD, ALBANY, CA, AND AUTHORIZING THE PURCHASING MANAGER OR HIS DESIGNEE TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $215,805

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 three (3) trucks with EH Wachs Valve Exercisers are included in the new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the trucks with EH Wachs Valve Exercisers are new vehicles and will be used by the Utilities Department, Water Division. Council approved the budget enhancements to fund staffing, vehicle and equipment purchase for the Valve Exercising program in fiscal year 13-14 Water fund budget, and

WHEREAS, the valve exercise and flushing program is important to maintain and ensure high quality water for our system by cleaning water mains and assuring our valves are in good working order. The California Department of Public Health recommends Public Agencies flush water systems every two to three years, and

WHEREAS, the Purchasing Division issued RFB No. 1314-31 for the purchase of three (3) trucks with EH Wachs Valve Exercisers to twenty six (26) prospective bidders, and posted the bid on the City’s website. Three (3) of the bidders are located within Stanislaus County, two (2) of which are local vendors, and
WHEREAS, RFB’s were formally opened in the City Clerk’s office. Three (3) companies chose to respond, none of which were local vendors. Two (2) companies provided responsive and responsible bids and one did not meet the specifications. The local vendors cannot provide this type of equipment, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of three (3) trucks with EH Wachs Valve Exercisers to Albany Ford, Albany, CA, for a total estimated cost of $215,805, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2014-15, in account #4100-45060-57003, 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 three (3) trucks with EH Wachs Valve Exercisers 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 three (3) trucks with EH Wachs Valve Exercisers for the Utility Department, Water Services Division, 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 $215,805.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2014, 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 LINDRGREN, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF A VAC-CON HYDRO-EXCAVATION TRUCK FOR THE UTILITIES DEPARTMENT, WATER DIVISION, THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, BY "ACCESSING THE TERMS" OF A COMPETITIVELY BID CONTRACT WITH NATIONAL JOINT POWERS ALLIANCE (NJPA) TO ATLANTIC MACHINERY, SILVER SPRING, MD, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $390,735

WHEREAS, the Water Division, utilizes the Vac-Con Hydro-Excavation truck when excavating on projects, and

WHEREAS, using the Vac-Con Hydro-Excavation truck allows the crew to take out less material which decreases the spoils, hauling costs and additional equipment, and

WHEREAS, the Vac-Con truck will also be utilized for clean up after water main leaks, and

WHEREAS, the City Manager authorized the Purchasing Manager to access the terms of the National Joint Powers Alliance (NJPA), with the Purchasing Division coming back to Council for award authorization. The Vac-Con Hydro-Excavation truck is a new add, and

WHEREAS, the National Joint Powers Alliance (NJPA) went through a competitive bid process for the purchase of heavy construction equipment and issued contract #031710-AMI. The most responsive and responsible bidder that met the bid specifications was Atlantic Machinery, Inc., and is extending the NJPA discount to the City of Modesto, 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 NJPA
contract is an efficient and effective way to purchase the Vac-Con Hydro-Excavation truck, 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, 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 the Vac-Con Hydro-Excavation truck, by “accessing the terms” of the NJPA contract with Atlantic Machinery, Silver Spring, MD, will conform to MMC Section 8-3.204(d), and

WHEREAS, sufficient funds are budgeted in Fiscal year 2014-15 in the following appropriation units: 4100-45060-57003 and 4100-45050-57003.

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 Vac-Con Hydro-Excavation truck for the Water Quality Control Division, Wastewater Collection and Stormwater Sections through the Public Works Department, Fleet Services Division, by “accessing the terms” of a competitively bid contract with the National Joint Powers Alliance (NJPA) to Atlantic Machinery, Silver Spring, MD.
BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for an estimated total cost of $390,735.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2014, 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]

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney
RESOLUTION APPROVING THE TRANSIT SYSTEM DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL OF 1% FOR THE PERIOD ENDING SEPTEMBER 30, 2017

WHEREAS, the City of Modesto is a Federal Transit Administration (FTA) fund recipient in excess of $250,000 annually, and

WHEREAS, the FTA requires all such recipients to meet federal regulatory requirements for a Disadvantaged Business Enterprise (DBE) Triennial Goal, and

WHEREAS, FTA methodology for the establishment of a triennial goal resulted in a City of Modesto Transit DBE Goal of 1%, and

WHEREAS, the methodology used to establish the goal must be published and available for review for 30 days and comments can be received for 45 days, and

WHEREAS, the City of Modesto Transit Section published the notice that the methodology and draft goals were available for review on June 16, 2014, and

WHEREAS, Attached hereto as Exhibit A is the City of Modesto Disadvantaged Business Enterprise FTA Triennial Goal for Fiscal Years 2015-2017, prepared by City staff in compliance with the regulations promulgated by the FTA to implement 49 CFR Part 26.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto Transit System Disadvantaged Business Enterprise Federal Fiscal Years 2015-2017 Goal of 1%.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2014, 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 LINDGREN, City Attorney
City of Modesto Disadvantaged Business Enterprise FTA Triennial Goal for Fiscal Years 2015 - 2017

For Federal Transit Administration Assisted Projects

City of Modesto Transit
August 2014
City of Modesto
Disadvantaged Business Enterprise FTA
Triennial Goal for Fiscal Years 2015–2017

Recipients of Federal funding from the Federal Transit Administration (FTA) in excess of $250,000 per year are required to establish and maintain an active Disadvantaged Business Enterprise (DBE) program. The overarching goal of the program is to seek to ensure nondiscrimination in the award and administration of FTA-assisted contracts and to create a level playing field on which DBEs can compete fairly for FTA-assisted contracts.

The City of Modesto is a recipient of FTA funding at or exceeding the financial thresholds and therefore is required to implement a DBE program and establish program goals for triennial periods as assigned by the FTA.

More detailed information about these and other DBE requirements can be found by referencing the Code of Federal Regulations (49 CFR Parts 23 and 26) and the City of Modesto DBE Program.

The purpose of this document is to focus on the required establishment of the City’s three-year DBE goals and to provide additional insights into the strategies the City will employ to encourage more participation by disadvantaged businesses in contracting opportunities.

GOAL SETTING PROCESS

The establishment of the City’s three-year DBE participation goals is predicated on a specific, federally prescribed process that includes the following steps:

- Consulting with groups and/or individuals with knowledge and insights into the environment with which disadvantaged businesses operate in the community,
- Assessing anticipated contracts using FTA Funds (excluding those for the purchase of vehicles) the agency anticipates awarding within the next three years,
- Assessing the number of federally registered DBE’s available, ready, willing, and able to bid on the specific types of contracts the City anticipates awarding,
- Assessing the number of all businesses available, ready, willing, and able to bid on the specific types of contracts the agency anticipates awarding, and
- Mathematical calculation and adjustments of the DBE goal.
The federal regulations also require publishing and seeking public comment on the proposed goals before the DBE Program goals are adopted by the Council.

CONSULTATIVE PROCESS

In the preparation of the City's proposed three year goals for FTA-funded projects, City staff participated in regional planning outreach meetings to gather input from the business industry, the agricultural industry, service districts, neighborhood associations, and others.

Based upon the input received through the consultative process there appears to be businesses in the area that may qualify as DBE's. However, there also appears to be little interest within the local business community for participation in this program. For example, the CUCP directory shows 2,115 DBE business enterprises available for work within Stanislaus County, but a closer examination of the query result shows that only 20 of those business enterprises are actually located within the county.

The primary local resource for assisting small businesses in navigating the DBE process is the Alliance Small Business Development Center (SBDC) in Modesto. According to the SBDC Director, the primary barrier to local businesses is a lack of understanding of how to access the system and what opportunities are available to local businesses that become certified as DBEs. The SBDC staff continues to focus attention upon business enterprises that may be eligible to become registered DBEs, registered Small Businesses, and Disabled Veteran Business Enterprises.

Future local goals involve public/private partnerships to sponsor workshops to promote the programs and support local small business participation. As an example, the City of Modesto partnered with the County and the Alliance to present a Procurement Expo on doing business with local government on April 30, 2014.

ESTABLISHING THE BASE GOAL

Transit is a Section of the Public Works Department within the City of Modesto and consequently must receive many of its supplies through vendors selected by the Purchasing Department utilizing a competitive bid process that does not consider DBE status. Within the City, it is assumed that a centralized purchasing operation can benefit from the economy of all City departments.

The federal DBE program requirements and related goal setting only apply to contracts that are paid for using federal transportation funds. Conversely, even if the agency does use a registered DBE to provide a product or service, if no federal funds are used in a contract, the DBE participation is not counted nor reported to the government for the purpose of DBE goal attainment.

Consequently, for the purpose of goal calculation, the first step in the process is to estimate the types and financial values of the various contracts (excluding the purchase of vehicles) in which City of Modesto Transit expects to expend Federal funds in the three years of this reporting cycle: FY 14/15, FY 15/16, and FY 16/17.

As seen in the following table, FTA-assisted contracting for fiscal years 2015 through 2017 is expected to consist of three contracts, exclusive of contracts for the purchase of transit vehicles, which are not subject to this process.
### Table

<table>
<thead>
<tr>
<th>Project</th>
<th>NAICS Code</th>
<th>Total Contract Amount (Actual or Expected)</th>
<th>Amount of FTA funds on project:</th>
<th>portion of Total FTA Funds used in Contracted Projects</th>
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</table>

The next step in the process involves making an assessment of the number of federally registered DBE’s available, ready, willing, and able to bid on the specific types of contracts the City anticipates awarding and an assessment of the total number of all businesses available, ready, willing, and able to bid on the specific types of contracts the City anticipates awarding to calculate a comparative proportional representative percentage.

This base figure is based upon using:

1) The California Unified Certification Program (CUCP) Directory to identify the number of registered DBEs willing to perform work in the City’s market area for each of the anticipated contracts based on the North American Industry Classification System (NAICS) codes most relevant to each contract. For the purposes of this analysis, the market area is defined as Stanislaus County and the surrounding areas of Alpine County, Amador County, Calaveras County, Mariposa County, Merced County, San Joaquin County, and Tuolumne County.

2) The 2011 County Business Patterns (CBP) data from the US Census Bureau to identify the total number of businesses available in the same area for work based on the same NAICS codes.

<table>
<thead>
<tr>
<th>Project</th>
<th>NAICS Code</th>
<th>Numbers of DBEs available to perform this work</th>
<th>Number of all firms available to perform this work</th>
<th>Relative DBE Availability</th>
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</tbody>
</table>

Per 49 CFR 26.45c, and guidance from the FTA, a weighted base figure is computed to take into account both the relative availability of DBEs and the relative size of the anticipated contracts. The formula used is as follows:

\[
\text{Weighted Base Figure} = \left( \frac{\text{Project's } \% \text{ of total FTA contract dollars}}{\%} \right) \times \left( \text{Relative availability of DBEs} \right) + \left( \frac{\text{Project's } \% \text{ of total FTA contract dollars}}{\%} \right) \times \left( \text{Relative availability of DBEs} \right) \ldots \text{as necessary to represent each project.}
\]

Using the weighted figures from the tables above, the Weighted Base Figure can be seen as:

<table>
<thead>
<tr>
<th>Project</th>
<th>NAICS Code</th>
<th>DBE Availability</th>
<th>X</th>
<th>Project Weight</th>
<th>Weighted Base Figure</th>
</tr>
</thead>
<tbody>
<tr>
<td>01/03 Bus Refurbishment Project</td>
<td>811111</td>
<td>0.0030</td>
<td>x</td>
<td>0.5333</td>
<td>0.0016</td>
</tr>
<tr>
<td>Transit Center Public Bathroom Remodel</td>
<td>236220</td>
<td>0.0899</td>
<td>x</td>
<td>0.0933</td>
<td>0.0084</td>
</tr>
<tr>
<td>09 Bus Refurbishment Project</td>
<td>811111</td>
<td>0.0030</td>
<td>x</td>
<td>0.3733</td>
<td>0.0011</td>
</tr>
</tbody>
</table>

| Total                             |            |                  |   |                | 0.0111               |

Expressed as a % 1.1

Rounded, Weighted Base Figure 1%

Per 49 CFR 26(d), following the calculation of a base figure, all available evidence must be examined to determine if any further adjustment is warranted. As consultation did not provide a basis for numerical adjustment, no adjustments are being made to this calculation.

City of Modesto DBE
Based on this analysis, the City proposes an overall DBE goal of 1% for FTA funds expended in contracts for fiscal years 2015 through 2017, exclusive of funds to be used for the purchase of transit vehicles.

CONCLUSION

The spirit of the Disadvantaged Enterprise Program is to create a level playing field wherein small, historically-excluded entrepreneurs can successfully participate in providing their goods and services to government. The City affirms that to do so is in the best interest of our community.

To increase the local participation of DBEs and small business enterprise participation in City contracts, the City plans to further develop partnerships with local programs working to educate, support, and assist local small businesses who may qualify to become certified as DBE's.

ATTACHMENTS

Attachment 1 - Proof of Advertisement
DECLARATION OF PUBLICATION  
(C.C.P. § 2015.5)

COUNTY OF STANISLAUS
STATE OF CALIFORNIA

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of Eighteen years, and not a party to or interested in the above entitle matter. I am a printer and Principal clerk of the publisher of THE MODESTO BEE, printed in the City of MODESTO, County of STANISLAUS, State of California, daily, for which said newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of STANISLAUS, State of California. Under the date of February 25, 1951, Action No. 44455; that the notice of which the annexed is a printed copy has been published in each issue thereof on the following dates, to wit:

Jun 16, 2014

I certify (or declare) under penalty of perjury that the foregoing is true and correct and that this declaration was executed of

MODESTO, California on
June 16th, 2014

(By Electronic Facsimile Signature)

City of Modesto DBE
DECLARATION OF PUBLICATION
(C.C.P. S2015.5)

COUNTY OF STANISLAUS
STATE OF CALIFORNIA

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am a printer and principle clerk of the publisher of THE MODESTO BEE, which has been adjudged a newspaper of general circulation, by the Superior Court of the County of STANISLAUS, State of California, under the date of February 25, 1951, Action No. 46453. The notice of which the annexed is a printed copy has been published in each issue thereof on the following dates, with:

Vida En El Valle Publication
JUNE 18, 2014

I certify (or declare) under penalty of perjury that the foregoing is true and correct and that this declaration was executed at MODESTO, California on

JUNE 18, 2014

(Signature)

Carmen Casas

City of Modesto DBE
PUBLIC NOTICE

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM GOAL

CITY OF MODESTO TRANSIT

Notice is hereby given that the City of Modesto has a Disadvantaged Business Enterprise (DBE) Participation Goal of 33% for the Fiscal Year 2014-15 for the construction, maintenance and other services required.

The DBE Program is designed to encourage minority participation in City of Modesto Transit's DBE Program. Contractors interested in DBE participation are encouraged to attend the DBE Kickoff Meeting on April 15, 2014.

United States
Chief of Staff
City of Modesto
Modesto, CA 95356
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS BY THE YOSEMITE COMMUNITY COLLEGE DISTRICT – MODESTO JUNIOR COLLEGE (MJC) TO CONSTRUCT A TRAFFIC SIGNAL ON BLUE GUM AVENUE AT PRICHARD AVENUE IN THE CITY OF MODESTO

WHEREAS, MJC has requested the City of Modesto approve the plans and specifications, and be allowed to construct a traffic signal on Blue Gum Avenue at Prichard Avenue, and

WHEREAS, the signal installation at the existing intersection will provide a better and safer vehicle access to and from the West MJC campus, and

WHEREAS, the signal will provide a better and safer crossing for pedestrians crossing Blue Gum Avenue at Prichard Avenue, and

WHEREAS, the signal installation is decided based upon review of traffic delay, pedestrian activity, the collision history and traffic signal warrant analysis at the intersection, and

WHEREAS, the traffic signal project is exempt from environmental review under the Categorical Exemption for existing facilities in CEQA Guidelines, Section 15301 Class 1(c) of the CEQA/NEPA requirements, and

WHEREAS, MJC has indicated they will pay for construction of the traffic signal and other associated improvements.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the proposal by MJC to construct a new traffic signal on Blue Gum Avenue at Prichard Avenue in Modesto.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2014, 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: ~~~~~~~~~~~~~~~~~

(SEAL)

APPROVED AS TO FORM:

By: ~~~~~~~~~~~~~~~~~

ADAM LINDGREN, City Attorney

STEFANIE LOPEZ, City Clerk
RESOLUTION APPROVING AN AGREEMENT WITH BLACK WATER CONSULTING ENGINEERS INC. FOR ON-CALL ENGINEERING SERVICES IN AN ANNUAL AMOUNT NOT TO EXCEED $200,000 FOR WASTEWATER-RELATED WORK AND AN ANNUAL AMOUNT NOT TO EXCEED $100,000 FOR STORM DRAIN-RELATED WORK, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, The Wastewater (WW) Division performs a number of tasks associated with WW Collections, WW Maintenance and Operations, and Environmental Services directly related to operations at the WW Treatment Facilities, and

WHEREAS, Staff has qualified five consultants that will provide broad experience and allow for more competitive costs in the execution of projects under these On-call Engineering Services agreements, and

WHEREAS, These services are provided by engineers that have specialized expertise in biological and nutrient removal, environmental regulations, and other projects necessary at the WW Treatment Facility, and

WHEREAS, WW Staff has used these types of engineering services previously on the following work: Digester Certifications, Ranch Lease Development, and Land Application System evaluation, and

WHEREAS, As tasks are determined, each consultant will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and

WHEREAS, The most responsive consultant will be selected and will perform no services until WW Management has approved the proposed specific task order and a written Notice to Proceed is sent to the consultant prior to commencement of services.
WHEREAS, The agreement is for a five-year contract term (initial two-year term with three, one-year extensions).

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between Black Water Consulting Engineers Inc. for On-call engineering Services in an annual amount not to exceed $200,000 for wastewater-related work and an annual amount not to exceed $100,000 for storm drain-related work.

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 September, 2014, 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:  

SEAL

APPROVED AS TO FORM:

By:  
ADAM LINDGREN, City Attorney

09/02/2014/Util/LAnhalt/Item 15 2 2014-328
RESOLUTION APPROVING AN AGREEMENT WITH BROWN AND CALDWELL FOR ON-CALL ENGINEERING SERVICES IN AN ANNUAL AMOUNT NOT TO EXCEED $200,000 FOR WASTEWATER-RELATED WORK AND AN ANNUAL AMOUNT NOT TO EXCEED $100,000 FOR STORM DRAIN-RELATED WORK, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, The Wastewater (WW) Division performs a number of tasks associated with WW Collections, WW Maintenance and Operations, and Environmental Services directly related to operations at the WW Treatment Facilities, and

WHEREAS, Staff has qualified five consultants that will provide broad experience and allow for more competitive costs in the execution of projects under these On-call Engineering Services agreements, and

WHEREAS, These services are provided by engineers that have specialized expertise in biological and nutrient removal, environmental regulations, and other projects necessary at the WW Treatment Facility, and

WHEREAS, WW Staff has used these types of engineering services previously on the following work: Digester Certifications, Ranch Lease Development, and Land Application System evaluation, and

WHEREAS, As tasks are determined, each consultant will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and

WHEREAS, The most responsive consultant will be selected and will perform no services until WW Management has approved the proposed specific task order and a written Notice to Proceed is sent to the consultant prior to commencement of services.
WHEREAS, The agreement is for a five-year contract term (initial two-year term with three, one-year extensions).

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between Brown and Caldwell for On-call engineering Services in an annual amount not to exceed $200,000 for wastewater-related work and an annual amount not to exceed $100,000 for storm drain-related work.

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 September, 2014, 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]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS FOR ON-CALL ENGINEERING SERVICES IN AN ANNUAL AMOUNT NOT TO EXCEED $200,000 FOR WASTEWATER-RELATED WORK AND AN ANNUAL AMOUNT NOT TO EXCEED $100,000 FOR STORM DRAIN-RELATED WORK, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, The Wastewater (WW) Division performs a number of tasks associated with WW Collections, WW Maintenance and Operations, and Environmental Services directly related to operations at the WW Treatment Facilities, and

WHEREAS, Staff has qualified five consultants that will provide broad experience and allow for more competitive costs in the execution of projects under these On-call Engineering Services agreements, and

WHEREAS, These services are provided by engineers that have specialized expertise in biological and nutrient removal, environmental regulations, and other projects necessary at the WW Treatment Facility, and

WHEREAS, WW Staff has used these types of engineering services previously on the following work: Digester Certifications, Ranch Lease Development, and Land Application System evaluation, and

WHEREAS, As tasks are determined, each consultant will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and

WHEREAS, The most responsive consultant will be selected and will perform no services until WW Management has approved the proposed specific task order and a written Notice to Proceed is sent to the consultant prior to commencement of services.
WHEREAS, The agreement is for a five-year contract term (initial two-year term with three, one-year extensions).

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between Carollo Engineers for On-call engineering Services in an annual amount not to exceed $200,000 for wastewater-related work and an annual amount not to exceed $100,000 for storm drain-related work.

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 September, 2014, 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]

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH NOLTE ASSOCIATES INC., dba NV5, FOR ON-CALL ENGINEERING SERVICES IN AN ANNUAL AMOUNT NOT TO EXCEED $200,000 FOR WASTEWATER-RELATED WORK AND AN ANNUAL AMOUNT NOT TO EXCEED $100,000 FOR STORM DRAIN-RELATED WORK, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, The Wastewater (WW) Division performs a number of tasks associated with WW Collections, WW Maintenance and Operations, and Environmental Services directly related to operations at the WW Treatment Facilities, and

WHEREAS, Staff has qualified five consultants that will provide broad experience and allow for more competitive costs in the execution of projects under these On-call Engineering Services agreements, and

WHEREAS, These services are provided by engineers that have specialized expertise in biological and nutrient removal, environmental regulations, and other projects necessary at the WW Treatment Facility, and

WHEREAS, WW Staff has used these types of engineering services previously on the following work: Digester Certifications, Ranch Lease Development, and Land Application System evaluation, and

WHEREAS, As tasks are determined, each consultant will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and

WHEREAS, The most responsive consultant will be selected and will perform no services until WW Management has approved the proposed specific task order and a written Notice to Proceed is sent to the consultant prior to commencement of services.
WHEREAS, The agreement is for a five-year contract term (initial two-year term with three, one-year extensions).

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between Nolte Associates Inc., dba NV5, for On-call engineering Services in an annual amount not to exceed $200,000 for wastewater-related work and an annual amount not to exceed $100,000 for storm drain-related work.

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 September, 2014, 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: 

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES FOR ON-CALL ENGINEERING SERVICES IN AN ANNUAL AMOUNT NOT TO EXCEED $200,000 FOR WASTEWATER-RELATED WORK AND AN ANNUAL AMOUNT NOT TO EXCEED $100,000 FOR STORM DRAIN-RELATED WORK, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, The Wastewater (WW) Division performs a number of tasks associated with WW Collections, WW Maintenance and Operations, and Environmental Services directly related to operations at the WW Treatment Facilities, and

WHEREAS, Staff has qualified five consultants that will provide broad experience and allow for more competitive costs in the execution of projects under these On-call Engineering Services agreements, and

WHEREAS, These services are provided by engineers that have specialized expertise in biological and nutrient removal, environmental regulations, and other projects necessary at the WW Treatment Facility, and

WHEREAS, WW Staff has used these types of engineering services previously on the following work: Digester Certifications, Ranch Lease Development, and Land Application System evaluation, and

WHEREAS, As tasks are determined, each consultant will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and

WHEREAS, The most responsive consultant will be selected and will perform no services until WW Management has approved the proposed specific task order and a written Notice to Proceed is sent to the consultant prior to commencement of services.
WHEREAS, The agreement is for a five-year contract term (initial two-year term with three, one-year extensions).

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between West Yost Associates for On-call engineering Services in an annual amount not to exceed $200,000 for wastewater-related work and an annual amount not to exceed $100,000 for storm drain-related work.

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 September, 2014, 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 LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2014/2015 BUDGET MOVING $3,800,000 FROM SURFACE TRANSPORTATION FUND (STF) RESERVES TO A NEW CAPITAL IMPROVEMENT PROGRAM (CIP) ACCOUNT “STREET LIGHT UPGRADE TO LED LIGHTING”

WHEREAS, The City of Modesto has 9,500 outdated street lights, and the cost to upgrade those lights are estimated at $3,800,000, and

WHEREAS, the City of Modesto will apply for a California Energy Commission loan for $3,000,000, and the funds may not be available until December 2016, and

WHEREAS, the City of Modesto wants to upgrade to new LED street lighting, and

WHEREAS, a new Capital Improvement Program (CIP) account needs to be established, and

WHEREAS, the cost for this project is $3,800,000 to bid and construct, and funds need to be budgeted, and

WHEREAS, staff’s recommendation to amend the Fiscal Year 2014/2015 CIP program approving the appropriation of $3,800,000 from the Surface transportation Fund Reserve and transferring those funds to Fund 1700 in order to fund the first phase of the street lighting project, and

WHEREAS, existing policy requires City Council approval to appropriate funds from the Surface Transportation Fund reserve to a new CIP budget.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2014/2015 budget moving $3,800,000
from the Surface Transportation Fund Reserve, and transferring those funds to Fund 1700 in order to fund the street lighting project.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the appropriation in the amount of $3,800,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2014, 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]

(SEAL)

APPROVED AS TO FORM:

By:  [Signature]

ADAM LINDGREN, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, INC. FOR CONSULTANT SERVICES TO UPDATE THE CITY’S WASTEWATER MASTER PLAN, IN AN AMOUNT NOT TO EXCEED $1,777,906 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $177,791 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $1,955,697, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto’s population is approximately 210,000, and

WHEREAS, the City has two wastewater treatment plant facilities that currently process approximately 21 million gallons per day of raw wastewater conveyed through 600 plus miles of sanitary sewer lines ranging from 6 inches to 66 inches in diameter and utilizing 39 sewer lift stations, and

WHEREAS, the City also treats wastewater from unincorporated areas as well as from the community of Empire and part of the City of Ceres, and

WHEREAS, the Sutter Primary Treatment Plant (Sutter Plant) is located south of Downtown Modesto, along the Tuolumne River, and

WHEREAS, the Jennings Secondary and Tertiary Treatment Plant (Jennings Plant) is located about seven miles southwest of Modesto along the San Joaquin River, and

WHEREAS, an expansion of the existing Tertiary Treatment Facilities is currently under construction, which will allow for year-round discharge into the San Joaquin River for the tertiary-treated portion of the City’s total wastewater flows, and

WHEREAS, wastewater effluent is conveyed from the Sutter Plant to the Jennings Plant through the 60-inch Primary Effluent Pipe, and
WHEREAS, a second parallel 60-in pipe conveys food cannery process water to the Jennings Plant where it is applied on the City’s roughly 2,500 acres of adjacent ranch lands, and

WHEREAS, under its current National Pollution Discharge Elimination System (NPDES) Permit, the City is allowed to discharge secondary treated wastewater to the San Joaquin River from October through May until 2018, and

WHEREAS, the Wastewater Master Plan (WWMP) will be used for both short and long-range planning and will provide an updated evaluation of the wastewater collection and treatment systems to assess its current condition and future capabilities, and

WHEREAS, it will also be a key supporting document in the development and updating of the City’s General Plan, Specific Plans, various Environmental Impact Reports, future wastewater rate/capacity charge studies, and to help guide new development decisions, and

WHEREAS, the City of Modesto completed its last WWMP in 2007, and

WHEREAS, in accordance with Administrative Directive 3.1, a Request for Qualifications was sent to over 150 engineering firms (including local companies), of which three responded, and

WHEREAS, subsequently, a Request for Proposals was sent to the three qualified firms, and

WHEREAS, a five-person selection committee comprised of City staff reviewed the proposal from Carollo Engineers, Inc. (Carollo) for compliance with the project's scope of work, and
WHEREAS, Carollo teamed with West Yost Associates, Inc. (West Yost) and HDR Engineering, Inc. (HDR), two firms that might otherwise have proposed separately on the project, and

WHEREAS, formal interviews were not deemed necessary to make a determination as to Carollo’s proposal meeting the RFP requirements nor the firm’s experience, and

WHEREAS, Carollo has completed numerous WWMPs for other municipalities as well as the City’s 2007 WWMP and City staff is familiar with the high quality of its work and that of its team’s sub-consultants, including three local firms, and

WHEREAS, as a result, the selection committee determined that Carollo, of Walnut Creek, (with West Yost and HDR on the team) was the most qualified firm to perform the work, and

WHEREAS, the WWMP is expected to be completed in the spring of 2016, and

WHEREAS, the scope of services will look at a 20-year planning horizon, and

WHEREAS, some of the key tasks include, but are not limited to: 1) Addressing changes to the General Plan and SOI boundaries, major zoning revisions, and the City’s growth direction, including Downtown Intensification and Industrial demand; 2) Making changes to existing and proposed wastewater loading factors and flows; 3) Analyzing and incorporating new monitored wastewater flow data; 4) Evaluating recycled water conveyance projects; 5) Providing recommendations and conclusions of various wastewater-related studies such as the Vulnerability Assessment, Sutter Relocation Study, Inventory and Condition Assessment Study, and the Odor Control and Corrosion Study findings; 6) Reviewing various large projects such as the Emerald Trunk Relief,
River Trunk Realignment, and Beard Brook Siphon; 7) Updating and adding new functionality to the City's wastewater hydraulic model; 8) Addressing current and future discharge requirements and regulatory issues of concern; 9) Conducting a Wastewater Balance Study for operational disposal options under expected constraints; 10) Reviewing and updating the wastewater CIP’s, costs, and priorities; and 11) Developing a Wastewater Engineer’s Report that will be the basis for a separate Wastewater Rates Study, and

WHEREAS, given the high priority to update the City’s WWMP, City staff recommends approval of an Agreement with Carollo Engineers, Inc. for Consultant Services to update the City’s WWMP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Carollo Engineers, Inc. for Consultant Services to update the City’s Wastewater Master Plan in an amount not to exceed $1,777,906 for the identified scope of services, plus $177,791 for additional services (if needed), for a maximum total amount of $1,955,697.

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 2\textsuperscript{nd} day of September, 2014, by Councilmember Kenoyer, 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:

\textbf{AYES:} \hspace{1cm} \textbf{Councilmembers:} C ogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

\textbf{NOES:} \hspace{1cm} \textbf{Councilmembers:} None

\textbf{ABSENT:} \hspace{1cm} \textbf{Councilmembers:} None

\textbf{ATTEST:} \hspace{1cm} \textbf{STEFANIE LOPEZ, City Clerk}

(SEAL)

\textbf{APPROVED AS TO FORM:}

\textbf{By:} \hspace{1cm} \textbf{ADAM LINDGREN, City Attorney}
RESOLUTION AMENDING THE FISCAL YEAR 2014-2015 CIP BUDGET IN THE AMOUNT OF $684,500 TO BE TRANSFERRED INTO CIP ACCOUNT 100740 FROM WASTEWATER FUND RESERVES IN ORDER TO FULLY FUND THE AGREEMENT WITH CAROLLO ENGINEERS, INC. FOR CONSULTANT SERVICES, INCLUDING SUPPORT BY CITY STAFF, TO UPDATE THE CITY’S WASTEWATER MASTER PLAN AND TO FUND FUTURE AGREEMENTS FOR CEQA AND PROP 218, INCLUDING SUPPORT BY CITY STAFF

WHEREAS, certain budgetary transactions are necessary in the amount of $684,500, in order to fully fund the agreement with Carollo Engineers, Inc. for Consultant Services, including support by City staff, to update the City’s Wastewater Master Plan and to fund future agreements for CEQA and Prop 218, including support by City staff, 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 2nd day of September, 2014, by Councilmember Kenoyer, 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 LINDGREN, City Attorney

STPHANIE LOPEZ, City Clerk
Exhibit A

Due to the increase of the agreement with Carollo Engineers, Inc. for Consultant Services, including support by City staff, to update the City’s Wastewater Master Plan and to fund future agreements for CEQA and Prop 218, including support by City staff costs for CIP Account #100740 “Wastewater Master Plan Update”, the total project costs need to be increased by $684,500. This would be done by adjusting Engineering/Design/Administration by $684,500.

To fund the above account, $684,500 will be transferred from Wastewater Fund Reserves into CIP Project 100740 for the City’s Wastewater Master Plan.
RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, INC., FOR CONSULTANT SERVICES TO DEVELOP A WATER MASTER PLAN, IN AN AMOUNT NOT TO EXCEED $1,175,000 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $117,500 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $1,292,500, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City provides water service to about 265,000 customers through a conjunctive use operational strategy by having two existing domestic (potable) water supply sources: treated surface water purchased from the Modesto Irrigation District’s (MID) Modesto Regional Water Treatment Plant and local groundwater pumped from about 100 City-owned wells (on an annual average basis they each provide about 50% of the City’s total water use), and

WHEREAS, the City’s water service area includes one large “contiguous” area and several “outlying” areas, and

WHEREAS, the City’s contiguous service area is primarily defined by the current Sphere of Influence (SOI), Salida, North Ceres, and some unincorporated Stanislaus County “islands” within and adjacent to the SOI, and

WHEREAS, the City’s outlying service areas include Grayson, Hickman, Del Rio, Waterford, Ceres (Walnut Manor), and portions of Turlock, and

WHEREAS, the Water Master Plan (WMP) will be used for both short and long-range planning and will provide an updated evaluation of the water system to assess its current condition and future capabilities (at certain times of the year and in various areas, the City faces challenges in meeting peak demands for both flow and pressure), and
WHEREAS, the resulting WMP will address these challenges and clearly identify feasible solutions to ensure that a reliable quantity and quality of water will be provided to existing and future customers for many years to come, and

WHEREAS, it will also be a key supporting document in the updating of the City’s General Plan (to help guide new development) and future water rate/capacity charge studies, and

WHEREAS, some of the key tasks in the Scope of Services include, but are not limited to: 1) Updating water demand forecasts; 2) Evaluating the adequacy of existing and identifying possible future water supply sources for buildout of each of the service areas; 3) Identifying, justifying, and prioritizing Capital Improvement Projects (CIPs) needed to provide and maintain reliable water service to existing and future customers; 4) Developing cost estimates and construction time frames for the proposed CIPs; 5) Evaluating emerging water quality regulatory issues and trends that could affect treatment practices and existing/future supplies; 6) Recalibrating the Hydraulic Model and reallocating the demands based on new meter data; 7) Expanding the City’s current Steady State Hydraulic Model to an Extended Period Simulation Hydraulic Model; 8) Evaluating options of integrating the Hydraulic Model into the GIS; 9) Investigating water quality blending opportunities; 10) Conducting an analysis comparing the capital, operating, and maintenance costs for various types of wellhead treatments for our most common groundwater contaminants; 11) Developing a Groundwater Operational Yield within the City’s water service areas and assessing the potential impacts of short-term over drafting; 12) Evaluating Aquifer Storage and Recovery (ASR) opportunities; and
13) Assisting in the presentation of information and work products at Stakeholder Workshop(s), Council Committee Meeting(s), and Council Public Hearing(s), and

WHEREAS, optional tasks may include: 1) Developing and Engineer’s Report that would determine the proportional fair share cost allocations of the needed CIPs between the existing rate payers and future users; 2) Providing Proposition 218 technical support for any rate/capacity charge study; and 3) Performing engineering services such as water supply planning, groundwater management, hydraulic modeling, and other items of work such as a north corridor surface water transmission analysis, Salida arsenic mitigation study, and water quality blending investigations, and

WHEREAS, in accordance with Administrative Directive 3.1, a Request for Qualifications was sent to over 150 engineering firms (including local companies), of which four responded, and

WHEREAS, subsequently, a Request for Proposals was sent to the three most qualified firms, and

WHEREAS, a selection committee reviewed the proposals for compliance with the project's scope of work and interviews were conducted with two of the firms, and

WHEREAS, as a result, the selection committee determined that West Yost Associates Inc., of Walnut Creek, is the most qualified firm to perform the work for this particular project, and

WHEREAS, they have completed numerous WMPs for other municipalities and City staff is familiar with the high quality of their work, and

WHEREAS, the WMP is expected to be completed in approximately 16 months, and
WHEREAS, given the high priority to develop the City’s WMP, City staff
recommends approval of an Agreement with West Yost Associates, Inc. for Consultant
Services to develop the City’s WWMP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves an Agreement with West Yost Associates, Inc. for Consultant
Services to develop the City’s Water Master Plan in an amount not to exceed $1,175,000
for the identified scope of services, plus $117,500 for additional services (if needed), for
a maximum total amount of $1,292,500.

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 September, 2014, by Councilmember
Kenoyer, 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 LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2014-2015 CIP BUDGET IN THE AMOUNT OF $82,000 TO BE TRANSFERRED INTO CIP ACCOUNT 100695 FROM WATER FUND RESERVES IN ORDER TO FULLY FUND THE AGREEMENT WITH WEST YOST ASSOCIATES, INC. FOR CONSULTANT SERVICES, INCLUDING SUPPORT BY CITY STAFF, TO UPDATE THE CITY’S WATER MASTER PLAN AND TO FUND FUTURE AGREEMENTS FOR CEQA AND PROP 218, INCLUDING SUPPORT BY CITY STAFF

WHEREAS, certain budgetary transactions are necessary in the amount of $82,000, in order to fully fund the agreement with West Yost Associates, Inc. for Consultant Services, including support by City staff, to prepare the City’s Water Master Plan and to fund future agreements for CEQA and Prop 218, including support by City staff, 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 2nd day of September, 2014, by Councilmember Kenoyer, 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 LINDGREN, City Attorney
Exhibit A

Due to the increase of the agreement with West Yost Associates, Inc. for Consultant Services, including support by City staff, to prepare the City's Water Master Plan and to fund future agreements for CEQA and Prop 218, including support by City staff costs for CIP Account #100695 "Water Fund Master Plan", the total project costs need to be increased by $82,000. This would be done by adjusting Engineering/Design/Administration by $82,000.

To fund the above account, $82,000 will be transferred from Water Fund Reserves into CIP Project 100695 for the City's Water Master Plan.
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-338

A RESOLUTION ADOPTING THE CITY OF MODESTO EQUAL OPPORTUNITY PLAN FOR FISCAL YEARS 2013/2014 THROUGH 2018/2019

WHEREAS, City staff has recommended to the Council the adoption of an Equal Opportunity Plan for Fiscal Years 2013/2014 through 2018/2019, a copy of said Plan is on file in the office of the City Clerk, and

WHEREAS, said plan contains the City's plans and objectives which have been developed in accordance with existing laws in an effort to ensure that minorities, women, disabled individuals and other groups are afforded equal opportunity, and

WHEREAS, the Equal Opportunity Plan is provided to Council as a five-year blueprint for workforce objectives relative to ethnicity and gender. This report sets forth the guidelines to be used by the City to measure annual progress towards those objectives set for Fiscal Years 2013/2014 through 2018/2019, and

WHEREAS, the City is fully committed to the effective implementation of the Equal Opportunity Plan, and to continued progress toward the achievement of its objectives,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the City of Modesto Equal Opportunity Plan for Fiscal Years 2013/2014 through 2018/2019.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2014, 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]

ADAM LINDGREN, City Attorney

(SEAL)

APPROVED AS TO FORM:

(STEPHANIE LOPEZ, City Clerk)
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-339

A RESOLUTION APPROVING AMENDMENT NO. 1 TO AN AGREEMENT FOR SERVICES BETWEEN THE CITY OF MODESTO AND DISABILITY ACCESS CONSULTANT, INC. TO ASSIST THE CITY IN UPDATING THE 1992 SELF EVALUATION AND TRANSITION PLAN (IN AN AMOUNT NOT TO EXCEED $96,823), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA), approved on July 26, 1990, prohibits discrimination against people with disabilities, and

WHEREAS, the ADA requires state and local government to prepare a Self-Evaluation and Transition Plan, and

WHEREAS, the City of Modesto completed a Self-Evaluation and Transition Plan in 1992, and

WHEREAS, the City of Modesto is updating the 1992 Self-Evaluation and Transition Plan, and

WHEREAS, a Request for Proposal was prepared seeking a qualified consultant to train, guide, and assist the City Staff in updating the 1992 Self-Evaluation and Transition Plan, and

WHEREAS, four consultants were interviewed and Disabilities Access Consultant, Inc. (DAC) was selected as the most qualified consultant, and

WHEREAS, On February 5, 2013, the City Council approved an agreement with DAC in the amount of $55,000 to train, guide, and assist City Staff in updating the Self-Evaluation and Transition Plan, and
WHEREAS, DAC would train city staff to survey city-owned facilities and buildings for compliance with the ADA except that DAC would survey 30 priority sites, buildings, and facilities under the Parks, Recreation and Neighborhoods Department. The Parks, Recreation and Neighborhoods staff determined it would be more cost effective for DAC to survey the Department’s 87 sites, and

WHEREAS, the Public Works staff determined it would be more cost effective for DAC to survey sites, buildings, and facilities including bus stops under Public Works Department, and

WHEREAS, the Community and Economic Development Department proposes that DAC to train staff on surveying curb ramps and sidewalks on Arterial and Collector Streets, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 1 to an Agreement for services between the City of Modesto and Disability Access Consultant, Inc. to assist the City with surveys in the effort to update the 1992 Self-Evaluation and Transition Plan, in an amount not to exceed $96,823, and

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment No. 1 to 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 September, 2014, 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 LINDGREN, City Attorney
RESOLUTION ACCEPTING THE AB 109 FUNDS FROM THE STATE OF CALIFORNIA, BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC), FOR A MINIMUM OF $420,655.78 FOR POLICE OVERTIME, SPECIALIZED TRAINING, EQUIPMENT, AND TECHNOLOGY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, California Assembly Bill AB 109, commonly called “Public Safety Realignment,” was enacted in 2011, and

WHEREAS, individuals are eligible for local supervision if their most recent conviction was a non-violent, non-serious, and non-sexual offense and will be supervised under local probation departments as “Post-Release Community Supervision” (PRCS) offenders, and

WHEREAS, AB 109 has changed the responsibility of the PRCS offenders to local probation departments rather than state parole jurisdiction, and

WHEREAS, offenders are serving their sentences in local jails, rather than state prison, and

WHEREAS, on March 28, 2013, the Chief of Modesto, Oakdale, Turlock and Ceres to determine the allocation and use of the funds provided through the BSCC for front line law enforcement, and

WHEREAS, it was determined that the funding would be allocated via population using the formula similar to SDEA funding, and

WHEREAS, Modesto will receive a minimum of $420,655.78, and
WHEREAS, the Modesto Police Department will use the Public Safety Realignment Funds for police overtime, specialized training, equipment, and technology, and

WHEREAS, police overtime costs will be used for special interagency operations and target enforcements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the AB 109 funds from the State of California, Board of State and Community Corrections (BSCC), for a minimum of $420,655.78 for police overtime, specialized training, equipment, and technology,

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 9th day of September, 2014, 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, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: Adam Lindgren, City Attorney
RESOLUTION AMENDING THE MULTI-YEAR 2014/2015 OPERATING BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES OF AT LEAST $420,655.78 FOR THE CITY OF MODESTO’S AB 109 ALLOCATION FROM THE STATE OF CALIFORNIA, BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC); AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, California Assembly Bill AB 109, commonly called “Public Safety Realignment,” was enacted in 2011, and

WHEREAS, individuals are eligible for local supervision if their most recent conviction was a non-violent, non-serious, and non-sexual offense and will be supervised under local probation departments as “Post-Release Community Supervision” (PRCS) offenders, and

WHEREAS, AB 109 has changed the responsibility of the PRCS offenders to local probation departments rather than state parole jurisdiction, and

WHEREAS, offenders are serving their sentences in local jails, rather than state prison, and

WHEREAS, on March 28, 2013, the Chief of Modesto, Oakdale, Turlock and Ceres to determine the allocation and use of the funds provided through the BSCC for front line law enforcement, and

WHEREAS, it was determined that the funding would be allocated via population using the formula similar to SDEA funding, and

WHEREAS, Modesto will receive a minimum of $420,655.78, and
WHEREAS, the Modesto Police Department will use the Public Safety Realignment Funds for police overtime, specialized training, equipment, and technology, and

WHEREAS, police overtime costs will be used for special interagency operations and target enforcements, and

WHEREAS, the term of this funding is July 1, 2014 to June 30, 2015, and

WHEREAS, these funds result in increased revenue and offsetting expenses to the City for a minimum of $420,655.78 and these funds will reside in Multi-Year Operating Account 1342-19998-42131-100830,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Multi-Year 2014/2015 Operating Budget to appropriate revenues and expenditures of at least $420,655.78 for City of Modesto’s AB 109 allocation from the State of California, Board of State and Community Corrections (BSCC),

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 special meeting of the Council of the City of Modesto held on the 9th day of September, 2014, 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 LINDREN, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk

09/09/2014/MPD/GCarroll/Item 10 3 2014-341
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-342

A RESOLUTION AMENDING THE FISCAL YEAR 2014-2015 CAPITAL IMPROVEMENT PROGRAM BUDGET FOR THE RECONFIGURATION OF 10TH AND 11TH STREETS AND APPROPRIATING $40,000 FROM TRUST ACCOUNT TO CIP PROJECT # 100725

WHEREAS, Stanislaus Food Products applied for and was issued an Encroachment Permit on July 24, 2012 for the temporary closure of 11th Street, from D Street to Morton Boulevard, from July 20, 2012 to September 30, 2012, and

WHEREAS, Stanislaus Food Products and City of Modesto agree to use their best efforts to reach an agreement within 90 days of issuance of the permit, addressing the permanent closure of 11th Street and opening of 10th Street, and

WHEREAS, on August 20, 2012, Stanislaus Food Products paid the City of Modesto $36,000, which monies which was to be used specifically for the first phase (Design Phase) of the closure of 11th Street and opening of 10th Street project, and

WHEREAS, on December 11, 2012, the City Council, by Resolution No. 2012-523, approved a new Capital Improvement Program account the project titled “Reconfiguration of 10th and 11th Streets between D Street and Morton Boulevard”, with an estimated initial cost of $36,000, and

WHEREAS, on December 11, 2012, the City Council, by Resolution No. 2012-524, amended the Fiscal Year 2012-2013 Capital Improvement Program budget for the reconfiguration of 10th and 11th streets and appropriated $36,000 from Trust Account 6800-00000-23504 to CIP #100725, and
WHEREAS, Stanislaus Food Products applied for and was issued an Encroachment Permit on May 3, 2013 for the temporary closure of 11th Street, from D Street to Morton Boulevard, from July 14, 2013 to October 13, 2013, and

WHEREAS, Stanislaus Food Products applied for and was issued an Encroachment Permit on June 30, 2014, for the temporary closure of 11th Street, from D Street to Morton Boulevard, from July 14, 2014 to October 12, 2014, with the stipulation that Stanislaus Food Products fund up to $40,000 for survey, preparation of acquisition maps and other related costs for the Reconfiguration of 10th and 11th Streets between D Street and Morton Boulevard project within 30 days of permit issuance, and

WHEREAS, on June 30, 2014, Stanislaus Food Products paid the City of Modesto $40,000, which monies will be used for the Reconfiguration of 10th and 11th Streets between D Street and Morton Boulevard project.

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 to appropriate $40,000 from Trust Account 6800-00000-23504 to CIP Project # 100725.

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 9th day of September, 2014, 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 LINDGREN, City Attorney
RESOLUTION APPROVING THE FIRST AMENDMENT TO THE
CONSTRUCTION COOPERATIVE AGREEMENT (10-397) BETWEEN THE
CITY OF MODESTO AND CALIFORNIA DEPARTMENT OF
TRANSPORTATION (CALTRANS) FOR THE CONSTRUCTION OF STATE
ROUTE 99 / PELANDALE AVENUE INTERCHANGE RECONSTRUCTION
PROJECT, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS
DESIGNEE, TO EXECUTE THE AMENDMENT

WHEREAS, the State Route 99 and Pelandale Avenue Interchange improvement
project is a State Project to address the traffic congestion problem at Pelandale Avenue
and Highway 99 Interchange, and

WHEREAS, the project is critical to increase traffic safety, relieve congestion and
enhance traffic operations within the Interchange and along the adjacent streets, and will
regionally benefit the operational capacity of SR 99 and the surrounding road network,
and

WHEREAS, as the project is on a State Highway and construction is funded by
“The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of
2006 passed by voters in November 2006 included $1.0 billion for the State Route 99
Corridor”, and

WHEREAS, on May 22, 2012 the City Council, by Resolution No. 2012-176,
approved a Cooperative Agreement (10-397) between the City of Modesto and Caltrans
for the construction of State Route 99 and Pelandale Avenue Interchange Reconstruction
Project, and

WHEREAS, an amendment to the Cooperative Agreement (10-397) is required to
document the terms and conditions of Caltrans contribution of State Route 99 Bond
Funds to Project Construction Capital and Project Construction Support, include
construction engineering testing costs and CALTRANS requests for contract records and land surveying documents, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the First Amendment to the Construction Cooperative Agreement (10-397) between the City of Modesto and California Department of Transportation for State Route 99 and Pelandale Avenue Interchange Reconstruction project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the First Amendment to the Cooperative Agreement (10-397).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2014, 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: 

(Seal) 

APPROVED AS TO FORM:

By: ADAM LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2014/2015 CAPITAL IMPROVEMENT BUDGET AS REFLECTED IN EXHIBIT A, AND INCREASING ALLOCATION OF THE STATE ROUTE 99 PROPOSITION 1B BOND SAVINGS CIP PROJECT NO. 100786, FROM $41,061,629 TO $41,630,000, AND AUTHORIZING THE FINANCE DIRECTOR, OR HER DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THE RESOLUTION

WHEREAS, the State Route 99 and Pelandale Avenue Interchange Reconstruction Improvement Project is a State Project to address the traffic congestion problem at Pelandale Avenue and Highway 99 Interchange, and

WHEREAS, the project is critical to increase traffic safety, relieve congestion and enhance traffic operations within the Interchange and along the adjacent streets, and will regionally benefit the operational capacity of SR 99 and the surrounding road network, and

WHEREAS, on May 22, 2012 the City Council, by Resolution No. 2012-176, approved a Cooperative Agreement (10-397) between the City of Modesto and Caltrans for the construction of State Route 99 and Pelandale Avenue Interchange Reconstruction Project, and

WHEREAS, the approved Cooperative Agreement (10-397) between the City of Modesto and Caltrans provided State Route 99 Bond Funds for Construction Capital and Construction Support in the amount of $43,800,000, and

WHEREAS, on February 25, 2014, the City Council, by Resolution No. 2014-73 amended the Fiscal Year 2013/2014 Capital Improvement Budget reducing allocation of the State Route 99 Proposition 1B Bond Savings CIP Project NO.100786 from $43,800,000 to $41,061,629, and

WHEREAS, an amendment to the Cooperative Agreement (10-397) is required to document the terms and conditions of Caltrans contribution of State Route 99 Bond Funds to Project Construction Capital and Project Construction Support, and
WHEREAS, the amendment to the Cooperative Agreement (10-397) between the City of Modesto and Caltrans reduces State Route 99 Bond Funds for Construction Capital and Construction Support from $43,800,000 to $41,630,000, and

WHEREAS, certain budgetary transactions as shown on Exhibit A are necessary, in order to construct State Route 99/Pelandale Avenue Interchange Reconstruction Project, and

WHEREAS, the Fiscal Year 2014-2015 Capital Improvement Program budget should be amended for State Route 99/Pelandale Avenue Interchange Reconstruction Project as shown in Exhibit A.

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 as reflected in Exhibit A, and increasing allocation of the State Route 99 Proposition 1B Bond Savings CIP Project No. 100786, from $41,061,629 to $41,630,000, and authorizing the Finance Director, or her designee, to implement the provisions of the resolution.

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 9th day of September, 2014, 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: [Signature]
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:
By: [Signature]
ADAM LINDGREN, City Attorney
## EXHIBIT A

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09/09/2014/PW/CCovolto/Item 12
RESOLUTION APPROVING THE CITY OF MODESTO STANDARD SPECIFICATIONS, 2014 EDITION

WHEREAS, the City Engineer has recommended an update of the Standard Specifications which are contained in the document titled “City of Modesto Standard Specifications – 2014”, and

WHEREAS, per City of Modesto Municipal Code, Section 4-4.801, all improvements shall conform to the requirements contained in the Standard Specifications of the City of Modesto prepared by the City Engineer, recommended by the Planning Commission, and adopted by the Council as the same now exists or may hereafter be amended, and

WHEREAS, the current Standards were adopted by City Council on May 9, 2006, and

WHEREAS, the Community and Economic Development Department has prepared a major update to the Standard Specifications, in order to accomplish the following:

1. Update the Standards with the intent to make them a valuable tool for the development and construction industries, and

2. Improve overall user-friendliness, and

3. Provide greater efficiency and consistency in the design and construction of public improvements.

WHEREAS, in a collaborative effort this update to the City of Modesto Standard Specifications was reviewed and coordinated with the Construction Industry Liaison Committee (CILC), Local Engineering Firms, and various City Departments, and
WHEREAS, the Planning Commission, by Resolution No. 2014-14, adopted on August 18, 2014, recommended to the City Council adoption of the 2014 City of Modesto Standard Specifications, copies of which are on file and maintained in the office of the City Clerk, Planning Commission and Community and Economic Development Director, and

WHEREAS, the proposed City of Modesto Standard Specifications, 2014 Edition, as prepared by the City Engineer and recommended by the Planning Commission, were considered by the City Council at its regular meeting on the 9th day of September, 2014, at which time the Council determined that the proposed update to the Standard Specifications should be adopted.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto it hereby approves the City of Modesto Standard Specifications, 2014 Edition, copies of which are on file in the office of the City Clerk, Planning Commission and Community and Economic Development Director.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2014, 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 LINDGREN, City Attorney
RESOLUTION ACCEPTING THE WORK BY KOCH & KOCH, INC., FOR THE “JENNINGS WASTEWATER TREATMENT PLANT IMPROVEMENTS 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 $890,350

WHEREAS, a report has been filed by the Director of Utilities that the Jennings Wastewater Treatment Plant Improvements Project has been completed by Koch & Koch, Inc., in accordance with the contract agreement dated March 26, 2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Jennings Wastewater Treatment Plant Improvements Project is hereby accepted as complete from said contractor, Koch & Koch, 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 $890,350 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 9th day of September, 2014, 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 Lindgren, City Attorney
RESOLUTION DECLARING THE CITY-OWNED REAL PROPERTY LOCATED AT THE SOUTHWEST CORNER OF HILLGLEN AND MILLBROOK AVENUES (APN: 085-028-091), CONTAINING 0.16 ACRES, AS SURPLUS LAND, RESERVING THE NORTHERLY 32 FEET FOR FUTURE RIGHT-OF-WAY OF HILLGLEN AVENUE, AND AUTHORIZING THE CITY’S PROPERTY AGENT TO PROCEED WITH THE SALE OF THIS PROPERTY

WHEREAS, the City of Modesto owns real property at the southwest corner of Hillglen and Millbrook Avenues (APN 085-028-091) containing 0.16 acres, and

WHEREAS, this property was purchased in 1994 as part of the Lakewood Sewer Trunk Project and never used for any other purpose, and

WHEREAS, this parcel is in the Village One Specific Plan and zoned for residential use, but due to the small size it cannot support development on its own, and

WHEREAS, this property is not suitable for housing, schools or parks, and

WHEREAS, the City will continue to reserve the northerly thirty-two feet of the parcel for the future right-of-way of Hillglen Avenue, and

WHEREAS, staff recommends the site be declared as surplus land, and

WHEREAS, staff recommends the City’s property agent proceed with the sale of this property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby declares the City-owned real property located at the southwest corner of Hillglen and Millbrook Avenues (APN: 085-028-091), containing 0.16 acres, as surplus land, reserving the northerly 32 feet for future right-of-way of Hillglen Avenue.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City’s property agent to proceed with the sale of this property.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2014, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Marsh

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
ADAM LINDGREN, City Attorney
RESOLUTION ACCEPTING THE WORK BY KNIFE RIVER CONSTRUCTION FOR THE "SYLVAN AND LITT IMPROVEMENTS 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 $5,012,578

WHEREAS, a report has been filed by the Director of Utilities that the Sylvan and Litt Improvements Project has been completed by Knife River Construction in accordance with the contract agreement dated July 10, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Sylvan and Litt Improvements Project is hereby accepted as complete from said contractor, Knife River Construction 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 $5,012,578 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 9th day of September, 2014, 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

(Seal)

**APPROVED AS TO FORM:**

By: ADAM LINDGREN, City Attorney

**ATTEST:**

STEPHANIE LOPEZ, City Clerk
RESOLUTION APPROVING A COOPERATING AGENCY MEMORANDUM OF UNDERSTANDING WITH THE US BUREAU OF RECLAMATION FOR THE NORTH VALLEY REGIONAL RECYCLED WATER PROGRAM, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THIS MOU AND ALL DOCUMENTS RELATED TO THE NVRRWP PHASE 3 STUDY ON BEHALF OF THE CITY

WHEREAS, on January 12, 2010, the City Council, by Resolution No. 2010-016, approved moving forward with a Regional Recycled Water Delivery System Feasibility Study (Phase 1 Feasibility Study) in partnership with the Del Puerto Water District (DPWD), and

WHEREAS, on April 27, 2010, the City Council, by Resolution No. 2010-149, approved an Amendment to the Cost-sharing Agreement with DPWD, and

WHEREAS, DPWD hired RMC Water and Environment (RMC) to perform the Phase 1 Feasibility Study, and

WHEREAS, the proposed project was expanded to include the Cities of Turlock and Ceres, and Stanislaus County as partners, and is now referred to as the North Valley Regional Recycled Water Program (NVRRWP), and

WHEREAS, on May 22, 2012, City Council, by Resolution No. 2012-180, approved the Phase 2 Feasibility Study Cost-sharing Agreement, which determined that the preferred conveyance alternative is single or dual pipeline(s) to the Delta-Mendota Canal (DMC), and

WHEREAS, on February 25, 2014, City Council, by Resolution No. 2014-68, approved the Phase 3 Feasibility Study Cost-sharing Agreement between the Del Puerto
Water District, the City of Turlock, and the City of Modesto for the development of the Phase 3 study, and

WHEREAS, currently the City of Modesto has been designated as the lead agency to address and coordinate responses regarding all items related to the California Environmental Quality Act (CEQA), and

WHEREAS, the Bureau is the designated lead agency for all items related to the National Environmental Policy Act (NEPA), and

WHEREAS, both agencies are coordinating with NVRRWP’s Phase 3 consultant to prepare a joint Environmental Impact Report/Environmental Impact Statement (EIR/EIS) document to address all CEQA/NEPA requirements, and

WHEREAS, the cooperating agency MOU formalizes the relationship between the Bureau and the City of Modesto and defines the roles, responsibilities, points of contact, areas of expertise, and interest, and other requirements between the Bureau and cooperating agencies regarding preparation of the EIR/EIS, and

WHEREAS, in addition to the cooperating agency MOU, there may be other administrative documents related to the Phase 3 study that will need an authorized representative to sign on behalf of the City, and

WHEREAS, staff recommends that City Council authorize the City Manager, or his designee, to execute this MOU and all documents related to the Phase 3 study on behalf of the City, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a cooperating agency Memorandum of Understanding with the US Bureau of Reclamation for the North Valley Regional Recycled Water Program.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute this MOU and all documents related to the NVRRWP Phase 3 Study on behalf of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2014, 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 LINDGREN, City Attorney
RESOLUTION ACCEPTING THE STATE SUPPLEMENTAL LAW ENFORCEMENT GRANT, IN THE AMOUNT OF AT LEAST $100,000, FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND FOR POLICE OVERTIME; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, in 1996, the State Legislature passed, and the Governor signed, Assembly Bill 3229, the Supplemental Law Enforcement Services Act, and

WHEREAS, the purpose of the law is to provide additional resources for local law enforcement, and

WHEREAS, Supplemental Law Enforcement Services Fund (SLESF) monies cannot be transferred to, or intermingled with, the monies in any other fund except that monies may be transferred from the SLESF to the City’s General Fund to the extent necessary to facilitate the appropriation and expenditure of funds, and

WHEREAS, SLESF monies cannot be used to supplant existing budgeted funds, and

WHEREAS, a SLESF has been established in each county, and

WHEREAS, the funding for each county and city is based upon proportionate population, and

WHEREAS, the allocation to the City of Modesto, for Fiscal Year (FY) 2014/2015, of at least $100,000, to be made in four installments of $25,000 each, and

WHEREAS, the City Council is required to hold a public hearing to consider and approve the SLESF Expenditure Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Chief of Police’s Expenditure Plan for the FY 2014/2015 State
Supplemental Law Enforcement Services Fund, allocation of at least $100,000 for police overtime, training, technology, and equipment.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2014, by Councilmember Kenoyer, 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 LINDGREN, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2014-351  

RESOLUTION AMENDING THE FISCAL YEAR 2014/2015 MULTI-YEAR OPERATING BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES OF AT LEAST $100,000 FOR THE CITY OF MODESTO’S ALLOCATION FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND; AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, in 1996, the State Legislature passed, and the Governor signed, Assembly Bill 3229, the Supplemental Law Enforcement Services Act, and

WHEREAS, the purpose of the law is to provide additional resources for local law enforcement, and

WHEREAS, Supplemental Law Enforcement Services Fund (SLESF) monies cannot be transferred to, or intermingled with, monies in any other fund except that monies may be transferred from the SLESF to the City’s General Fund to the extent necessary to facilitate the appropriation and expenditure of funds, and

WHEREAS, SLESF monies cannot be used to supplant existing budgeted funds, and

WHEREAS, a SLESF has been established in each county, and

WHEREAS, the funding for each county and city is based upon proportionate population, and

WHEREAS, the allocation to the City of Modesto for Fiscal Year (FY) 2014/2015 of at least $100,000, to be made in four installments of $25,000 each, and

WHEREAS, the City Council is required to hold a public hearing to consider and approve the SLESF Expenditure Plan,
WHEREAS, the adopted FY 2014/2015 Police SLESF allocation in the amount of at least $100,000 will be applied to account number 1340-19998-42140-100831,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 2014/2015 Multi-Year Operating Budget to appropriate revenues and expenditures of at least $100,000 for the City of Modesto’s allocation from the State Supplemental Law Enforcement Services Fund for police overtime, training, technology, and equipment. as shown in Exhibit A attached hereto.

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 September, 2014, by Councilmember Kenoyer, 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 LINDGREN, City Attorney
Exhibit A

The SLESF allocation for Fiscal Year 2014/2015 will be applied to:

FUND 1340 – Police Grants

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<th>Revenue To:</th>
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<td>Office Equipment &lt;$5K</td>
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<tr>
<td></td>
<td>$100,000</td>
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</tbody>
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RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF ROCK, SAND AND GRAVEL FOR THE UTILITIES DEPARTMENT, WASTEWATER DIVISION AND WATER DIVISION, TO WEST COAST SAND & GRAVEL, MODESTO, 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 $387,414, AND OVER FIVE (5) YEARS OF $1,937,070

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids for the purchase of rock, sand and gravel, and

WHEREAS, the Purchasing Division issued RFB No. 1314-41 Rock, Sand and Gravel to eleven (11) prospective bidders, six (6) of which were local vendors, 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, one of which was a local vendor, and

WHEREAS, three (3) out of the four (4) companies responding 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 rock, sand and gravel for the Utilities Department, Wastewater Division and Water Division, to West Coast Sand and Gravel, Modesto, 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 $387,414, and over five (5) years of $1,937,070, 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 rock, sand and gravel for the Utilities Department, Wastewater Division and Water Division, to West Coast Sand and Gravel Modesto, CA, conforms to Modesto Municipal Code 8-3.203, and

WHEREAS, funds are budgeted in Primary Appropriation Units: 4210-44211-53150, 4210-44313-53150, 4210-44314-53150, 4480-44222-53150, 4100-45040-53150.

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 rock, sand and gravel for the Utilities Department, Wastewater Division and Water Division, to West Coast Sand and Gravel, Modesto, 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 a purchase agreement for an estimated annual cost of $387,414.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2014, 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 LINDGREN, City Attorney
RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND SAN JOAQUIN INSURANCE AUTHORITY (SJVIA) FOR PARTICIPATION IN GROUP MEDICAL INSURANCE COVERAGE FOR A THREE-YEAR PERIOD STARTING PLAN YEAR 2015; CONTINUE DENTAL AND VISION COVERAGE THROUGH THE CITY’S SELF-INSURED PROGRAM FOR PLAN YEAR 2015; AUTHORIZING THE EMPLOYEE BENEFITS MANAGER TO SERVE AS THE COORDINATOR FOR THE VARIOUS PLANS; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY AGREEMENTS

WHEREAS, the City of Modesto provides its employees with employee and dependent health insurance coverage, and

WHEREAS, the City was faced with large increases from existing medical insurance carriers for 2015 medical plan renewals and sought alternative options, and

WHEREAS, the Employee Benefits Advisory Committee (EBAC) consisting of three (3) representatives from each of the City’s bargaining groups reviewed all options and made recommendations to City management regarding health insurance coverage for plan year January 1 through December 31, 2015, and

WHEREAS, the City received a proposal from San Joaquin Insurance Authority (SJVIA) for group medical insurance for an overall rate decrease of 0.4% for active employees and the EBAC recommended and City Management agreed to replace existing medical carriers with SJVIA, and

WHEREAS, the SJVIA requires a three-year commitment from the City and will provide the City a guaranteed pooled rating for that three-year period and, based on past ratings from SJVIA, will provide the City of Modesto with carrier rate stabilization and flexibility, and
WHEREAS, the City’s self-insured dental and vision plan designs and administration will remain the same,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves entering into an agreement with San Joaquin Insurance Authority (SJVIA).

BE IT FURTHER RESOLVED that the Council hereby approves the continuation of dental and vision coverage through the City’s self-insured programs.

BE IT FURTHER RESOLVED that the Employee Benefits Manager is hereby authorized to serve as the coordinator for the various plans.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary agreements relating to employee and dependent health care as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2014, 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

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk

09/23/2014/Admin/HLopez/Item 3  2  2014-353
A RESOLUTION APPROVING THE SECOND AMENDMENT TO THE STANDARD AGREEMENT FOR CONSULTANT SERVICES WITH INTERWEST CONSULTING GROUP FOR BUILDING OFFICIAL AND CODE ENFORCEMENT SERVICES IN AN AMOUNT NOT TO EXCEED $180,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO THE AGREEMENT

WHEREAS, on December 4, 2012, by Resolution No. 2012-486, the City Council ("CITY") authorized a Standard Agreement for Consultant Services ("AGREEMENT") with Interwest Consulting ("CONSULTANT") to provide professional services to the Building Safety Division of the Community and Economic Development Department, and,

WHEREAS, in October 2013, staff was unsuccessful in recruiting a Chief Building Official, and

WHEREAS, in May 2014, the department issued a Request for Qualifications for Chief Building Official and Code Enforcement services ("SERVICES") to the four companies contracted to provide professional services to the Building Safety Division, and

WHEREAS, CONSULTANT'S proposal was reviewed, ranked, and selected to provide the Services, and

WHEREAS, on August 19, 2014, the First Amendment to the Agreement expanded the scope of work to include the additional services, and

WHEREAS, the Agreement and First Amendment limit the annual expenditures to $30,000 per year for plan review and building inspection services, and

WHEREAS, the anticipated cost of the additional services is $150,000 per year, and
WHEREAS, the total annual expenditures are not to exceed $180,000 per year,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Second Amendment to the Standard Agreement for Consultant Services with Interwest Consulting, for a total cost not to exceed $180,000 per year.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Second Amendment to the Standard Agreement for Consultant Services with Interwest Consulting as recommended.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2014, 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

APPROVED AS TO FORM:

By: ADAM LINDGREN, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-355

RESOLUTION APPROVING THE TRANSFER FOR NO PAYMENT OF TWO (2) PARCELS, APNS 105-041-021 AND 105-048-008, HELD IN THE NAME OF THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF MODESTO FROM THE CITY OF MODESTO REDEVELOPMENT SUCCESSOR AGENCY TO THE CITY OF MODESTO, IN ACCORDANCE WITH THE SECOND AMENDED LONG RANGE PROPERTY MANAGEMENT PLAN AS APPROVED BY THE STATE OF CALIFORNIA DEPARTMENT OF FINANCE, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL DOCUMENTS NECESSARY TO TRANSFER THE TITLE OF THE TWO PARCELS TO THE CITY OF MODESTO

WHEREAS, in accordance with California Health and Safety Code Section 34191.5(b), Redevelopment Successor Agencies are required to prepare and submit a Long Range Property Management Plan (LRPMP) to the State of California Department of Finance (DOF), and

WHEREAS, the purpose of a LRPMP is to inventory former Redevelopment Agency (RDA) properties and identify the use or disposition of each, and

WHEREAS, the Second Amended Long Range Property Management Plan (the Plan) was approved by the Modesto City Council (Resolution No. 2014-138), and the Redevelopment Successor Agency (Resolution No. 02-2014) on April 15, 2014, the Redevelopment Successor Agency Oversight Board (Resolution No. 2014-07) on May 1, 2014, and the DOF (Exhibit A) on May 30, 2014, and

WHEREAS, the Plan provides for the transfer of three (3) properties to the City of Modesto as follows:

1) 6th Street Surface Parking Lot (APN 105-041-021)
2) 9th Street Pedestrian Bridge (APN 105-048-008)
3) 10th Street Surface Parking Lot (APNs 106-042-001, 106-042-002, 106-042-003, and 106-042-004), and

WHEREAS, the transfer of the 10th Street Surface Parking Lot was previously approved by the City Council (Resolution No. 2014-139) and the Successor Agency (Resolution No. 03-2014) on April 15, 2014, the Oversight Board (Resolution No. 2014-08) on May 1, 2014, and the DOF on June 5, 2014, and

WHEREAS, on September 4, 2014 the City of Modesto Redevelopment Successor Agency Oversight Board approved the transfer title of the remaining two parcels to the City of Modesto in accordance with the LRPMP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, it hereby approves for no payment the transfer by grant deed of two parcels APNs 105-041-021 and 105-048-008 from the Successor Agency in accordance with the Second Amended Long Range Property Management Plan, and authorizing the Interim City Manager, or his designee, to execute all documents necessary to transfer the title of the two parcels (APN 108-041-021 and 105-042-008) to the City of Modesto.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2014, 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 LINDGREN, City Attorney
RESOLUTION APPROVING A REPAYMENT SCHEDULE FOR LOANS ISSUED BY THE CITY OF MODESTO GENERAL FUND TO THE MODESTO REDEVELOPMENT AGENCY AND THE LOAN ISSUED FROM THE REDEVELOPMENT LOW AND MODERATE INCOME HOUSING FUND TO THE REDEVELOPMENT AGENCY FOR PAYMENT TO THE STATE OF CALIFORNIA SUPPLEMENTAL EDUCATION REVENUE AUGMENTATION FUND (SERAF), APPLYING THE LOCAL AGENCY INVESTMENT FUND (LAIF) RATE IN EXISTENCE AT THE TIME THE LOANS WERE INCURRED

WHEREAS, the original Redevelopment area was established in 1983 and amended in 1991, and

WHEREAS, from 1982 to 2007, the City of Modesto made loans from the General Fund to the Modesto Redevelopment Agency (the Agency) as seed money for projects and staff administration, and

WHEREAS, the total principal amount of the loans made by the City to the Agency from the General Fund is $21,009,982, and

WHEREAS, the total principal amount of the loan from the Redevelopment Low and Moderate Income Housing Fund (LMIHF) loan to the Agency for Supplemental Education Revenue Augmentation Fund (SERAF) is $676,526, and

WHEREAS, on February 2, 2014 the Redevelopment Successor Agency Oversight Board (Oversight Board) adopted Resolution No. 2014-01, approving the loans from the LMIHF to the former Redevelopment Agency for the SERAF payment to the State of California as enforceable obligations, finding the loans to be for legitimate redevelopment purposes, and

WHEREAS, on February 2, 2014 the Oversight Board adopted Resolution No. 2014-02, approving the loans from the City of Modesto General Fund to the former
Redevelopment Agency as enforceable obligations, finding the loans to be for legitimate redevelopment purposes, and

WHEREAS, on February 2, 2014 the Oversight Board adopted Resolution No. 2014-03, authorizing staff to execute a contract with Don Fraser, of Fraser and Associates, to develop a loan repayment schedule in accordance with Health and Safety Code Section 34191.4(b)(2) for both the LMIHF loans and the General Fund loans, and

WHEREAS, based on the conditions of loan repayment outlined in California Health and Safety Code Section 34191.4(b)(2), Fraser and Associates developed a recommended repayment schedule based on the Local Agency Investment Fund (LAIF) rate in existence at the time the loans were incurred (Exhibit A), and

WHEREAS, on August 7, 2014, the Oversight Board adopted Resolution No. 2014-10, approving the repayment schedule for loans issued by the City of Modesto General Fund to the Modesto Redevelopment Agency and the loan issued from the Redevelopment LMIHF to the Redevelopment Agency for payment to the State of California SERAF,

NOW, THEREFORE, BE IT RESOLVED by the City of Modesto City Council that it hereby approves the repayment schedule (Attachment A) for the loans issued by the City of Modesto General Fund to the Modesto Redevelopment Agency and the Loan from the LMIHF to the Redevelopment Agency, based on the Local Agency Investment Fund rate in existence at the time the loans were incurred.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of September, 2014, by Councilmember Lopez,
who moved its adoption, which motion being duly seconded by Council Member
Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Council members: 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 Lindgren, City Attorney
DATE: July 21, 2014
TO: Laurie Smith
FROM: Don Fraser
RE: City Loan Repayment under AB 1484

COMMENTS

Pursuant to your request, we have prepared a financial analysis which shows the ability of the Modesto Successor Agency to repay City Loans under AB 1484. The former Modesto Redevelopment Agency (Former Agency) had borrowed money from the City for the Modesto Project Area prior to implementation of the dissolution act.

Executive Summary

Redevelopment agencies were dissolved pursuant to the Redevelopment Dissolution Act (primarily AB 26 as amended by AB 1484) as of February 1, 2012. Under the Dissolution Act, successor agencies have taken over the role of repaying the various enforceable obligations, as defined in the law, of the former redevelopment agencies. The state, as part of AB 26, excluded loans between a redevelopment agency and its host community (a city or county) as enforceable obligations. The Successor Agency did file its Recognized Obligation Payment Schedules (ROPS) to include the prior City Loan, but the state Department of Finance (DOF) has disallowed those as enforceable obligations.

AB 1484, the clean up legislation to AB 26, allows the repayment of the City Loan under limited circumstances. The law requires that before such loans can be repaid, the Agency must first receive a finding of completion from the DOF, which occurred on April 26, 2013. The Oversight Board approved reentering the City Loan on February 6, 2014. The City Loans will need to be included on a future ROPS and then can begin to be repaid. Twenty percent of the loan repayments
must be deposited into an Affordable Housing Fund established by the Housing Successor Agency.

Based on the assumptions used to project future growth and the time limit to receive tax increment the table below summarizes our estimates for repayment of the City Loan. We have shown two scenarios, as further described below.

<table>
<thead>
<tr>
<th></th>
<th>Actual LAIF Rates</th>
<th>Current LAIF Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outstanding Loan</td>
<td>21,700,400</td>
<td>21,009,982</td>
</tr>
<tr>
<td>Plus: Accrued Interest</td>
<td>26,958,969</td>
<td>274,554</td>
</tr>
<tr>
<td>Current City Loan Balance</td>
<td>48,659,369</td>
<td>21,284,536</td>
</tr>
<tr>
<td>Additional Accrued Interest</td>
<td>34,953,382</td>
<td>10,948,064</td>
</tr>
<tr>
<td>Total Project City Loan Balance</td>
<td>83,612,751</td>
<td>32,232,599</td>
</tr>
<tr>
<td>Projected Payments</td>
<td>36,762,166</td>
<td>32,232,593</td>
</tr>
<tr>
<td>Housing Deposits</td>
<td>7,352,433</td>
<td>6,446,519</td>
</tr>
<tr>
<td>Net Repayment</td>
<td>29,409,733</td>
<td>25,786,074</td>
</tr>
<tr>
<td>Unpaid Balance</td>
<td>54,203,011</td>
<td>6,446,518</td>
</tr>
</tbody>
</table>

As shown above, the City Loan is currently outstanding in the amount of $21.7 million, and when accrued interest calculated at LAIF rates at the time the loans were incurred is included, there would be current a balance of $48.7 million. Between now and 2038-39, it is estimated that additional interest will be accrued against the loan of $34.9 million. There will be approximately $36.8 million available to repay the total City Loan through 2038-39. In addition, 20 percent of the loan repayments must be credited to the Housing Successor Agency, which becomes essentially a write off to the Loan. The net payments that are estimated to be applied to the City Loan equal $29.4 million. Because the City Loan will also be accruing additional interest in the future, the total unpaid loan balance would be $54 million.

One issue facing the Agency in terms of the repayment of the City Loan is the state Department of Finance (DOF) position on the interest rate to be used in recalculating the balance of the loan. AB 1484 states that the accumulated interest due on the remaining principal balance of city loans should be "recalculated from origination at the interest rate earned by funds deposited into the Local Agency Investment Fund." DOF has interpreted this to mean that the LAIF rate at the time that the Oversight Board approves the loan should be applied all the way back to the inception of the loan, and not the LAIF rate that was in existence at the time the loan was incurred. If this approach is applied, the
outstanding balance of approximately $48.7 million, inclusive of accumulated interest, would be reduced to $21.3 million, as shown on the table above. Between now and 2037-38, it is estimated that additional interest will be accrued against the loan of $10.9 million. The full City Loan would be repaid under this scenario except for the Housing Fund deposit, but total repayments would be less by approximately $3.6 million.

*Other Key Repayment Issues*

Besides the interest rate issue, the repayment of the City Loan, and also the SERAF advance under AB 1484, is dependent on growth in tax increment revenues. The amount of any surplus tax increment (tax increment not used to meet various obligations) that the taxing entities received in 2012-13, which is referred to as residual revenue, forms a new base amount. Only half of the residual revenues that exceed the 2012-13 base amount are available to be used to repay the City Loan. If there is no growth, or limited growth in future assessed values in the Project Area, there will be very little revenue to repay the City Loan. Given this, the financial projections contained in this report, which are estimates, should not be taken as amounts that will actually be available to repay the City Loan. Actual repayment amounts will need to be determined each year based on the actual tax increment and incremental residual revenue that is generated.

AB 1484 is unclear in a number of areas about how the calculations are to be prepared. The amount of residual revenue that goes to the taxing entities in 2012-13 is the "base" amount which taxing entities must receive in the future. However, the legislation does not indicate whether 2012-13 is based on the year in which property tax revenues are generated, or the year in which the expenditures take place. DOF has issued a clarification that the base year is the combined residual revenue from ROPS II (covering July to December 2013) and ROPS III (covering January to June 2013), which means the base is from the fiscal year in which the expenditures occur. For purposes of our analysis, we have used the base year residual revenue from those two ROPS periods.

Another problem area contained in AB 1484 is the requirement in Section 34191.4 (b) (1), which states that the payments are to be based on a defined schedule over a reasonable term of years. However, the actual repayment of the City Loan is tied to the growth in future revenues above the 2012-13 Residual Revenue level. Given this, it is impossible to establish a defined payment schedule. In fact, the payment schedule will need to be revised each year as the actual amount of residual revenue becomes known. The DOF recognizes this problem and allows the Agency to calculate the loan repayment amount each year based on the provisions of AB 1484.
Explanation of Loan Repayment Tables

The first step in our analysis was the preparation of tax increment projections for the Project Area, as shown on Table 1. The projections are based on the reported assessed value for 2013-14. Future tax increment has been estimated based on a 3 percent increase in values starting in fiscal year 2015-16, which is the average increase in taxable values since the base year. That amount has been reduced for property tax administrative fees, pass through payments and enforceable obligations. The enforceable obligations include:

1. Lease Revenue Bond debt service. Since this bond issue has a variable rate structure, the actual amount may vary from that we have shown, which is based on the amount included on the ROPS for 2013-14 and staff’s estimate for 2014-15.
2. COP Debt Service
3. Other costs, which include payments under the OPA with Westland Development Company and JPA Common Area maintenance costs. Payments under the OPA are based on the net tax increment from the site. For purposes of the amounts shown on Table 1, we have used the amount shown on the most recent ROPS, and increased that amount by 2 percent per year to reflect the Proposition 13 inflation adjustment. The final payment under the OPA is due during 2031-32. The JPA costs are based on the current ROPS, and have been increased at 1.5 percent per year.
4. Administrative costs as taken from the most recent ROPS. Those costs are assumed to decrease over time by 5 percent per year, with a minimum of $100,000 shown.

Table 1 also includes the base year residual revenue according to the DOF guidelines. The total residual base year revenue for the Project, as reported by the County Auditor-Controller in their RPTTF reports, was $14,815. It consists of the following amounts:

<table>
<thead>
<tr>
<th></th>
<th>$14,815</th>
</tr>
</thead>
<tbody>
<tr>
<td>ROPS II</td>
<td></td>
</tr>
<tr>
<td>ROPS III</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total Residual Base</strong></td>
<td><strong>$14,815</strong></td>
</tr>
</tbody>
</table>

As shown on Table 1, future residual revenue is projected to exceed the base residual revenue by 2015-16. Half of any incremental residual revenue above the residual base amount can be used to repay the City Loan. Please note repayments are tied to the future growth in the Agency’s revenue stream. If there is no growth, or less growth than we have projected, there will be less revenue to repay the City Loan.
Table 2 shows the current outstanding balance on the City Loan. The table shows the beginning balance in 1983, additional amounts that were borrowed, less repayments that have been made. Interest has been calculated based on the outstanding balance in each year plus accrued interest at LAIF rates as those existed in each year. As previously described, DOF has taken the position that the current LAIF rate (of 0.26%) should be applied to the loan balance in each year back to 1983 (when rates were at 10.45%). We do not believe that this is what AB 1484 requires, and have calculated the City Loan balance using the actual LAIF interest rates during the period when the Loan has been outstanding for purposes of this scenario.

Table 3 shows the projected payment of the SERAF obligation and the City Loan over time. Repayments go first to repay the SERAF loan, which are deposited to the Affordable Housing Fund, and can be used for affordable housing purposes. Table 3 includes accrued interest on the unpaid balance based on an estimate of future LAIF interest rates. This is another variable that will change over time. By 2038-39, which is the last year that the Agency can receive tax increment for the Project Area, the payments are estimated to total $36.8 million. The City loan will show a remaining balance of $43.8 million, most of which represents unpaid accrued interest. Of the total payments to be made, 20 percent of the amount must be deposited to an Affordable Housing Fund to be established by the Housing Successor Agency. Given this, the actual amount the City will receive is projected to be $29.4 million.

Table 4 shows the outstanding balance on the City Loan if current LAIF rates are used to calculate interest. The total balance on the City Loan would be reduced to $21.3 million from $47 million if actual LAIF rates are used. Future accumulated interest on the City Loan would also go down, as shown on Table 4. Overall, the Agency is projected to have sufficient money to fully repay the City Loan by 2037-38. There would still be a loan write off of $6.4 million for the payments that are counted against the City Loan but which are deposited to the Housing Fund. Overall, the net payments on the City Loan would equal $25.8 million, which is $3.6 million less than the amount of the payments that would be made if current LAIF rates were used.

We hope that this information is useful to you. We are available to answer any questions you may have.
Table 1
Modesto Successor Agency
Modesto Project Area

**TAX INCREMENT AND CASH FLOW PROJECTIONS - AMOUNT FOR LOAN REPAYMENTS**

<table>
<thead>
<tr>
<th>Total (1)</th>
<th>Property Tax</th>
<th>Admin Costs</th>
<th>Total (3)</th>
<th>Total (10)</th>
<th>Total (12)</th>
<th>Total (14)</th>
<th>Total (16)</th>
<th>Total (18)</th>
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<tr>
<td>2013-2014</td>
<td>$4,916,577</td>
<td>$398,332</td>
<td>$1,171,542</td>
<td>$3,664,703</td>
<td>$1,406,840</td>
<td>$1,932,730</td>
<td>122,000</td>
<td>192,558</td>
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<tr>
<td>2014-2015</td>
<td>$4,918,577</td>
<td>$388,332</td>
<td>$1,169,422</td>
<td>$3,660,755</td>
<td>$1,400,825</td>
<td>$1,930,723</td>
<td>124,500</td>
<td>192,558</td>
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<tr>
<td>2015-2016</td>
<td>$5,232,654</td>
<td>$394,653</td>
<td>$1,251,328</td>
<td>$3,616,574</td>
<td>$1,460,176</td>
<td>$1,918,250</td>
<td>126,135</td>
<td>182,930</td>
</tr>
<tr>
<td>2016-2017</td>
<td>$5,558,214</td>
<td>$390,653</td>
<td>$1,357,065</td>
<td>$4,089,184</td>
<td>$1,460,176</td>
<td>$1,861,375</td>
<td>128,256</td>
<td>172,784</td>
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<tr>
<td>2017-2018</td>
<td>$5,893,540</td>
<td>$384,653</td>
<td>$1,414,252</td>
<td>$3,961,146</td>
<td>$1,460,176</td>
<td>$1,653,125</td>
<td>130,413</td>
<td>153,049</td>
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<td>2018-2019</td>
<td>$6,228,326</td>
<td>$378,773</td>
<td>$1,422,533</td>
<td>$4,071,615</td>
<td>$1,460,176</td>
<td>$1,556,750</td>
<td>132,608</td>
<td>156,840</td>
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<td>2019-2020</td>
<td>$6,594,874</td>
<td>$373,873</td>
<td>$1,714,384</td>
<td>$4,288,397</td>
<td>$1,460,176</td>
<td>$1,852,250</td>
<td>134,840</td>
<td>148,998</td>
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<tr>
<td>2020-2021</td>
<td>$6,961,094</td>
<td>$369,973</td>
<td>$1,916,191</td>
<td>$4,511,682</td>
<td>$1,460,176</td>
<td>$1,649,625</td>
<td>137,110</td>
<td>141,548</td>
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<tr>
<td>2021-2022</td>
<td>$7,338,557</td>
<td>$366,073</td>
<td>$2,160,705</td>
<td>$4,731,032</td>
<td>$1,460,176</td>
<td>$1,548,625</td>
<td>139,419</td>
<td>134,470</td>
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<td>2022-2023</td>
<td>$7,727,242</td>
<td>$362,154</td>
<td>$2,315,103</td>
<td>$4,447,594</td>
<td>$1,460,176</td>
<td>$1,653,875</td>
<td>141,788</td>
<td>127,747</td>
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<td>2023-2024</td>
<td>$8,127,929</td>
<td>$358,235</td>
<td>$2,474,531</td>
<td>$4,490,556</td>
<td>$1,460,176</td>
<td>$1,960,250</td>
<td>144,158</td>
<td>131,360</td>
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<td>2024-2025</td>
<td>$8,540,048</td>
<td>$354,315</td>
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<td>$4,697,304</td>
<td>$1,460,176</td>
<td>0</td>
<td>146,588</td>
<td>115,292</td>
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<td>2025-2026</td>
<td>$8,964,830</td>
<td>$350,415</td>
<td>$2,807,287</td>
<td>$4,910,255</td>
<td>$1,460,176</td>
<td>0</td>
<td>149,021</td>
<td>109,527</td>
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<td>2026-2027</td>
<td>$9,402,354</td>
<td>$346,515</td>
<td>$3,061,208</td>
<td>$4,813,089</td>
<td>$1,460,176</td>
<td>0</td>
<td>151,579</td>
<td>104,051</td>
</tr>
<tr>
<td>2027-2028</td>
<td>$9,853,005</td>
<td>$342,615</td>
<td>$3,314,812</td>
<td>$4,814,072</td>
<td>$1,460,176</td>
<td>0</td>
<td>154,134</td>
<td>100,000</td>
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<tr>
<td>2028-2029</td>
<td>$10,317,175</td>
<td>$338,715</td>
<td>$3,569,756</td>
<td>$5,021,076</td>
<td>$1,460,176</td>
<td>0</td>
<td>156,736</td>
<td>100,000</td>
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<tr>
<td>2029-2030</td>
<td>$10,795,270</td>
<td>$334,815</td>
<td>$3,825,077</td>
<td>$5,324,238</td>
<td>$1,460,176</td>
<td>0</td>
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<td>2030-2031</td>
<td>$11,287,708</td>
<td>$330,915</td>
<td>$4,083,077</td>
<td>$5,653,787</td>
<td>$1,460,176</td>
<td>0</td>
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<td>2031-2032</td>
<td>$11,784,919</td>
<td>$327,015</td>
<td>$4,340,926</td>
<td>$5,980,096</td>
<td>$1,460,176</td>
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<tr>
<td>2032-2033</td>
<td>$12,317,347</td>
<td>$323,115</td>
<td>$4,607,922</td>
<td>$5,813,078</td>
<td>$1,460,176</td>
<td>0</td>
<td>163,052</td>
<td>100,000</td>
</tr>
<tr>
<td>2033-2034</td>
<td>$12,855,447</td>
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<td>$4,875,827</td>
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<td>$1,460,176</td>
<td>0</td>
<td>165,736</td>
<td>100,000</td>
</tr>
<tr>
<td>2034-2035</td>
<td>$13,409,680</td>
<td>$315,315</td>
<td>$5,143,723</td>
<td>$6,400,223</td>
<td>$1,460,176</td>
<td>0</td>
<td>166,631</td>
<td>100,000</td>
</tr>
<tr>
<td>2035-2036</td>
<td>$13,969,511</td>
<td>$311,415</td>
<td>$5,412,611</td>
<td>$6,691,036</td>
<td>$1,460,176</td>
<td>0</td>
<td>168,230</td>
<td>100,000</td>
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<td>2036-2037</td>
<td>$13,687,019</td>
<td>$307,515</td>
<td>$5,653,376</td>
<td>$6,401,104</td>
<td>$1,460,176</td>
<td>0</td>
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<td>2037-2038</td>
<td>$14,203,103</td>
<td>$303,615</td>
<td>$5,902,676</td>
<td>$6,657,114</td>
<td>$1,460,176</td>
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<td>2038-2039</td>
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<td>$299,715</td>
<td>$6,157,942</td>
<td>$6,920,804</td>
<td>$1,460,176</td>
<td>0</td>
<td>173,174</td>
<td>100,000</td>
</tr>
</tbody>
</table>

**ATTACHMENT 1**

Fraser Associates
TI cash flow

7/21/2014
TI Projections 13-14.xls

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(1) Based on 2013-14 assessed value. Assumes underlying AV growth of 3 percent per year starting in 2015-16.
(2) Reflects amount shown on the ROPs for 2013-14 and estimate from staff for 2014-15. This is variable rate debt and the actual amount of debt service may vary.
(3) Includes DPA payments and JPA Common Area maintenance costs as shown on ROPs. Admin costs are based on ROPs reported amounts. Admin costs are assumed to drop by 6% per year beginning in 2015-16 with a minimum cost of $100,000.
(4) Residual revenue is the amount remaining after paying all obligations except SERAF and the City Loans. (5) This is the amount that is available each year to first repay SERAF and then to repay the City Loans. It represents 50% of the amount of residual revenue above the 2012-13 Residual Base amount.
<table>
<thead>
<tr>
<th>FY Ending</th>
<th>LAIF Interest Rate (2)</th>
<th>Beginning Balance</th>
<th>Additional Principal</th>
<th>Total Repayments</th>
<th>Repayment Applied to Interest</th>
<th>Repayment Applied to Principal</th>
<th>Annual Interest</th>
<th>Ending Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1983</td>
<td>10.450%</td>
<td>0</td>
<td>49,050</td>
<td>0</td>
<td>2,563</td>
<td>51,813</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1984</td>
<td>10.408%</td>
<td>51,613</td>
<td>2,260,000</td>
<td>0</td>
<td>44,654</td>
<td>2,356,267</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1985</td>
<td>10.715%</td>
<td>2,356,257</td>
<td>1,827,500</td>
<td>0</td>
<td>336,999</td>
<td>4,522,765</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1986</td>
<td>9.061%</td>
<td>4,522,756</td>
<td>3,300,000</td>
<td>0</td>
<td>510,503</td>
<td>8,333,262</td>
<td></td>
<td></td>
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<tr>
<td>1987</td>
<td>7.438%</td>
<td>8,333,262</td>
<td>81,000</td>
<td>0</td>
<td>625,600</td>
<td>9,039,862</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1988</td>
<td>7.874%</td>
<td>9,039,862</td>
<td>165,600</td>
<td>0</td>
<td>724,838</td>
<td>9,930,300</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1989</td>
<td>8.669%</td>
<td>9,930,300</td>
<td>278,133</td>
<td>0</td>
<td>884,969</td>
<td>11,043,402</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1990</td>
<td>8.655%</td>
<td>11,043,402</td>
<td>302,500</td>
<td>0</td>
<td>968,315</td>
<td>12,352,216</td>
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<tr>
<td>1991</td>
<td>8.013%</td>
<td>12,352,218</td>
<td>336,150</td>
<td>0</td>
<td>1,019,124</td>
<td>13,737,501</td>
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<tr>
<td>1992</td>
<td>6.196%</td>
<td>13,737,501</td>
<td>408,180</td>
<td>0</td>
<td>876,466</td>
<td>15,022,148</td>
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<tr>
<td>1993</td>
<td>4.707%</td>
<td>15,022,148</td>
<td>311,765</td>
<td>0</td>
<td>721,767</td>
<td>16,055,890</td>
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<tr>
<td>1994</td>
<td>4.387%</td>
<td>16,055,860</td>
<td>888,000</td>
<td>0</td>
<td>743,319</td>
<td>17,846,999</td>
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<td></td>
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<tr>
<td>1995</td>
<td>5.632%</td>
<td>17,846,999</td>
<td>950,925</td>
<td>0</td>
<td>1,031,050</td>
<td>19,668,974</td>
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<td></td>
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<tr>
<td>1996</td>
<td>5.706%</td>
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<td>545,596</td>
<td>0</td>
<td>1,153,443</td>
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<td></td>
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<td>1997</td>
<td>5.598%</td>
<td>21,353,413</td>
<td>744,365</td>
<td>0</td>
<td>1,238,672</td>
<td>23,594,085</td>
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<tr>
<td>1998</td>
<td>5.699%</td>
<td>23,594,085</td>
<td>702,713</td>
<td>0</td>
<td>1,370,790</td>
<td>25,423,895</td>
<td></td>
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<tr>
<td>1999</td>
<td>5.344%</td>
<td>25,423,895</td>
<td>722,876</td>
<td>0</td>
<td>1,397,287</td>
<td>27,841,116</td>
<td></td>
<td></td>
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<tr>
<td>2000</td>
<td>5.708%</td>
<td>27,841,116</td>
<td>743,627</td>
<td>0</td>
<td>1,614,664</td>
<td>29,955,780</td>
<td></td>
<td></td>
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<tr>
<td>2001</td>
<td>6.104%</td>
<td>29,955,780</td>
<td>758,498</td>
<td>0</td>
<td>1,871,542</td>
<td>32,827,324</td>
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<td></td>
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<tr>
<td>2002</td>
<td>3.445%</td>
<td>32,827,324</td>
<td>1,267,279</td>
<td>0</td>
<td>1,164,401</td>
<td>34,989,734</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2003</td>
<td>2.152%</td>
<td>34,989,734</td>
<td>3,238,885</td>
<td>0</td>
<td>802,546</td>
<td>38,806,565</td>
<td></td>
<td></td>
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<tr>
<td>2004</td>
<td>1.532%</td>
<td>38,806,557</td>
<td>1,332,748</td>
<td>0</td>
<td>604,042</td>
<td>40,930,397</td>
<td></td>
<td></td>
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<tr>
<td>2005</td>
<td>2.256%</td>
<td>40,932,347</td>
<td>916,000</td>
<td>0</td>
<td>923,795</td>
<td>41,872,141</td>
<td></td>
<td></td>
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<tr>
<td>2006</td>
<td>3.873%</td>
<td>41,872,141</td>
<td>479,000</td>
<td>0</td>
<td>1,640,260</td>
<td>43,991,401</td>
<td></td>
<td></td>
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<tr>
<td>2007</td>
<td>5.121%</td>
<td>43,991,401</td>
<td>0</td>
<td>0</td>
<td>2,252,800</td>
<td>46,244,201</td>
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</tr>
<tr>
<td>2008</td>
<td>4.325%</td>
<td>46,244,201</td>
<td>0</td>
<td>(1,321,000)</td>
<td>(1,321,000)</td>
<td>48,566,201</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>2.224%</td>
<td>48,566,201</td>
<td>0</td>
<td>(250,000)</td>
<td>(250,000)</td>
<td>50,816,200</td>
<td></td>
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<tr>
<td>2010</td>
<td>0.651%</td>
<td>47,852,572</td>
<td>0</td>
<td>0</td>
<td>310,220</td>
<td>47,863,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2011</td>
<td>0.495%</td>
<td>47,863,092</td>
<td>0</td>
<td>0</td>
<td>237,417</td>
<td>48,098,509</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>0.382%</td>
<td>48,200,509</td>
<td>0</td>
<td>0</td>
<td>184,128</td>
<td>48,384,635</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td>0.307%</td>
<td>48,384,635</td>
<td>0</td>
<td>0</td>
<td>148,541</td>
<td>48,533,176</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td>0.260%</td>
<td>48,533,176</td>
<td>0</td>
<td>0</td>
<td>126,186</td>
<td>48,659,362</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(1) AB 1484 requires that City Loan amounts be calculated based on LAIF rates.
(2) As published on the California State Treasurer web site.
(3) Payments have been applied first to accrued interest and then to principal.
(4) Loan incurred in December 1982 so interest calculated for six month.
(5) New loan amount incurred in April 1984 so interest calculated for two months.
(6) Two loans incurred this fiscal year. One for $640,000 in October 1984 and the other for $1,187,500 in January 1985. Interest pro-rated on each loan.
(7) New loan in this fiscal year incurred in November 1986 so interest has been pro-rated.
## Table 3
### Modesto Successor Agency
### Modesto Project Area

**PROJECTED REPAYMENT OF SERAF AND CITY LOAN**

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount For Other Obligations (1)</th>
<th>SERAF (1) Obligation $676,526</th>
<th>City Loan Balance (2)</th>
<th>(3) Assumed Interest Rate</th>
<th>(4) Plus Less: Interest Payments</th>
<th>City Loan Balance (5)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013-14</td>
<td>$0</td>
<td>$48,659,362</td>
<td>0.260%</td>
<td>$0</td>
<td>0</td>
<td>48,659,362</td>
</tr>
<tr>
<td>2014-15</td>
<td>0</td>
<td>0</td>
<td>0.260%</td>
<td>243,297</td>
<td>0</td>
<td>48,902,659</td>
</tr>
<tr>
<td>2015-16</td>
<td>82,184</td>
<td>48,902,659</td>
<td>0.50%</td>
<td>244,513</td>
<td>0</td>
<td>49,147,172</td>
</tr>
<tr>
<td>2016-17</td>
<td>330,789</td>
<td>49,147,172</td>
<td>0.75%</td>
<td>368,604</td>
<td>0</td>
<td>49,515,776</td>
</tr>
<tr>
<td>2017-18</td>
<td>218,762</td>
<td>49,515,776</td>
<td>1.00%</td>
<td>495,158</td>
<td>0</td>
<td>50,010,934</td>
</tr>
<tr>
<td>2018-19</td>
<td>325,213</td>
<td>50,010,934</td>
<td>2.00%</td>
<td>1,000,219</td>
<td>280,422</td>
<td>50,730,730</td>
</tr>
<tr>
<td>2019-20</td>
<td>438,659</td>
<td>50,730,730</td>
<td>3.00%</td>
<td>1,521,922</td>
<td>438,659</td>
<td>51,813,993</td>
</tr>
<tr>
<td>2020-21</td>
<td>554,204</td>
<td>51,813,993</td>
<td>3.00%</td>
<td>1,554,420</td>
<td>554,204</td>
<td>52,814,209</td>
</tr>
<tr>
<td>2021-22</td>
<td>666,763</td>
<td>52,814,209</td>
<td>3.00%</td>
<td>1,584,425</td>
<td>666,763</td>
<td>53,731,872</td>
</tr>
<tr>
<td>2022-23</td>
<td>524,606</td>
<td>53,731,872</td>
<td>3.00%</td>
<td>1,611,956</td>
<td>524,606</td>
<td>54,819,222</td>
</tr>
<tr>
<td>2023-24</td>
<td>549,809</td>
<td>54,819,222</td>
<td>3.00%</td>
<td>1,644,577</td>
<td>549,809</td>
<td>55,913,900</td>
</tr>
<tr>
<td>2024-25</td>
<td>1,480,217</td>
<td>55,913,900</td>
<td>3.00%</td>
<td>1,677,417</td>
<td>1,480,217</td>
<td>56,111,101</td>
</tr>
<tr>
<td>2025-26</td>
<td>1,588,338</td>
<td>56,111,101</td>
<td>3.00%</td>
<td>1,693,333</td>
<td>1,588,338</td>
<td>56,699,439</td>
</tr>
<tr>
<td>2026-27</td>
<td>1,441,241</td>
<td>56,699,439</td>
<td>3.00%</td>
<td>1,688,063</td>
<td>1,441,241</td>
<td>56,451,038</td>
</tr>
<tr>
<td>2027-28</td>
<td>1,542,474</td>
<td>56,451,038</td>
<td>3.00%</td>
<td>1,693,531</td>
<td>1,542,474</td>
<td>56,602,095</td>
</tr>
<tr>
<td>2028-29</td>
<td>1,644,674</td>
<td>56,602,095</td>
<td>3.00%</td>
<td>1,688,674</td>
<td>1,644,674</td>
<td>56,665,494</td>
</tr>
<tr>
<td>2029-30</td>
<td>1,749,957</td>
<td>56,665,494</td>
<td>3.00%</td>
<td>1,690,665</td>
<td>1,749,957</td>
<td>56,605,192</td>
</tr>
<tr>
<td>2030-31</td>
<td>1,858,415</td>
<td>56,605,192</td>
<td>3.00%</td>
<td>1,698,156</td>
<td>1,858,415</td>
<td>56,464,493</td>
</tr>
<tr>
<td>2031-32</td>
<td>2,001,566</td>
<td>56,464,493</td>
<td>3.00%</td>
<td>1,693,348</td>
<td>2,001,566</td>
<td>56,163,715</td>
</tr>
<tr>
<td>2032-33</td>
<td>2,117,292</td>
<td>56,163,715</td>
<td>3.00%</td>
<td>1,684,101</td>
<td>2,117,292</td>
<td>55,703,524</td>
</tr>
<tr>
<td>2033-34</td>
<td>2,235,503</td>
<td>55,703,524</td>
<td>3.00%</td>
<td>1,671,106</td>
<td>2,235,503</td>
<td>55,138,127</td>
</tr>
<tr>
<td>2034-35</td>
<td>3,089,389</td>
<td>55,138,127</td>
<td>3.00%</td>
<td>1,654,144</td>
<td>3,089,389</td>
<td>53,702,882</td>
</tr>
<tr>
<td>2035-36</td>
<td>3,347,525</td>
<td>53,702,882</td>
<td>3.00%</td>
<td>1,611,086</td>
<td>3,347,525</td>
<td>51,966,444</td>
</tr>
<tr>
<td>2036-37</td>
<td>3,088,218</td>
<td>51,966,444</td>
<td>3.00%</td>
<td>1,558,993</td>
<td>3,088,218</td>
<td>50,437,219</td>
</tr>
<tr>
<td>2037-38</td>
<td>3,215,399</td>
<td>50,437,219</td>
<td>3.00%</td>
<td>1,513,117</td>
<td>3,215,399</td>
<td>48,724,937</td>
</tr>
<tr>
<td>2038-39</td>
<td>3,346,407</td>
<td>48,724,937</td>
<td>3.00%</td>
<td>1,462,046</td>
<td>3,346,407</td>
<td>46,850,578</td>
</tr>
</tbody>
</table>

**Totals**

<table>
<thead>
<tr>
<th>Amount For Other Obligations</th>
<th>SERAF (1) Obligation</th>
<th>City Loan Balance (2)</th>
<th>(3) Assumed Interest Rate</th>
<th>Payment Applied to City Loan (4)</th>
<th>Portion of City Loan Paid to Housing Fund (4)</th>
<th>Net City Loan Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>37,438,692</td>
<td>676,526</td>
<td>34,953,382</td>
<td>36,762,166</td>
<td>36,762,166</td>
<td>7,352,433</td>
<td>29,409,733</td>
</tr>
</tbody>
</table>

1. Per AB 1484, the SERAF loan must be repaid first.
3. Interest at estimated LAIF rates as shown above.
4. Of the total payments under the City loan, 20% must be applied to the Housing Fund.

The amount that goes to the Housing Fund is assumed to reflect a loss to the City. It represents the portion of the loan that is not repaid.

Fraser Associates
Loan repay

7/21/2014
TI Projections 13-14.xls
ATTACHMENT 1

Table 4
Modesto Successor Agency
Modesto Project Area

RECALCULATION OF CITY LOAN AT LAIF RATE (1)

<table>
<thead>
<tr>
<th>FY Ending</th>
<th>LAIF Interest Rate (2)</th>
<th>Beginning Balance</th>
<th>Additional Principal</th>
<th>Total Repayments</th>
<th>Annual Interest</th>
<th>Ending Balance</th>
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<tbody>
<tr>
<td>1983</td>
<td>0.260%</td>
<td>0 (4)</td>
<td>49,050</td>
<td>0</td>
<td>64</td>
<td>49,114</td>
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<tr>
<td>1984</td>
<td>0.260%</td>
<td>49,114 (5)</td>
<td>2,260,000</td>
<td>0</td>
<td>1,109</td>
<td>2,310,223</td>
</tr>
<tr>
<td>1985</td>
<td>0.260%</td>
<td>2,310,223 (6)</td>
<td>1,827,500</td>
<td>0</td>
<td>8,106</td>
<td>4,145,829</td>
</tr>
<tr>
<td>1986</td>
<td>0.260%</td>
<td>4,145,829 (7)</td>
<td>3,300,000</td>
<td>0</td>
<td>13,638</td>
<td>7,459,458</td>
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<tr>
<td>1987</td>
<td>0.260%</td>
<td>7,459,458</td>
<td>81,000</td>
<td>0</td>
<td>19,605</td>
<td>7,560,063</td>
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<tr>
<td>1988</td>
<td>0.260%</td>
<td>7,560,063</td>
<td>165,600</td>
<td>0</td>
<td>20,087</td>
<td>7,745,750</td>
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<tr>
<td>1989</td>
<td>0.260%</td>
<td>7,745,750</td>
<td>278,133</td>
<td>0</td>
<td>20,862</td>
<td>8,044,745</td>
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<tr>
<td>1990</td>
<td>0.260%</td>
<td>8,044,745</td>
<td>302,500</td>
<td>0</td>
<td>21,703</td>
<td>8,347,248</td>
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<tr>
<td>1991</td>
<td>0.260%</td>
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<td>338,160</td>
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<td>22,633</td>
<td>8,707,711</td>
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<tr>
<td>1992</td>
<td>0.260%</td>
<td>8,727,741</td>
<td>408,180</td>
<td>0</td>
<td>23,753</td>
<td>9,135,921</td>
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<tr>
<td>1993</td>
<td>0.260%</td>
<td>9,159,675</td>
<td>311,765</td>
<td>0</td>
<td>24,626</td>
<td>9,471,440</td>
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<td>0.260%</td>
<td>9,466,065</td>
<td>868,000</td>
<td>0</td>
<td>26,999</td>
<td>10,334,064</td>
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<tr>
<td>1995</td>
<td>0.260%</td>
<td>10,411,064</td>
<td>950,925</td>
<td>0</td>
<td>29,541</td>
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<tr>
<td>1996</td>
<td>0.260%</td>
<td>11,391,530</td>
<td>548,596</td>
<td>0</td>
<td>31,037</td>
<td>11,939,126</td>
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<tr>
<td>1997</td>
<td>0.260%</td>
<td>11,968,163</td>
<td>744,365</td>
<td>0</td>
<td>33,053</td>
<td>12,712,528</td>
</tr>
<tr>
<td>1998</td>
<td>0.260%</td>
<td>12,745,580</td>
<td>702,713</td>
<td>0</td>
<td>34,956</td>
<td>13,448,293</td>
</tr>
<tr>
<td>1999</td>
<td>0.260%</td>
<td>13,463,259</td>
<td>722,876</td>
<td>0</td>
<td>35,936</td>
<td>14,246,125</td>
</tr>
<tr>
<td>2000</td>
<td>0.260%</td>
<td>14,245,071</td>
<td>743,627</td>
<td>0</td>
<td>36,965</td>
<td>15,028,698</td>
</tr>
<tr>
<td>2001</td>
<td>0.260%</td>
<td>15,025,663</td>
<td>758,498</td>
<td>0</td>
<td>41,039</td>
<td>15,784,161</td>
</tr>
<tr>
<td>2002</td>
<td>0.260%</td>
<td>15,825,200</td>
<td>1,267,279</td>
<td>0</td>
<td>44,440</td>
<td>17,136,919</td>
</tr>
<tr>
<td>2003</td>
<td>0.260%</td>
<td>17,136,919</td>
<td>2,326,865</td>
<td>0</td>
<td>50,611</td>
<td>19,561,780</td>
</tr>
<tr>
<td>2004</td>
<td>0.260%</td>
<td>19,516,416</td>
<td>1,332,748</td>
<td>0</td>
<td>54,203</td>
<td>20,903,171</td>
</tr>
<tr>
<td>2005</td>
<td>0.260%</td>
<td>20,903,371</td>
<td>916,000</td>
<td>0</td>
<td>56,730</td>
<td>21,819,371</td>
</tr>
<tr>
<td>2006</td>
<td>0.260%</td>
<td>21,876,102</td>
<td>479,000</td>
<td>0</td>
<td>58,123</td>
<td>22,414,525</td>
</tr>
<tr>
<td>2007</td>
<td>0.260%</td>
<td>22,414,325</td>
<td>0</td>
<td>0</td>
<td>58,274</td>
<td>22,472,599</td>
</tr>
<tr>
<td>2008</td>
<td>0.260%</td>
<td>22,471,409</td>
<td>0</td>
<td>(1,321,000)</td>
<td>54,991</td>
<td>21,250,492</td>
</tr>
<tr>
<td>2009</td>
<td>0.260%</td>
<td>21,205,491</td>
<td>0</td>
<td>(250,000)</td>
<td>54,484</td>
<td>21,006,997</td>
</tr>
<tr>
<td>2010</td>
<td>0.260%</td>
<td>21,009,975</td>
<td>0</td>
<td>(54,484)</td>
<td>54,484</td>
<td>21,006,997</td>
</tr>
<tr>
<td>2011</td>
<td>0.260%</td>
<td>21,064,601</td>
<td>0</td>
<td>(494,902)</td>
<td>54,826</td>
<td>21,054,801</td>
</tr>
<tr>
<td>2012</td>
<td>0.260%</td>
<td>21,119,369</td>
<td>0</td>
<td>(195,516)</td>
<td>54,768</td>
<td>21,119,864</td>
</tr>
<tr>
<td>2013</td>
<td>0.260%</td>
<td>21,174,279</td>
<td>0</td>
<td>0</td>
<td>55,053</td>
<td>21,229,332</td>
</tr>
<tr>
<td>2014</td>
<td>0.260%</td>
<td>21,229,332</td>
<td>0</td>
<td>0</td>
<td>55,196</td>
<td>21,284,529</td>
</tr>
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</table>

Total: 21,700,400 (1,571,000) (860,582) (690,418) 1,155,136

(1) AB 1484 requires that City Loan amounts be calculated based on LAIF rates. Alternative 2 has used current LAIF rates.
(2) As published on the California State Treasurer web site.
(3) Payments have been applied first to accrued interest and then to principal.
(4) Loan incurred in December 1982 so interest calculated for six month.
(5) New loan amount incurred in April 1984 so interest calculated for two months.
(6) Two loans incurred this fiscal year. One for $640,000 in October 1984 and the other for $1,187,500 in January 1985. Interest pro-rated on each loan.
(7) New loan in this fiscal year incurred in November 1986 so interest has been pro-rated.
## ATTACHMENT 1

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount (1)</th>
<th>SERAF (2)</th>
<th>City Loan (3)</th>
<th>(3) Plus (4)</th>
<th>Less: Payment (5)</th>
<th>Balance (2)</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>For Other Obligations</td>
<td>SERAF Obligation</td>
<td>Assumed Balance</td>
<td>Interest Rate</td>
<td>Interest</td>
<td>City Loan Balance</td>
</tr>
<tr>
<td>2013</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>0.250%</td>
<td>$0</td>
<td>0</td>
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<tr>
<td>2014</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>0.250%</td>
<td>$0</td>
<td>0</td>
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<tr>
<td>2015</td>
<td>82,184</td>
<td>82,184</td>
<td>21,390,951</td>
<td>0.500%</td>
<td>106,423</td>
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<tr>
<td>2016</td>
<td>330,789</td>
<td>330,789</td>
<td>21,497,906</td>
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<tr>
<td>2017</td>
<td>218,762</td>
<td>218,762</td>
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<td>2018</td>
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<td>2019</td>
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<td>274,117</td>
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<tr>
<td>2020</td>
<td>554,204</td>
<td>0</td>
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<td>554,204</td>
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<td>666,763</td>
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<td>2022</td>
<td>524,806</td>
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<td>549,899</td>
<td>0</td>
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<td>1,400,217</td>
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<td>1,400,217</td>
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<td>2025</td>
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<td>2026</td>
<td>1,441,241</td>
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<td>1,542,474</td>
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<tr>
<td>2028</td>
<td>1,644,674</td>
<td>0</td>
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<tr>
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<td>1,749,957</td>
<td>0</td>
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<td>2030</td>
<td>1,859,415</td>
<td>0</td>
<td>17,873,139</td>
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<td>529,114</td>
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<td>2031</td>
<td>2,001,566</td>
<td>0</td>
<td>16,307,838</td>
<td>3.000%</td>
<td>489,235</td>
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<td>2032</td>
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<td>14,795,507</td>
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<td>443,865</td>
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<tr>
<td>2033</td>
<td>2,239,503</td>
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<td>13,122,080</td>
<td>3.000%</td>
<td>393,662</td>
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<tr>
<td>2034</td>
<td>3,089,389</td>
<td>0</td>
<td>11,279,240</td>
<td>3.000%</td>
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<td>2035</td>
<td>3,347,525</td>
<td>0</td>
<td>8,528,228</td>
<td>3.000%</td>
<td>255,847</td>
<td>3,347,525</td>
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<tr>
<td>2036</td>
<td>3,088,218</td>
<td>0</td>
<td>5,436,550</td>
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<td>3,088,218</td>
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<td>2037</td>
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<tr>
<td>2038</td>
<td>3,346,407</td>
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<td>(0)</td>
<td>3.000%</td>
<td>(0)</td>
<td>(0)</td>
</tr>
</tbody>
</table>

**Totals**

| 37,438,692 | 1,231,065 | 10,948,064 | 32,232,593 |

**Payment Applied to City Loan (4)**

| 32,232,593 |

**Portion of City Loan Paid to Housing Fund (4)**

| 6,446,519 |

**Net City Loan Payment**

| 25,786,074 |

---

1. Per AB 1484, the SERAF loan must be repaid first.
3. Interest at estimated LAIF rates as shown above.
4. Of the total payments under the City loan, 20% must be applied to the Housing Fund. The amount that goes to the Housing Fund is assumed to reflect a loss to the City. It represents the portion of the loan that is not repaid.
MODESTO CITY COUNCIL  
RESOLUTION NO. 2014-357

A RESOLUTION RECOGNIZING AND SUPPORTING IMPLEMENTATION OF THE ECONOMIC DEVELOPMENT INCENTIVE PROGRAM FOR DOWNTOWN MODESTO

WHEREAS, at its May 6, 2014 meeting, staff presented the findings of the Downtown Modesto Partnership related to the economic value and growth potential for downtown, and recommended the City Council approve a set of economic development incentives, and

WHEREAS, the City Council, by Resolution 2014-170, unanimously authorized the City Manager to implement the Downtown Economic Development Incentive Program ("Program"), included in Exhibit A, and

WHEREAS, the total cost to implement the Program is $100,000, and

WHEREAS, $50,000 in funding has been secured and budgeted to get the first phase of the Program underway, and

WHEREAS, funding for the remaining $50,000 is pending and contingent upon the success of the first phase, and

WHEREAS, the incentives are organized into three categories: occupancy incentives, new development incentives and physical improvement incentives, and

WHEREAS, interdepartmental staff created an application package and internal processing procedures, encumbered funds, and incorporated another viable incentive in the form of exemption from upcharges in wastewater connection fees, and

WHEREAS, the proposed exemption in wastewater connection upcharges will serve as a pilot program until a much-anticipated comprehensive connection fee and rate study is launched,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby recognizes and supports implementation of the Economic Development Incentive Program for downtown, as defined in Exhibit B.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2014, 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 LINDGREN, City Attorney
TO:                Mayor & City Council

THROUGH:          Greg Nyhoff, City Manager

FROM:              H. Brent Sinclair, AICP
                  Director of Community and Economic Development

SUBJECT:           Downtown Economic Development Incentives

CONTACT:           Josh Bridegroom, Downtown Program Manager
                  jbridgegroom@modestogov.com, (209) 571-5540

DESCRIPTION:       Consider approving an economic development incentive program for downtown and directing
                   staff to implement. (Funding: General Fund)

FISCAL IMPACT:     It is estimated that the potential direct cost to the General Fund could be approximately
                   $100,000. In addition, components of the program contemplate reducing or eliminating fees or
                   taxes to encourage higher occupancies, new development and physical improvements in the
downtown. The potential revenue gain resulting from higher occupancies, new development
                   and physical improvement may not be realized without the fee waivers or tax reimbursements
                   proposed by the program.

BACKGROUND:        In June 2012, the City Council commissioned the Downtown Hospitality Program to find
                   ways of making downtown more attractive and hospitable to visitors, businesses, residents and
                   investors. The program is a collaboration of the City, Downtown Improvement District, Chamber
                   of Commerce, Convention and Visitors Bureau, Alliance, and other downtown stakeholders and
                   interested parties. One of the first orders of business for the Downtown Hospitality Program
                   was the creation of an economic development committee. Once created, the committee
                   immediately set out to determine the existing economic value of downtown and its potential for
                   economic expansion.

DOWNTOWN IS A SLEEPING ECONOMIC GIANT – Overall, downtown has a 16% vacancy
                   rate. Yet despite this, it employs 28 persons per acre. This is a full 25% higher than would be
                   anticipated within a business park. If downtown were fully occupied, it would employ
                   approximately 32 persons per acre, nearly 50% more than a business park. Furthermore,
                   existing development codes allow significant intensification downtown. At double the existing
density, downtown could accommodate 10,000 additional jobs. This would not come close to exhausting the intensification permitted.

Furthermore, these are not low paying jobs. To the contrary, it was discovered that the average worker downtown earns $45,000 per year. This is 10% higher than the average wage for the Modesto area and would provide an income of $90,000 for two-income households. The concentration of professional occupations downtown (attorneys, architects, engineers, accountants, real estate professions, etc.) contribute to the higher wages. Consequently, as downtown is built up, it is expected that incomes will rise, since retail (lower wage jobs) are generally found on the first floor of buildings and professional office (higher wage jobs) are found on upper floors.

Downtown also has great local revenue generating potential. While the Vintage Fair Mall is valued at $1,654,852/Acre, the Costco Lowe’s Center at $1,574,297/Acre and Best Buy/Target center at $1,433,618/Acre, downtown’s average value per acre is $2,343,681/Acre. Some properties downtown are valued above $10,000,000/Acre. Since property taxes are based on valuations, the City sees greater property tax revenue per acre downtown than elsewhere in the City. The strong connection between high property values and development density suggests the average valuation downtown can be expected to grow as the downtown is built up.

The conclusion is that downtown is a sleeping economic giant. The Downtown Hospitality Program economic development committee presented this information at the Downtown Summit meeting on February 27th, and it was well received. Consequently, the committee set out to create economic development incentives that would help the downtown realize its economic potential.

**SUMMARY OF ECONOMIC DEVELOPMENT INCENTIVES** – The draft incentives (attached) fall into three categories: occupancy incentives, new development incentives and physical improvement incentives. These are briefly described below.

- **Occupancy Incentives** – Increase the occupancy rate downtown by providing up to $2,500 for new businesses that open downtown, as well as providing a refund of mill tax and sales tax for the first year for new businesses or expanded hours of operation for existing businesses.

- **New Development Incentives** – Promote downtown residential development through CFF exemptions for the roadway component, and waiver/exemptions for construction related encroachment permits.

- **Physical Improvement Incentives** – Facilitate façade improvements through matching grants, as well as provide for maintenance, beautification and establishment of outdoor dining areas by exempting encroachment permit fees.

**POTENTIAL ECONOMIC BENEFIT** – At the June 5 EDC meeting, the Economic Development Committee asked staff to develop a hypothetical scenario for the incentive program. In coordination with the Alliance, staff researched the number of jobs and labor income that might be expected if the program were successfully implemented. The results are provided in a table attached to this agenda report.
The scenario assumes the program's benefits are fully utilized and that half of the cash incentive is used for retail/restaurant users and the other half is used for professional office users. Three categories were created for each job type to correspond with the proposed cash incentive categories: one for businesses with fewer than five employees, one for businesses with 10 or fewer employees, and one for businesses with more than 10 employees. Where possible, rounded numbers were used, as they work better with the Alliance's Implan software, which was used to develop the scenario.

Under the scenario developed, the economic development incentive program would create 344 jobs and approximately $14,000,000 in labor income.

DOWNTOWN MODESTO PARTNERSHIP RECOMMENDATION - The research, findings and proposed ED Incentive Program were presented to the Downtown Modesto Partnership at its March 6 meeting. The Partnership, comprised of representatives from a broad cross-section of the community including the Downtown Improvement District, Chamber of Commerce and Convention and Visitors Bureau, voted unanimously to endorse the incentives program and recommend the item to City Council.

COMMITTEE RECOMMENDATION:
At its August 5, 2013 meeting, the Economic Development Committee voted unanimously to recommend this item on to City Council.

CEQA/NEPA REQUIREMENTS:
This is not a project and is therefore not subject to CEQA or NEPA

STRATEGIC PLAN ELEMENT:
The proposal supports Strategic Commitments #4, Encourage business attraction and retention through coordinated partnership efforts with the Chamber of Commerce, the Alliance, Downtown Improvement District, Convention and Visitor’s Bureau and other organizations

RECOMMENDED COUNCIL ACTION:
Staff Recommendations:
Resolution approving economic development incentive program for downtown and directing staff to implement.

Approved by:

H. Brent Sinclair, AICP
Director of Community & Economic Development

Greg Nyhoff, City Manager

Attachments: 1. Draft Economic Development Incentives
2. Economic Multiplier
Draft Downtown Economic Development Incentives

A. Occupancy Incentives
   I. Incentive Types
      1. Cash – New businesses or businesses relocating into downtown from another
         area, either office or retail, are eligible for the following cash incentive based
         on the number of full time equivalent (FTE) jobs created:
         a. < 5 jobs = $1,000
         b. 5-10 jobs = $2,000
         c. ≥ 10 jobs = $2,500
      2. Mill Tax Refund – New businesses are eligible for a refund of City mill tax for the
         first year of business.
      3. Local Sales Tax Refund – New retail businesses that are open Monday through
         Saturday are eligible for refund of local sales tax for first year of business.
      4. Partial Sales Tax Refund – Existing retail businesses that extend hours are
         eligible for refund of local sales tax collected during the extended hours for
         one year.
   II. Retail Requirements
      1. Eligible businesses shall be non-seasonal, full-time operations, maintaining
         regular, published operating hours equaling a minimum of 40 hours per week.
      2. Eligible retail businesses are exclusive to targeted areas, starting with 10th (K to
         H), 11th (K to I) and J (9th to McHenry) and include only the following uses:
         a. Eating/Drinking Establishments (Restaurants, Café’s, etc.)
         b. Artisan Shops (hand crafted durable and non-durable goods)
         c. Clothing/Apparel Stores
         d. Antique Stores
         e. Music Stores
         f. Pubs and Lounges (3,500 square feet/three max per street)
         g. Beauty and Spa Services
         h. Fitness Facilities
         i. Art Galleries
         j. Drug Stores/Sundries
         k. Grocery Stores (20,000 square feet max)
         l. Bookstores
         m. Bicycle Stores, Skate Shops, etc.
         n. Other similar uses, as approved by the C&ED Director
   III. Program Administration
      1. Business owner must provide a business plan (SBDC to approve):
         a. Demonstrates how business will create employment
         b. Shows operating budget with profitability
2. Business to provide sales receipts and payroll information to demonstrate compliance with program
3. Cash incentive to be paid with store opening
4. Tax incentive to be paid quarterly
5. Business must stay in location for one year or pay back incentive/forthef sales tax refund
6. $50,000 total cash payout per year for program

B. New Development Incentives
   I. Incentive Types
      1. CFF Fee Exemption - New development that includes residential uses are exempt from CFF roadway fees.
      2. Encroachment Permit Fee Exemption – No fee for encroachment permits needed in conjunction with construction.
      3. Occupancy Incentives – Commercial portion of new buildings receives occupancy incentives identified above.
   II. Program Administration
      1. Program is administered through the building permit and encroachment permit processes and is self-enforcing.

C. Physical Improvements Incentives
   I. Incentive Types
      1. Façade Improvement – Matching grant up to $10,000
      2. Encroachment Permit – No fees for minor encroachment permits for repair/maintenance, beautification or outdoor dining.
   II. Façade Improvement Requirements
      1. Eligible buildings are exclusive to targeted areas, starting with 10th Street, between J and I Streets.
      2. For buildings over 50 years old, focus shall be on restoration of original building façade and historically sensitive improvements, except where determined infeasible by design review committee
   III. Program Administration
      1. Façade Improvements shall be reviewed and approved by a design review committee
      2. $50,000 total cash payout per year for program
      3. Encroachment permit process is administered through the encroachment permit process and is self-enforcing.
<table>
<thead>
<tr>
<th>Description</th>
<th>Direct Jobs Per Incentive</th>
<th>New Cost to City Per Incentive</th>
<th>Indirect/Induced Jobs Per Incentive</th>
<th>Total Jobs Per Incentive</th>
<th>Total Labor Income Per Incentive</th>
<th>Number of ED Incentives</th>
<th>Total Jobs For All Incentives</th>
<th>Total Labor Income For All Incentives</th>
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<td>$2,500</td>
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<tr>
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<tr>
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<td><strong>344</strong></td>
<td></td>
<td><strong>13,914,349</strong></td>
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</table>

Model results can vary based upon analyst assumptions.

Data generated using IMPLAN software, from Minnesota IMPLAN Group, Inc.

Totals may not add precisely due to rounding.

* Labor Income is defined as Employee Compensation + Proprietor Income

Employee Compensation in IMPLAN is the total payroll cost of the employee paid by the employer. This includes wages and salary, all benefits (health, retirement, etc.) and employer-paid payroll taxes (social security, unemployment, etc.)

Proprietor Income consists of payments received by self-employed individuals and unincorporated business owners, and includes the capital consumption allowance.
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-171

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO IMPLEMENT AN ECONOMIC DEVELOPMENT INCENTIVE PROGRAM FOR DOWNTOWN MODESTO

WHEREAS, in June 2012, the City Council commissioned the Downtown Hospitality Program to find ways of making downtown more attractive and hospitable to visitors, businesses, residents and investors, and

WHEREAS, the program is a collaboration of the City, Downtown Improvement District, Chamber of Commerce, Convention and Visitors Bureau, Alliance and other downtown stakeholders and interested parties, and

WHEREAS, overall, downtown buildings have a 16% vacancy rate, and

WHEREAS, downtown businesses employ 28 persons per acre, and

WHEREAS, this is 25% higher than would be anticipated with a business park, and

WHEREAS, if downtown buildings were fully occupied, businesses would employ approximately 32 persons per acre, nearly 50% more than a business park, and

WHEREAS, it was discovered that the average worker downtown earns $45,000 per year which is 10% higher than the average wage for the Modesto area and would provide an income of $90,000 for two-income households, and

WHEREAS, downtown has great local revenue generating potential, and

WHEREAS, downtown Modesto has an average property value of $2,343,681 per acre; while Vintage Faire Mall’s property value is $1,654,852 per acre, Lowe’s Center’s property value is $1,574,297 per acre and Best Buy/Target Center’s property value is $1,433,618 per acre, and
WHEREAS, all of this information and more was presented at the Downtown Summit meeting on February 27, 2013, after which the Economic Development Committee of the Downtown Hospitality Program set out to create economic development incentives that would help the downtown realize its economic potential, and

WHEREAS, the economic development incentives are separated into three categories: occupancy incentives, new development incentives and physical improvement incentives, (full descriptions included in Exhibit A) and

WHEREAS, at the June 5, 2013 Economic Development Committee meeting of the Modesto City Council, staff was asked to develop a hypothetical business scenario to demonstrate the incentive program, and

WHEREAS, in coordination with the Alliance, City staff researched the number of jobs and labor income that might be expected if the program were successfully implemented, and

WHEREAS, the scenario developed assumes the program's benefits are fully utilized and that half of the cash incentive is used for retail/restaurant users and the other half is used for professional office users, and

WHEREAS, three categories were created for each job type to correspond with the proposed cash incentive categories: one for businesses with fewer than five employees, one for businesses with 10 or fewer employees, and one for businesses with more than 10 employees, and

WHEREAS, under the hypothetical scenario developed, the economic development incentive program would assist in creating 344 jobs and approximately $14,000,000 in labor income,
WHEREAS, at its March 6 meeting, following a presentation on the proposed Economic Development Incentive Program, the Downtown Modesto Partnership, comprised of representatives from a broad cross-section of the community including the Downtown Improvement District, Chamber of Commerce and Convention and Visitors Bureau, voted unanimously to endorse the incentives program and recommend the item to City Council.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to implement an economic development incentive program for downtown.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2014, 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: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
EXHIBIT A

Draft Downtown Economic Development Incentives

A. Occupancy Incentives
   I. Incentive Types
      1. Cash – New businesses or businesses relocating into downtown from another area, either office or retail, are eligible for the following cash incentive based on the number of full time equivalent (FTE) jobs created:
         a. < 5 jobs = $1,000
         b. 5-10 jobs = $2,000
         c. > 10 jobs = $2,500
      2. Mill Tax Refund – New businesses are eligible for a refund of City mill tax for the first year of business.
      3. Local Sales Tax Refund – New retail businesses that are open Monday through Saturday are eligible for refund of local sales tax for first year of business
      4. Partial Sales Tax Refund – Existing retail businesses that extend hours are eligible for refund of local sales tax collected during the extended hours for one year.
   II. Retail Requirements
      1. Eligible businesses shall be non-seasonal, full-time operations, maintaining regular, published operating hours equaling a minimum of 40 hours per week.
      2. Eligible retail businesses are exclusive to targeted areas, starting with 10th (K to H), 11th (K to I) and J (9th to McHenry) and include only the following uses:
         a. Eating/Drinking Establishments (Restaurants, Café’s, etc.)
         b. Artisan Shops (hand crafted durable and non-durable goods)
         c. Clothing/Apparel Stores
         d. Antique Stores
         e. Music Stores
         f. Pubs and Lounges (3,500 square feet/three max per street)
         g. Beauty and Spa Services
         h. Fitness Facilities
         i. Art Galleries
         j. Drug Stores/Sundries
         k. Grocery Stores (20,000 square feet max)
         l. Bookstores
         m. Bicycle Stores, Skate Shops, etc.
n. Other similar uses, as approved by the C&ED Director

III. Program Administration

1. Business owner must provide a business plan (SBOC to approve):
   a. Demonstrates how business will create employment
   b. Shows operating budget with profitability
2. Business to provide sales receipts and payroll information to demonstrate compliance with program
3. Cash incentive to be paid with store opening
4. Tax incentive to be paid quarterly
5. Business must stay in location for one year or pay back incentive/forfeit sales tax refund
6. $50,000 total cash payout per year for program

B. New Development Incentives

I. Incentive Types
1. CFF Fee Exemption - New development that includes residential uses are exempt from CFF roadway fees.
2. Encroachment Permit Fee Exemption - No fee for encroachment permits needed in conjunction with construction.
3. Occupancy Incentives - Commercial portion of new buildings receives occupancy incentives identified above.

II. Program Administration
1. Program is administered through the building permit and encroachment permit processes and is self-enforcing.

C. Physical Improvements Incentives

I. Incentive Types
1. Façade Improvement - Matching grant up to $10,000
2. Encroachment Permit - No fees for minor encroachment permits for repair/maintenance, beautification or outdoor dining.

II. Façade Improvement Requirements
1. Eligible buildings are exclusive to targeted areas, starting with 10th Street, between J and I Streets.
2. For buildings over 50 years old, focus shall be on restoration of original building façade and historically sensitive improvements, except where determined infeasible by design review committee

III. Program Administration
1. Façade Improvements shall be reviewed and approved by a design review committee
2. $50,000 total cash payout per year for program
3. Encroachment permit process is administered through the encroachment permit process and is self-enforcing.
Downtown Economic Development Incentives

Program Guidelines

Program Description

Everyone loves a vibrant, busy and interesting city center with unique shops and services, terrific food and drink venues and quality living space. The Downtown Economic Development Incentives Program embraces these concepts. The Program provides three types of incentives to encourage higher occupancies, new development and physical improvements in the downtown. These are briefly described below.

- Occupancy Incentives - Increase the occupancy rate downtown by providing cash for new businesses that open downtown, as well as providing a refund of mill tax and sales tax for the first year for new businesses or expanded hours of operation for existing businesses.

- New Development Incentives - Promote downtown residential development through Capital Facility Fee (CFF) exemptions for the roadway component, and waiver/exemptions for construction related encroachment permits.

- Physical Improvement Incentives - Facilitate façade improvements through matching grants, as well as provide for maintenance, beautification and establishment of outdoor dining areas by exempting encroachment permit fees.

Incentives and Eligibility

A. Occupancy Incentives

   I. Incentive Types

      1. Cash – New businesses or businesses relocating into downtown from another area, either office or retail, are eligible for the following cash incentive based on the number of full time equivalent (FTE) jobs created:
         a. < 5 jobs = $1,000
         b. 5-10 jobs = $2,000
         c. > 10 jobs = $2,500

      2. Mill Tax Refund – New businesses are eligible for a refund of City mill tax for the first year of business.

      3. Local Sales Tax Refund – New retail businesses that are open Monday through Saturday are eligible for refund of local sales tax for first year of business
4. Partial Sales Tax Refund – Existing retail businesses that extend hours are eligible for refund of local sales tax collected during the extended hours for one year.

5. Wastewater Connection Fee Exemption – Retail, residential and office tenant improvements in previously occupied building areas are exempted from wastewater connection fee up-charges.

II. Retail Requirements

1. Eligible businesses shall be non-seasonal, full-time operations, maintaining regular, published operating hours equaling a minimum of 40 hours per week.

2. Eligible retail businesses are exclusive to targeted areas, starting with 10th (K to H), 11th (K to l) and J (9th to McHenry) and include only the following uses:
   a. Eating/Drinking Establishments (Restaurants, Café’s, etc.)
   b. Artisan Shops (hand crafted durable and non-durable goods)
   c. Clothing/Apparel Stores
   d. Antique Stores
   e. Music Stores
   f. Pubs and Lounges (3,500 square feet/three max per street)
   g. Beauty and Spa Services
   h. Fitness Facilities
   i. Art Galleries
   j. Drug Stores/Sundries
   k. Grocery Stores (20,000 square feet max)
   l. Bookstores
   m. Bicycle Stores, Skate Shops, etc.
   n. Other similar uses, as approved by the C&ED Director

B. Development Incentives

I. Incentive Types

1. CFF Fee Exemption – New development that includes residential uses are exempt from CFF roadway fees.

2. Encroachment Permit Fee Exemption – No fee for encroachment permits needed in conjunction with construction.

3. Occupancy Incentives – Commercial portion of new buildings receives applicable occupancy incentives identified above.

C. Physical Improvements incentives

I. Incentive Types

1. Façade Improvement – Matching grant up to $10,000.

2. Encroachment Permit – No fees for minor encroachment permits for repair/maintenance, beautification or outdoor dining.

II. Façade Improvement Requirements

1. Eligible buildings are exclusive to targeted areas, starting with 10th Street, between J and I Streets.
2. For buildings over 50 years old, focus shall be on restoration of original building façade and historically sensitive improvements, except where determined infeasible by the Urban Design Group of the Downtown Modesto Partnership.

**Submittal Requirements**

Many of the incentives are automatically administered through the building or encroachment permit processes and are self-enforcing. However, the occupancy and façade improvement incentives do not fit into existing programs and require special submittals, which may be subject change to accommodate the needs of the program or to comply with law. The current submittal requirements are listed below:

A. Occupancy Incentives
   - Completed Occupancy Incentive Application Form
   - Draft Business Plan
   - Approved Business License
   - Letter of Intent to Lease
   - Signed W-9 Form

B. Façade Improvement
   - Completed Façade Improvement Application Form
   - Evidence of Property Ownership (e.g., deed, title insurance policy)
   - Detailed Façade Restoration Plans showing:
     - Before and After Elevations
     - Building Elements to be Removed
     - Building Elements to Remain
     - Introduction of New Building Elements
Downtown Economic Development Incentive Program
FAÇADE IMPROVEMENT GRANT APPLICATION

APPLICANT INFORMATION

Name: ____________________________________________________________
Address: _________________________________________________________
City: __________________ State: ______ Zip: ____________________________
Daytime Phone: ___________________ Cell: ____________________________
Email Address: ___________________ Fax: ____________________________

PROPERTY OWNER INFORMATION

Name: ____________________________________________________________
Address: _________________________________________________________
City: __________________ State: ______ Zip: ____________________________
Daytime Phone: ___________________ Cell: ____________________________
Email Address: ___________________ Fax: ____________________________

PROJECT SITE INFORMATION

Project Address: ____________________________________________________
Estimated Project Cost: ____________________________________________
Name of Contractor: ________________________________________________
Description of Improvements (attach additional pages, if necessary): ____________________________

AFFIDAVIT

Your signature below indicates that you have read the foregoing application, know the content thereof and state that the
same is true and correct to the best of your knowledge.

__________________________________________ Date______________________________
Property Owner (Signature)

__________________________________________
Property Owner (Print Name)
Downtown Economic Development Incentive Program

OCCUPANCY INCENTIVE APPLICATION

APPLICANT INFORMATION

Name: ____________________________________________
Address: ____________________________________________
City: ___________________ State: ___________ Zip: ___________________
Daytime Phone: ___________________ Cell: ___________________
Email Address: ___________________ Fax: ___________________

BUSINESS OWNER INFORMATION

Name: ____________________________________________
Address: ____________________________________________
City: ___________________ State: ___________ Zip: ___________________
Daytime Phone: ___________________ Cell: ___________________
Email Address: ___________________ Fax: ___________________

BUSINESS INFORMATION

Business Name: ___________________ Business Description: ___________________

Business Address (street number(s) and suite(s)): ___________________
Previous Address (if any): ___________________
Weekly Operating Hours (days and times): ___________________
Previous Operating Hours (if any): ___________________
Weekly Labor Hours*: ___________________
Previous Labor Hours (if any): ___________________

AFFIDAVIT

Your signature below indicates that you have read the foregoing application, know the content thereof and state that the same is true and correct to the best of your knowledge.

__________________________________________  __________________________
Business Owner (Signature)                     Date

__________________________________________
Business Owner (Print Name)

* Weekly Labor Hours are the cumulative hours paid to all employees, including the business owner(s), in the course of one week. For calculation purposes, salary positions are valued at 40 hours.
Downtown ED Incentives Processing Procedures

Occupancy Incentives

1. Complete application, business license, business plan and letter of intent to lease received by CED staff.

2. CED staff escorts applicant to the Alliance for business plan component

3. CED staff checks with Business Licensing to ensure applicant is in good standing

4. CED staff reviews application to determine level of eligibility, informs applicant

5. Alliance staff meets w/ applicant regarding business plan

6. Alliance confirms final business plan and recommends a copy to City staff

7. Application approved with letter outlining action items for receiving benefit, as follows:
   a. Cash – Applicant brings copy of approval letter to Finance and receives a check for approved amount upon occupancy or within four weeks of receipt of approval letter, whichever is later.
   b. Mill Tax and Sales Tax – Applicant provides a copy of approval letter, quarterly payroll information with operating hours and copy of state-filed sales receipts to Finance Department along with quarterly taxes to demonstrate compliance with program and receive benefit. Finance issues eligible refund within four weeks.
   c. Partial sales tax – Applicant submits payroll information with operating hours and copy of state-filed sales receipts to receive benefit. Finance issues eligible refund within four weeks.

Façade Improvement Grant

1. Complete application, evidence of property ownership and façade restoration plan received by CED staff.

2. Urban Design Group of Downtown Modesto Partnership reviews façade restoration plan and makes recommendations to CED staff.

3. Revisions made to plan, where determined appropriate by CED staff


5. After receiving building permit, applicant completes work, brings approval letter, copy of final inspection and record of paid invoices to Finance Department. Finance Department issues eligible refund within four weeks.
RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE FURNISHING OF PEST CONTROL SERVICES FOR CITYWIDE USE TO MERCED PEST CONTROL, MERCED, CA, 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 $17,380, AND OVER FIVE (5) YEARS OF $86,900

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of pest control services, and

WHEREAS, the Purchasing Division issued RFB No. 1314-39 Pest Control Services to fourteen (14) prospective bidders, seven (7) 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. Five (5) companies chose to respond, two (2) of which were local companies, 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 furnishing of pest control services for Citywide use, to Merced Pest Control, Merced, CA, for a two (2) year period with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $17,380, and over five (5) years of $86,900, 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 furnishing of pest control services for Citywide use to Merced Pest Control, Merced, CA, conforms to Modesto Municipal Code 8-3.203, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the furnishing of pest control services for Citywide use to Merced Pest Control, Merced, 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 Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of $17,380.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of September, 2014, 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 LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF PROPOSALS AND CONTRACTS FOR THE FURNISHING OF BACKGROUND INVESTIGATION SERVICES FOR THE MODESTO POLICE DEPARTMENT TO SIMPSON INVESTIGATIVE SERVICES GROUP, PLEASANT HILL, CA, AS “PRIMARY” CONTRACTOR AND RANK INVESTIGATION & PROTECTION, INC., MODESTO, CA, AS “SECONDARY” CONTRACTOR, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACTS FOR AN ESTIMATED ANNUAL COST OF $35,000, AND OVER FIVE (5) YEARS OF $175,000

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

WHEREAS, the Purchasing Division issued RFP No. 1314-33 Background Investigation Services to six (6) 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. Two (2) companies chose to respond, one of which was a local company, and

WHEREAS, both companies provided responsive and responsible proposals, and

WHEREAS, an evaluation committee comprised of three (3) City staff members evaluated and graded the proposals, and

WHEREAS, in order to ensure continued services to the City, contracts shall be awarded to both contractors to meet the City’s needs, and

WHEREAS, based on providing responsive and responsible proposals, City staff recommends the award of proposals for the furnishing of background investigation services for the Modesto Police Department to Simpson Investigative Services Group, Pleasant Hills, CA, as “primary” contractor and Rank Investigation & Protection, Inc.,
Modesto, CA, as “secondary” contractor, 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 $35,000, and over five (5) years of $175,000, 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 proposals for the furnishing of background investigation services for the Modesto Police Department to Simpson Investigative Services Group, Pleasant Hill, CA, as “primary” contractor and Rank Investigation & Protection, Inc., Modesto, CA, as “secondary” contractor, conforms to Modesto Municipal Code 8-3.203, 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 proposals for the furnishing of background investigation services for the Modesto Police Department to Simpson Investigative Services Group, Pleasant Hill, CA, as “primary” contractor, and Rank Investigation & Protection, Inc., Modesto, CA, as “secondary” contractor, conforms to Modesto Municipal Code 8-3.203, and

WHEREAS, funds are budgeted in Primary Appropriation Unit: 0100-19100-53300-53300.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposals and contracts for the furnishing of background investigation services to Simpson Investigative Services Group, Pleasant Hill, CA, as “primary contractor, and Rank Investigation & Protection, Inc., Modesto,
CA, as "secondary" contractor, 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 Interim City Manager, or his designee, is hereby authorized to execute the contracts for an estimated annual cost of $35,000, and over five (5) years of $175,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2014, 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 LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE
PURCHASE OF COMBINATION AIR AND VACUUM RELIEF VALVES FOR
THE UTILITIES DEPARTMENT, WASTEWATER DIVISION TO
FERGUSON/GROENIGER CO., MODESTO, CA, AND AUTHORIZING THE
PURCHASING MANAGER OR HIS DESIGNEE TO ISSUE A PURCHASE
ORDER FOR AN ESTIMATED TOTAL COST OF $88,935

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal
Request for Bids for the purchase of combination air and vacuum relief valves, and

WHEREAS, the Purchasing Division issued RFB No. 1415-03 Combination Air
and Vacuum Relief Valves to four (4) prospective bidders, one of which was a local vendor, and posted the RFB on the City’s website, and

WHEREAS, bids were formally opened in the City Clerk’s Office. Two (2) companies chose to respond, one of which was a local vendor, and

WHEREAS, both companies provided responsive and responsible bids, and

WHEREAS, Modesto Municipal Code 8-3.206 Support of Local Vendors 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, and

WHEREAS, Ferguson/Groeniger Co., Modesto, CA, was afforded the opportunity and agreed to price match, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of combination air and vacuum relief valves for the Utilities Department, Wastewater Division to Ferguson/Groeniger Co., Modesto, CA, for an estimated total cost of $88,935, 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 combination air and vacuum relief valves for the Utilities Department, Wastewater Division to Ferguson/Groeniger Co., Modesto, CA, conforms to Modesto Municipal Code 8-3.203, and

WHEREAS, funds are budgeted in Primary Appropriation Units: 4210-59999-57940.

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 combination air and vacuum relief valves for the Utilities Department, Wastewater Division to Ferguson/Groeniger Co., Modesto, 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 $88,935.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2014, 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 LINDGREN, City Attorney
A RESOLUTION ANNUALLY DECLARING AS SURPLUS THE FOLLOWING ITEMS: RECOVERED STOLEN AND/OR SEIZED PROPERTY ACCUMULATED BY THE POLICE DEPARTMENT, PROPERTY ACCUMULATED BY THE CITY AND SURPLUS CITY VEHICLES AND EQUIPMENT AND AUTHORIZING THE PURCHASING MANAGER AS DESIGNATED BY THE CITY MANAGER TO SELL SAME BY SEALED BID, CONSIGNMENT, PUBLIC AUCTION, ONLINE AUCTION, ONLINE, AS SCRAP, OR DONATE TO AN ELIGIBLE NON-PROFIT (501(C)3) ORGANIZATION IF THE ITEMS CANNOT BE SOLD

WHEREAS, Section 801(r) of the City Charter authorizes the City Manager to sell obsolete, and unused or surplus personal property of the City with the approval of the City Council, and

WHEREAS, the City’s surplus items consist of: (1) excess property and scrap accumulated by the City; and (2) surplus City vehicles and equipment, and (3) recovered stolen and/or seized property accumulated by the Police Department and,

WHEREAS, the Purchasing Division will sell surplus property through online auction companies, or directly online, or through sealed bid and

WHEREAS, all revenues received are either deposited in the originating fund or in the General Fund, and

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

SECTION 1. The City Council in accordance with Section 801(r) of the City Charter hereby annually declares as surplus the property items set forth above.

SECTION 2. The City Manager, or the Purchasing Manager, acting as the City Manager’s designated representative in accordance with 8-3.501 of the Modesto Municipal Code are hereby authorized and directed to sell same by sealed bid,
consignment, public auction, online auction, online or as scrap or to donate to an eligible non-profit 501(c)(3) organization if the items cannot be sold.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2014, 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]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney
RESOLUTION ACCEPTING AN ASSISTANCE TO FIREFIGHTERS GRANT IN THE AMOUNT OF $91,613 FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY FOR PERSONAL PROTECTIVE EQUIPMENT ON BEHALF OF MODESTO REGIONAL FIRE AUTHORITY

WHEREAS, the grant was applied for under and awarded to the MRFA during Fiscal Year FY 2013-14, and

WHEREAS, the match funds were budgeted into what would have been submitted as the MRFA FY 2014-15 budget, the budget was never adopted, and

WHEREAS, budgeted items were returned to the respective partner agencies effective July 1, 2014 and adopted into each partner’s budget as appropriate, and

WHEREAS, the match funds for this grant were attributable in full to the City of Modesto, and

WHEREAS, the match funds have been incorporated into the City of Modesto General Fund through the City’s Fire budget, and

WHEREAS, the 10% match ($10,179) required for this grant has been transferred to the City of Modesto General Fund through the City’s Fire Budget, and

WHEREAS, the original intent was for this grant to provide PPE to City Fire Suppression employees associated with MRFA. The originally intended recipients will be the same recipients receiving the PPE under the City’s Administration of the grant on behalf of MRFA, and

WHEREAS, the new PPE will increase compliance for firefighter protective gear with the current National Fire Protection Association (NFPA) standards 1999 (2013...

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves accepting an Assistance to Firefighters Grant in the amount of $91,613 from the Federal Emergency Management Agency for Personal Protective Equipment on behalf of Modesto Regional Fire Authority,

BE IT FURTHER RESOLVED that the City Manager, 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 23rd day of September, 2014, 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: ADAM LINDGREN, City Attorney

09/23/2014/Fire/KReffalt/Item 12
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-363

RESOLUTION AMENDING THE FY 2014-15 OPERATING BUDGET TO CREATE A NEW COST CENTER IN FUND 1341 (GRANTS – OPERATIONS GRANTS REIMBURSED) FOR THE ASSISTANCE TO FIRE FIGHTERS GRANT IN THE AMOUNT OF $91,613 AND TO ESTABLISH A TRANSFER FROM THE GENERAL FUND THE REMAINING 10% MATCH OF $10,179

WHEREAS, the grant was applied for under and awarded to the MRFA during Fiscal Year FY 2013-14, and

WHEREAS, the match funds were budgeted into what would have been submitted as the MRFA FY 2014-15 budget, the budget was never adopted, and

WHEREAS, budgeted items were returned to the respective partner agencies effective July 1, 2014 and adopted into each partner’s budget as appropriate, and

WHEREAS, the match funds for this grant were attributable in full to the City of Modesto, and

WHEREAS, the match funds have been incorporated into the City of Modesto General Fund through the City’s Fire budget, and

WHEREAS, the 10% match ($10,179) required for this grant has been transferred to the City of Modesto General Fund through the City’s Fire Budget, and

WHEREAS, City staff recommends amending the FY 2014-15 operating budget to create a new cost center housed in the Grants – Operations Grants Reimbursed Fund (1341) for the Assistance to Fire Fighters Grant and to establish a transfer of match funds, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 2014-15 operating budget to create a new cost
center for the assistance to fire fighters grant in the amount of $91,613 and to establish a
transfer from the General Fund the remaining 10% match of $10,179,

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 September, 2014, 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 LINDGREN, City Attorney
WHEREAS, a Position Allocation for the City of Modesto was adopted by Modesto City Council on June 10, 2014, as part of the Annual Budget of the City of Modesto for Fiscal Year 2014-2015, and

WHEREAS, the Parks, Recreation and Neighborhoods Department (PRND) General Fund currently supports a .625 Recreation Coordinator ($30,766), and

WHEREAS, to restore this position allocation back to a .75 Recreation Coordinator ($36,922) will result in an annual increase of $6,156 in salaries to the City of Modesto Operation Budget for FY 2014-2015 plus benefits at a 75% allocation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation for Fiscal Year 2014-15 to restore funding for a .625 Recreation Coordinator to a .75 position in the Parks, Recreation and Neighborhoods Department.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby 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 23rd day of September, 2014, 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 LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2014-2015 MULTI-YEAR BUDGET FOR PROJECT ACCOUNT 100822 TO RECOGNIZE $224,000 IN MODESTO GRAND PRIX SPONSORSHIP REVENUE AND AN ADDITIONAL $28,510 IN EVENT REVENUE FROM THE MODESTO GRAND PRIX STANISLAUS COMMUNITY FOUNDATION ACCOUNT AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, as the Modesto Grand Prix generated $224,000 in sponsorship revenue along with an additional $28,510 in event revenue, and

WHEREAS, the City’s Fiscal Year 2014-2015 Capital Improvement Project and Multi-Year budgets to be amended in the City’s financial reporting system – COSMO to reflect $224,000 in Modesto Grand Prix sponsorship revenue and an additional $28,510 in event revenue from the Modesto Grand Prix.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the fiscal year 2014-15 Multi-Year budget for Project account 100822 for the Modesto Grand Prix to reflect $224,000 in Modesto Grand Prix sponsorship revenue and an additional $28,510 in event revenue.

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 September, 2014, by Councilmember Lopez, who moved its adoption, with 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 LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-366

A RESOLUTION ACCEPTING THE 2015 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT IN THE AMOUNT OF APPROXIMATELY $277,261 FROM THE OFFICE OF TRAFFIC SAFETY TO INCREASE ENFORCEMENT FOR SPEED, DUI, AND OTHER SPECIAL TRAFFIC ENFORCEMENT OPERATIONS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS

WHEREAS, the City of Modesto Police Department desires to undertake a certain project designated as the Selective Traffic Enforcement Program (STEP) grant from the Office of Traffic Safety (OTS), and

WHEREAS, the Police Department was awarded a grant in the sum of approximately $277,261 from OTS, and

WHEREAS, acceptance of said $277,261 grant will increase enforcement for speed, DUI, and other special traffic enforcement operations, while also reducing collisions with speed, DUI, and special operations, and

WHEREAS, OTS will pay overtime for officers, training, and equipment to assist in traffic studies and other traffic related enforcement equipment, and

WHEREAS, the term of this grant will be from October 1, 2014, through September 30, 2015,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Selective Traffic Enforcement Program Grant in the amount of approximately $277,261 from the Office of Traffic Safety to increase enforcement for speed, DUI, and other special traffic enforcement operations.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary award documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2014, 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]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2014-367

A RESOLUTION AMENDING THE FISCAL YEAR 2014/2015 OPERATING AND MULTI-YEAR GRANT BUDGET TO REFLECT REVENUE AND EXPENSES IN THE AMOUNT OF APPROXIMATELY $277,261 RELATED TO THE SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT TO INCREASE ENFORCEMENT FOR SPEED, DUI, AND OTHER SPECIAL TRAFFIC ENFORCEMENT OPERATIONS

WHEREAS, the Police Department acquired a grant award in the amount of approximately $277,261 from the Office of Traffic Safety (OTS) to increase enforcement for speed, DUI, and other special traffic enforcement operations, and

WHEREAS, the grant will pay overtime for officers for special enforcement operations, DUI saturation patrols, and other traffic related enforcement supplies, and

WHEREAS, there is no local match required for this grant, and

WHEREAS, the term of this grant will be from October 1, 2014, through September 30, 2015,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2014/2015 Operating and Multi-Year Budget is hereby adjusted as indicated on budget adjustment attached.

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 September, 2014, 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 LINDGREN, City Attorney

SEAL 2014-367
Exhibit A

Project Name: 2015 OTS Selective Traffic Enforcement Program (STEP)
Project Fund: 1341 – Grants – Operation Grants Reimbursed
The Multi-Year 2014/2015 Operating Budget will be amended as follows:

<table>
<thead>
<tr>
<th>Revenues</th>
<th>Increase/(Decrease)</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>To: MY-1341-19998-42141-100833</td>
<td>$277,261</td>
<td>Intergov-State-Office of Traffic Safety</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Expenses</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>To: MY-100833 - Appr. A - 51200</td>
<td>$270,163</td>
</tr>
<tr>
<td>MY-100833 - Appr. C - 53025</td>
<td>$5,586</td>
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<td>$1,000</td>
</tr>
<tr>
<td>MY-100833 - Appr. C - 52015</td>
<td>$512</td>
</tr>
</tbody>
</table>

$277,261
RESOLUTION APPROVING THE AMENDMENT TO FY 13/14 OPERATING BUDGET FOR FIXED ROUTE MAX OPERATIONS FUND (4540) IN THE AMOUNT OF $353,174 FOR PAYMENT OF STANISLAUS COUNCIL OF GOVERNMENT'S (STANCOG) INVOICE NUMBER 1314-05 FOR THE COSTS OF OPERATING ROUTE 43 IN SOUTHWEST MODESTO

WHEREAS, certain budgetary transactions are necessary in the amount of $353,174, in order to fund the operating services of Route 43, and

WHEREAS, the Fiscal Year 2013-2014 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 2013-2014 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 23rd day of September, 2014, 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]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney
Amendment for FY 13/14 Operating Budget to cover the grant eligible costs of operating Modesto Area Express (MAX) services in Southwest Modesto (Route 43):

1. Increase appropriations in fund 4540 (Fixed Route MAX Operations fund) in the amount of $353,174.00.

2. To fund these costs recognize revenue in the amounts of:
   - $353,174.00 – Federal Transit Administration- Job Access Reverse Commute (JARC)
RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT BETWEEN THE CITY OF MODESTO AND DENNIS ALLISON, A MARRIED MAN AS HIS SOLE AND SEPARATE PROPERTY, FOR SEWER SERVICE FOR THE PROPERTY LOCATED AT 1320 MARLOW STREET IN THE ROBERTSON ROAD NEIGHBORHOOD, MODESTO, (APN: 037-021-045); AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the property located at 1320 Marlow Street is not connected to the City’s sewer system, and

WHEREAS, the property is located outside Modesto City limits, and inside the City’s Sphere of Influence, and

WHEREAS, the property is inside the Modesto Municipal Sewer District No. 1, and

WHEREAS, The City of Modesto can, and is willing to provide domestic sewer to the subject area, and

WHEREAS, the Stanislaus County Redevelopment Agency installed complete sewer infrastructure in the “neighborhood” and individual laterals to each parcel to connect the property to the City of Modesto’s sewer system, and

WHEREAS, consistent with adopted LAFCO Policy 15, the extension of sewer service is proposed to remedy a health and safety concern in an area with failing septic system, and

WHEREAS, the installation of the sewer service lines will upgrade the infrastructure in this already developed unincorporated area to facilitate a later annexation, and
WHEREAS, the sewer connection fees shall be paid and associated permits be obtained prior to beginning any on site construction, and

WHEREAS, that the property owner is required to enter into an Outside Service Agreement for sewer service with the City.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Outside Service Agreement for the property located at 1320 Marlow Street, Modesto (APN: 037-021-045).

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 23rd day of September, 2014, 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 LINDGREN, City Attorney
RESOLUTION APPROVING A WILL SERVE LETTER FOR THE
PROPERTIES LOCATED AT 4950, 4958, 4951, 4959, 4955 AND 4954 PARK
VIEW COURT IN SALIDA (APN: 136-028-096, 098, 095, 093, 094 AND 097) 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.2012-203, and

WHEREAS, it amended City of Modesto Municipal Code section 11-1.05 and
Council Policy 5.001 relating to water connection charges, and

WHEREAS, it required that the City Manager, upon the recommendation of the
Director responsible for utility system planning, to request City Council approval for all
extensions of water and sewer services into unincorporated areas, and

WHEREAS, the properties located at 4950, 4958, 4951, 4959, 4955 and 4954
Park View Court in Salida, are not connected to City’s water system, and

WHEREAS, these properties are located outside Modesto City limits, and inside
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 these properties, 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 properties located at 4950, 4958, 4951, 4959, 4955 and 4954 Park View Court in Salida.

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 23rd day of September, 2014, by Councilmember Cogdill, 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

(Seal)

APPROVED AS TO FORM:

By: ADAM LINDGREN, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk

09/23/2014/PW/BSandhu/Item 18 2 2014-370
RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT BETWEEN THE CITY OF MODESTO AND SARA LYNNE POLE, AN UNMARRIED WOMAN, AS TO AN UNDIVIDED ½ INTEREST AND REYES F. RANDEL III AND ARGELIA RANDEL, TRUSTEES OF THE R&A RANDEL REVOCABLE TRUST, AS TO AN UNDIVIDED ½ INTEREST, FOR WATER SERVICE FOR THE PROPERTY LOCATED AT 4950 PARK VIEW COURT IN SALIDA, (APN: 136-028-096), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the property located at 4950 Park View Court in Salida is not connected to City’s water system, and

WHEREAS, this property is located outside Modesto City limits, and inside the former service area of the Del Est 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 4950 Park View Court, (APN: 136-028-096).

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 23rd day of September, 2014, by Councilmember Cogdill, 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 LINDGREN, City Attorney
RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT BETWEEN THE CITY OF MODESTO AND SARA LYNNE POLE, AN UNMARRIED WOMAN, AS TO AN UNDIVIDED ½ INTEREST AND REYES F. RANGEL III AND ARGELIA RANGEL, TRUSTEES OF THE R&A RANGEL REVOCABLE TRUST, AS TO AN UNDIVIDED ½ INTEREST, FOR WATER SERVICE FOR THE PROPERTY LOCATED AT 4951 PARK VIEW COURT IN SALIDA, (APN: 136-028-095), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the property located at 4951 Park View Court in Salida is not connected to City’s water system, and

WHEREAS, this property is located outside Modesto City limits, and inside 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 4951 Park View Court, (APN: 136-028-095).

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 23rd day of September, 2014, by Councilmember Cogdill, 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 LINDGREN, City Attorney
RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT BETWEEN THE CITY OF MODESTO AND SARA LYNNE POLE, AN UNMARRIED WOMAN, AS TO AN UNDIVIDED ¼ INTEREST AND REYES F. RANGEL III AND ARGELIA RANGEL, TRUSTEES OF THE R&A RANGEL REVOCABLE TRUST, AS TO AN UNDIVIDED ½ INTEREST, FOR WATER SERVICE FOR THE PROPERTY LOCATED AT 4954 PARK VIEW COURT IN SALIDA, (APN: 136-028-097), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the property located at 4954 Park View Court in Salida is not connected to City’s water system, and

WHEREAS, this property is located outside Modesto City limits, and inside 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 4954 Park View Court, (APN: 136-028-097).

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 23rd day of September, 2014, by Councilmember Cogdill, 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 LINDGREN, City Attorney
RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT BETWEEN THE CITY OF MODESTO AND SARA LYNNE POLE, AN UNMARRIED WOMAN, AS TO AN UNDIVIDED ¼ INTEREST AND REYES F. RANGEL III AND ARGELIA RANGEL, TRUSTEES OF THE R&A RANGEL REVOCABLE TRUST, AS TO AN UNDIVIDED ¼ INTEREST, FOR WATER SERVICE FOR THE PROPERTY LOCATED AT 4955 PARK VIEW COURT IN SALIDA, (APN: 136-028-094), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the property located at 4955 Park View Court in Salida is not connected to City’s water system, and

WHEREAS, this property is located outside Modesto City limits, and inside 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 4955 Park View Court, (APN: 136-028-094).

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 23rd day of September, 2014, by Councilmember Cogdill, 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 LINDGREN, City Attorney

STEPHANIE LOPEZ, City Clerk
RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT BETWEEN THE CITY OF MODESTO AND SARAH LYNNE POLE, AN UNMARRIED WOMAN, AS TO AN UNDIVIDED ½ INTEREST AND REYES F. RANGEL III AND ARGELIA RANGEL, TRUSTEES OF THE R&A RANGEL REVOCABLE TRUST, AS TO AN UNDIVIDED ½ INTEREST, FOR WATER SERVICE FOR THE PROPERTY LOCATED AT 4958 PARK VIEW COURT IN SALIDA, (APN: 136-028-098), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the property located at 4958 Park View Court in Salida is not connected to City’s water system, and

WHEREAS, this property is located outside Modesto City limits, and inside 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 4958 Park View Court, (APN: 136-028-098).

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 23rd day of September, 2014, by Councilmember Cogdill, 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 LINDGREN, City Attorney
RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT  
BETWEEN THE CITY OF MODESTO AND SARA LYNNE POLE, AN  
UNMARRIED WOMAN, AS TO AN UNDIVIDED ¼ INTEREST AND REYES F.  
RANGEL III AND ARGELIA RANGEL, TRUSTEES OF THE R&A RANGEL  
REVOCABLE TRUST, AS TO AN UNDIVIDED ¼ INTEREST, FOR WATER  
SERVICE FOR THE PROPERTY LOCATED AT 4959 PARK VIEW COURT IN  
SALIDA, (APN: 136-028-093), AND AUTHORIZING THE CITY MANAGER, OR  
HIS DESIGNEE, TO EXECUTE THE AGREEMENT  

WHEREAS, the property located at 4959 Park View Court in Salida is not  
connected to City’s water system, and  

WHEREAS, this property is located outside Modesto City limits, and inside 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 4959  
Park View Court, (APN: 136-028-093).  

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 23rd day of September, 2014, by Councilmember Cogdill, 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 LINDGREN, City Attorney
RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND STANISLAUS COUNTY FOR ENGINEERING DESIGN SUPPORT DURING CONSTRUCTION AND CONSTRUCTION INSPECTION SERVICES TO BE PROVIDED BY THE CITY RELATED TO CONSTRUCTION OF PHASE 1 OF THE AIRPORT SEWER PROJECT, IN AN AMOUNT NOT-TO-EXCEED $22,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Airport Community is an unincorporated, disadvantaged community located on the southeast side of the City of Modesto with 481 parcels that rely on septic systems for treatment of sewage, and

WHEREAS, the Airport Community’s septic systems are failing and pose a threat to public health and ground water, and

WHEREAS, the City owns and operates a sanitary sewer system adjacent to the Airport, and is equipped to provide sewer services to the Airport Community, and

WHEREAS, the County received a Cleanup and Abatement Account Grant from the California State Water Board to prepare the design of the sewer system improvements, and

WHEREAS, on December 13, 2011, by Resolution No. 2011-477, City Council approved a Memorandum of Agreement with the County for City engineering staff to provide sewer design services for the project, and

WHEREAS, on August 29, 2012, City staff completed and submitted the plans and specifications to the County, and

WHEREAS, a Measure M Sewer Advisory Vote was approved to allow City sewer extension in the Airport Community and once these sewer facilities are constructed, the residences will be allowed to connect to the City’s sewer system, and
WHEREAS, the County bid Phase 1 of the Airport Sewer Project and has requested assistance from the City to provide services, including engineering design support during construction and construction inspection, and

WHEREAS, the City has qualified staff with the experience to perform these services, and the County has agreed to compensate the City, in an amount not-to-exceed $22,000, and

WHEREAS, the purpose of this Agreement is to facilitate cooperation between the City and the County for the above referenced services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between the City of Modesto and Stanislaus County for engineering design support during construction and construction inspection services to be provided by the City related to construction of Phase 1 of the Airport Sewer Project, in an amount not-to-exceed $22,000.

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 23rd day of September, 2014, 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 LINDGREN, City Attorney

Stephanie Lopez, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-378

RESOLUTION APPROVING A ONE-TIME, NON-PRECEDENT SETTING DEBT FORGIVENESS TO THE RIVERDALE PARK TRACT COMMUNITY SERVICES DISTRICT IN THE AMOUNT OF $63,039.66

WHEREAS, the Riverdale Park Tract Community Water System is owned and operated by the Riverdale Park Tract Community Services District (District) and currently serves a low income community of approximately 175 developed properties located south of the Tuolumne River and west of Carpenter Road, and

WHEREAS, the existing system consists of one active groundwater well, one inactive groundwater well, and two miles of distribution pipe, and

WHEREAS, in 1992, the City of Modesto and the District entered into a Mutual Aid Agreement (Agreement), in which the City agreed to provide emergency water, in addition to other services, as a short-term solution to the District in the event that its water system became unable to serve its customers, and

WHEREAS, in January 1997, the Riverdale Park Tract, which is directly downstream of the City’s Sutter Avenue Wastewater Treatment Plant, was inundated with flood waters from the Tuolumne River, and

WHEREAS, as a result of extensive flood damage, the District’s well became inoperable, and per the Agreement, the City began to provide emergency water services to the District, and

WHEREAS, the City provided water services to the District from January 1997 through November 1998, and these services included providing drinking water and fire protection to the area, via an eight-inch service line in Hatch Road, and
WHEREAS, the District was billed appropriately at a commercial rate by the City's Customer Services Division, and currently owes the City $63,039.66 for past water usage from 1997 and 1998, including penalties, and

WHEREAS, the District and it has made several attempts to pay the bill, however, because of its limited funds, small rate base, and deficient rate structure, has been unable to pay the outstanding balance to the City, and

WHEREAS, historically, the District has requested that City water be supplied, per the Agreement, for short periods of time when there have been power and mechanical issues, flooding of the well, and issues with water quality, and

WHEREAS, the City has complied with these requests, and maintains a separate payment arrangement for this water use, and

WHEREAS, the District has been fairly consistent in making these payments in a timely manner and their account is currently paid in full, and

WHEREAS, on August 25, 2014, the Finance Committee unanimously recommended that it be forwarded to the City Council for approval, and

WHEREAS, due to the lengthy time that has passed from 1998 to the present, the District's difficulty to pay the outstanding balance, and that this uncollected debt has been recognized in prior fiscal years, staff recommends that the City Council approve a one-time, non-precedent setting debt forgiveness to the District,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a one-time, non-precedent setting debt forgiveness to the Riverdale Park Tract Community Services District in the amount of $63,039.66.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2014, 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 LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE DIRECTOR OF UTILITIES, OR HIS DESIGNEE, TO INITIATE THE REQUEST FOR QUALIFICATIONS (RFQ)/REQUEST FOR PROPOSALS (RFP) PROCESS TO IDENTIFY THE MOST QUALIFIED FIRM TO COMPLETE A SEWER RATE AND FEE STUDY

WHEREAS, the City currently treats year-round wastewater flow through its two treatment plants: preliminary and primary treatment at the Sutter Primary Treatment Plant located south of downtown Modesto, along the Tuolumne River, and secondary tertiary treatment at the Jennings Treatment Plant located along the San Joaquin River, and

WHEREAS, primary treated wastewater effluent from the Sutter Plant facilities is pumped about seven miles southwest to the Jennings Plant through the 60-inch Primary Effluent Pipe for further treatment, and

WHEREAS, during the summer canning season, seasonal cannery process water is segregated from the year-round wastewater flows through a separate 60-inch trunk Cannery Segregation ("Can Seg") outfall, and screened at the Sutter Plant, then pumped to the Jennings Ranch (Ranch), where it is blended with secondary-treated effluent prior to being used for ranch irrigation, and

WHEREAS, in a recent tolling agreement with Stanislaus Foods Products, the City agreed to revisit its methodology to develop a new wastewater rate and fee structure, recognizing that the City employs several methods for treating and disposing of its wastewater, in particular direct land disposal of Can Seg process water during the summer canning season, and
WHEREAS, the City will prepare a new wastewater rate and fee structure, based on actual costs of service, for both wastewater collection and treatment, between the City’s wastewater user groups, and

WHEREAS, the objective of this RFQ/RFP is to obtain proposals from qualified consulting firms with demonstrated experience and the necessary resources to develop a comprehensive sewer rate and fee study, and

WHEREAS, based on the potential responses, staff may use the RFQ/RFP results to establish a shortlist of consulting firms to analyze future water rates, when necessary,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Director of Utilities, or his designee, to initiate the Request for Qualifications (RFQ)/Request for Proposals (RFP) process to identify the most qualified firm to complete a Sewer Rate and Fee Study.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2014, 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)

APPROVED AS TO FORM:

By: 

ADAM LINDGREN, City Attorney
RESOLUTION APPROVING THE WASTEWATER CAPACITY CHARGES AND WATER CONNECTION FEES ANNUAL INFLATIONARY ADJUSTMENT OF 4.9% FOR FISCAL YEAR 2014-15, AND AUTHORIZING THE FINANCE DIRECTOR, OR DESIGNEE, WITH CONCURRENCE OF THE CITY OFFICER(S) OR DESIGNEE(S) IN CHARGE OF UTILITIES, TO IMPLEMENT THOSE CHANGES

WHEREAS, on May 8, 2007, by Resolution No. 2007-287, and superseded on May 1, 2012, by Resolution 2012-164, the City Council authorized the City officer(s) or designee(s) in charge of utilities to administratively make an annual inflationary adjustment to the Wastewater Capacity Charges (WWCC), and

WHEREAS, on July 7, 2009, by Resolution No. 2009-299, the City Council authorized the Finance Director, or designee, with the concurrence of the Public Works Director, to administratively make an annual inflationary adjustment to the Water Connection Fees (WCF), and

WHEREAS, these adjustments are based on the annual change in the San Francisco Bay Area Engineering News Record (ENR) Construction Cost Index (CCI) through the month of April each year, effective July 1st of that same fiscal year, and

WHEREAS, on June 26, 2012, staff reported to Council that WWCC and WCF annual inflationary increases were last applied in July 2008, and the cumulative change in the San Francisco (ENR) (CCI) since that date was 13.2%, and

WHEREAS, the annual inflationary adjustment in the month of April 2012 was 2.2%, and given the unprecedented economic situation that year, staff recommended that the Council continue the freeze of the inflationary adjustment, resulting in no increase to those fees for Fiscal Year 2012/2013, and
WHEREAS, on June 11, 2013, staff took an informational report to Council and did not recommend an adjustment for FY 2013, as the annual inflationary adjustment reported in the month of April 2013 was 0.0%, and

WHEREAS, the annual inflationary adjustment for Wastewater Capacity Charges and Water Connection Fees for April 2014 is 4.9%, and

WHEREAS, based on the estimated level of development activity in the utility funds pro forma, the inflationary increases for FY 2014-2015 are expected to generate an additional $19,600 in the Wastewater Fund and $16,219 in the Water Fund, and

WHEREAS, on August 25, 2014, the Finance Committee unanimously recommended that it be forwarded to the City Council for approval, and

WHEREAS, staff is now recommending Council approval of the Wastewater Capacity Charges and Water Connection Fees annual inflationary adjustment of 4.9% for Fiscal Year 2014-15,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Wastewater Capacity Charges and Water Connection Fees annual inflationary adjustment of 4.9% for Fiscal Year 2014-15.

BE IT FURTHER RESOLVED that the Finance Director, or designee, with concurrence of the City officer(s) or designee(s) in charge of utilities, is hereby authorized to implement those changes.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2014, 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

APPROVED AS TO FORM:

By: ADAM LINDGREN, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)
RESOLUTION CHANGING THE ADMINISTRATIVE TITLE OF PUBLIC WORKS DIRECTOR AS REFERENCED IN RESOLUTION NO. 2009-299 TO: THE CITY OFFICER(S) OR DESIGNEE(S) IN CHARGE OF UTILITIES

WHEREAS, on July 7, 2009, by Resolution No. 2009-299, the City Council authorized the Finance Director, or designee, with the concurrence of the Public Works Director, to administratively make an annual inflationary adjustment to the Water Connection Fees (WCF), and

WHEREAS, these adjustments are based on the annual change in the San Francisco Bay Area Engineering News Record (ENR) Construction Cost Index (CCI) through the month of April each year, effective July 1st of that same fiscal year, and

WHEREAS, the administrative titles of the Directors of the City's water and wastewater divisions have changed over the last several years, and

WHEREAS, staff recommends taking this opportunity to change the administrative title of the Public Works Director as referenced in Resolution 2009-299 to: The City officer(s) or designee(s) in charge of utilities,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby changes the administrative title of Public Works Director as referenced in Resolution No. 2009-299 to: The City officer(s) or designee(s) in charge of utilities.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2014, 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

(Seal)

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM LINDGREN, City Attorney
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE STRENGTHEN AND REPLACE LA LOMA WATER MAINS PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, OF STOCKTON, CALIFORNIA IN THE AMOUNT OF $1,947,007.50, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Strengthen and Replace La Loma Water Mains project, and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Strengthen and Replace La Loma Water Mains project were opened at 11:00 a.m. on August 26, 2014, and later tabulated by the Director of Utilities for the consideration of the Council, and

WHEREAS, the Director of Utilities has recommended that the bid of $1,947,007.50 received from DSS Company dba Knife River Construction, of Stockton, California be accepted as the lowest responsible and responsive bid and the contract be awarded to DSS Company dba Knife River Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Strengthen and Replace La Loma Water Mains project, accepting the bid, and approving a contract with DSS Company dba Knife River Construction, of Stockton, California in the amount of $1,947,007.50.

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 23rd day of September, 2014, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, 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 LINDGREN, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(597). (STANDIFORD PROPERTIES, LLC)

WHEREAS, a verified application for an amendment to Section 7-3-9 of the Zoning Map was filed by L Street Architects Limited on behalf of Standiford Properties, LLC on April 23, 2014, to reclassify from Planned Development Zone, P-D(316), to Planned Development Zone, P-D(597) to allow for the development of a medical and professional office complex, property located at 1532 Standiford Avenue, described as follows:

P-D(316) to P-D(597)

All that certain real property situate in a portion of Section 7, Township 3 South, Range 9 East, Mount Diablo and Meridian and lying within the City of Modesto, County of Stanislaus, State of California, described as follows:

COMMENCING at the centerline intersection of Carver Road and Standiford Avenue as shown on that certain map entitled “Tully Manor No. 6” filed in Volume 23 of Maps, at page 55, Stanislaus County Records; thence South 89°08′00″ East along said centerline of Standiford Avenue, a distance of 922.92 feet to the POINT OF BEGINNING of this description; thence continuing on said centerline 395.22 feet; thence leaving said centerline South 1°01′24″ East, a distance of 270.15 feet, to the North line of said Tully Manor No. 6; thence North 89°08′00″ West along said North line of Tully Manor No. 6; thence North 89°08′00″ West along said North line of Tully Manor No. 6, a distance of 395.22 feet; thence leaving said North line of Tully Manor No. 6, North 1°01′24″ West, 270.15 feet to the Point of Beginning.

CONTAINING 2.0 acres more or less

Also including the southern 50.00 feet of Standiford Avenue immediately adjacent to the above-described property.

APN: 054-010-036
WHEREAS, after a public hearing held on August 4, 2014, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2014-13, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed zone change to P-D is consistent with the Modesto Urban Area General Plan. The General Plan designates this area as “MU” (Mixed Use), and the rezoning to allow for a medical and professional office development will be consistent with the General Plan land use and intensity.

2. The conditions of approval will ensure that the proposed project is compatible with the adjacent commercial, professional office and residential uses.

3. The proposed rezone will allow for an infill development project that utilizes the site of a former landscape nursery for new medical and professional office services.

WHEREAS, said matter was set for a public hearing of the City Council to be held on September 23, 2014, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Standiford Properties, LLC for a Planned Development Zone should be granted as consistent with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2014-13 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. -C.S. on the 23rd day of September, reclassifying the above-described property from Planned Development Zone, P-D(316) to Planned Development Zone, P-D(597),
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(597), is hereby approved subject to the following conditions:

PLANNING

1. Prior to the issuance of a building permit, all development shall conform to the development plan and building elevations titled "The Offices at Standiford Park" stamped approved by the City Council.

2. Prior to issuance of a building permit, any variation from the approved site plan or building elevations on file with the City must be reviewed and approved by the Director of Community and Economic Development.

3. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be reserved as required. A 10' PUE is required along the Standiford Avenue frontage in order to protect the existing electrical facilities and maintain necessary safety clearances.

4. Prior to issuance of a building permit, trash enclosures shall be designed using building materials, colors and finishes which are consistent or compatible with those used in the major buildings of the development, as approved by the Director of Community and Economic Development or designee.

5. Prior to occupancy of any structure, striping of parking stalls, aisles and driveways shall conform to the provisions of MMC Section 10-2.2004, Parking Lot Design.

6. Construction drawings shall demonstrate that all building drainage gutters, down spouts, vents, etc. located on exterior walls, are completely concealed from public view or designed to be architecturally compatible (decorative) with the exterior building design and color to the satisfaction of the Director of Community and Economic Development or designee.

7. Construction drawings shall demonstrate that new ladders for roof access are mounted on the inside of the building to the satisfaction of the Director of Community and Economic Development.

8. Prior to issuance of a building permit, the developer shall submit a lighting plan that includes the location and design of proposed lighting fixtures for review and approval by the Director of Community and Economic Development or designee.
9. Prior to Certificate of Occupancy of any structure, all ground mounted utility structures such as transformers and HVAC equipment shall be located out of view from a public street to the satisfaction of the Director of Community and Economic Development or designee. Equipment shall be placed underground or adequately screened though the use of landscaping or walls.

10. Prior to issuance of a building permit, a photometric lighting plan shall be submitted for review and approval by the Community and Economic Development Director. Fixtures should be of a type or adequately shielded so as to prevent glare from normal viewing angles. Said plans shall include specifications of the proposed lighting fixtures and demonstrate the adequate shielding of lighting fixtures to minimize glare or light spillage upon neighboring residents south of the project site. The height of the lighting fixtures in the area between the south property line and on the south side of building 5 & 6 should not exceed 15 feet above grade.

11. Wall signs located on the west, east and south elevations of buildings 5 & 6 shall be non-illuminated and less than eight feet in height.

12. All signs shall comply with the sign requirements of the P-O Zone.

13. Prior to the issuance of a building permit, the applicant shall submit a cross-section drawing, showing how all rooftop equipment is to be screened from view (including dimensions, materials, colors, etc.) to the satisfaction of the Director of Community and Economic Development. Roof-mounted equipment, including but not limited to air conditioners, fans, vents, antennas, and dishes should be set back from the roof edge and placed behind a parapet wall or in an enclosure, so they are not visible to motorists or pedestrians. Screening for equipment should be integrated into the building and roof design by the use of compatible materials, colors and forms. Wood lattice and fence-like coverings are not allowed for screening.

14. Prior to issuance of a building permit, the applicant shall record an access agreement for on-site traffic circulation to access the property to the east, APN: 054-010-057 as shown on the site plan, to the satisfaction of the Director of Community and Economic Development and in a form approved by the City Attorney.

PARKS, PLANNING & DEVELOPMENT

15. Applicant shall preserve existing, mature street trees where possible and shall take into account the location of these trees when final development plans are prepared.

16. Applicant shall preserve and protect existing, mature site trees located along the western property line and in the general vicinity of the southeast corner of
the site and shall take into account the location of these trees when final development plans are prepared.

17. Applicant shall provide screen landscaping in the planter on the south property line so that the residential properties to the south are screened from the commercial property north of them. In addition, applicant shall plant climbing vines on the existing 8’ CMU block wall located on the southern property line.

18. Applicant shall submit Landscape & Irrigation plans that meet current state of California and City of Modesto regulations for water use in addition to standard requirements including parking lot shading.

LAND DEVELOPMENT ENGINEERING

19. Any public improvements that are missing, damaged or not to current City standards shall be designed per City standards in accordance with City Code (Article 7-1.701), standards and specifications, such improvements may include, but not be limited to curb & gutter, drive approach, sidewalk, ADA access ramps, fire hydrants and street lights. All public improvement plans shall be designed by a Registered Engineer, reviewed and approved by the City Engineer prior to issuance of an Encroachment permit.

20. Prior to issuance of a building permit, the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.

STORMWATER

21. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit improvement plans conforming to design requirements of the current Edition City of Modesto Guidance Manual for Development, Stormwater Quality Control Measures.

22. Prior to the issuance of a Grading, Demolition, or Building Permit, Property Owner shall obtain coverage for project under the State Water Resources Control Board General Permit for Stormwater Discharges Associated with Construction Activity Order NO. 2009-0009-DWQ, NPDES NO. CAS000002.

23. The General Construction Permit requires the Property Owner to develop a Stormwater Pollution Prevention Plan (SWPPP) for the project. Prior to issuance of a Grading, Demolition, or Building Permit, provide one copy of SWPPP to Land Development Engineering, Stormwater.

24. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan for trash enclosures to be sufficiently elevated to prevent stormwater run-on from parking lot. Floor of enclosures shall be graded to drain into adjacent landscape areas.
25. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan to integrate Low Impact Development (LID) principles into the project design. The plan shall retain and infiltrate the first 0.5” of stormwater runoff on site, and incorporate pervious landscape features into the project design wherever possible.

26. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan to provide permanent, post-construction treatment (grass swale, vegetative strip, or other approved proprietary device) to remove pollutants from the first 0.5” of stormwater run-off from site.

27. Prior to the issuance of a Grading, Demolition, or Building Permit, Property Owner shall provide a signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Land Development Engineering, Stormwater for recording.

BUILDING SAFETY

28. **Visitor Bike Parking:** Provide permanently anchored bicycle racks within 200 feet of the entrance, readily visible to passers-by, for 5 percent of visitor motorized vehicle parking capacity, with a minimum of one two-bike capacity rack.

29. Provide secure bicycle parking for **tenant-occupants.** Provide 5 percent of motorized vehicle parking capacity, with a minimum of one bicycle parking space. Acceptable parking facilities shall be convenient from the street and may include:

   1. Covered, lockable enclosures with permanently anchored racks for bicycles;
   2. Lockable bicycle rooms with permanently anchored racks; and
   3. Lockable, permanently anchored bicycle lockers.

30. Provide designated parking spaces for low-emitting, fuel-efficient or carpool/van pool vehicle.

FIRE PREVENTION

31. Hydrant spacing and distribution for this project is 300’ on center. An onsite fire hydrant will be needed.

GENERAL CONDITIONS

32. Exterior building elevations showing building wall materials, roof types, exterior colors and appropriate vertical dimensions shall be included in the development construction drawings.

33. All department Conditions of Approval for the project shall be included on the sheet following the title sheet, which shall be continuously maintained
on-site during project construction to the satisfaction of the Chief Building Official.

34. Prior to issuance of a building permit, any variation from the approved site plan or building elevations on file with the City must be reviewed and approved by the Director of Community and Economic Development.

35. All construction documentation shall be coordinated for consistency, including but not limited to, architectural, structural, mechanical, electrical, plumbing, landscape and irrigation, grading, utility and street improvement plans. All such plans shall be consistent with the approved entitlement plans on file with the Planning Division.

36. The property owner and developer shall, at their sole expense, defend, with counsel selected by the City, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against 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 such claim, action, or proceeding and shall cooperate fully in the defense.

37. At the time of issuance of a building permit, the developer shall pay development impact fees at the established rate. Such fees may include but are not limited to, sewer and water connection fees, community facility fees, building permit and plan check fees.

38. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris, and all exposed wall surfaces shall be kept free of graffiti.

39. Prior to start of construction, all-weather, hard-surfaced roadways shall be constructed and maintained free of obstructions at all times during construction as required by Director of Community and Economic Development.

In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

40. AQ-40: The City of Modesto shall require all access roads, driveways, and parking areas serving new commercial and industrial development are to be constructed with materials that minimize particulate emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of the use.
41. AQ-42: All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

42. AQ-43: All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

43. AQ-44: All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

44. AQ-45: With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

45. AQ-46: When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

46. AQ-47: All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

47. AQ-48: Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

48. AQ-49: Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

49. AQ-50: Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

50. AQ-51: Limit traffic speeds on unpaved roads to 15 mph.

51. AQ-52: Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

52. AQ-53: Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

53. AQ-54: Install wind breaks at windward side(s) of construction areas.
54. AQ-55: Suspend excavation and grading activity when winds exceed 20 mph. Regardless of wind speed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation.

55. AQ-56: Limit the area subject to excavation, grading and other construction activity at any one time.

56. N-3: Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers’ recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields. Equipment that is quieter than standard equipment should be utilized. Haul routes that affect the fewest number of people should be selected.

57. The City’s Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the “loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine.”

The Noise Ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

a. A hammer or any other device or implement used to pound or strike an object.

b. An impact wrench or other tool or equipment powered by compressed air.

c. A hand-powered saw.

d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to a saw, drill, lathe, or router.

f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to
pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers’ recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

58. MEIR Table V-8-1 (b-f)

a. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.

b. The project sponsor shall identify a qualified archeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor’s selection of a qualified archeologist. The archeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.

c. Reasonable time shall be allowed for the qualified archeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.

d. If any find is determined to be significant by the qualified archeologist, representatives from the construction contractor and the City, the qualified archeologist, and a representative of the
Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.

e. All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional curation, and a report prepared according to current professional standards.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(597):

The entire construction program be accomplished in one phase, construction to begin on or before September 23, 2016, and completion to be not later than September 23, 2017.

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-7.108 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 1 of Chapter 7 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(597), becomes effective.

BE IT FURTHER RESOLVED that the conditions of project approval set forth herein include certain fees, dedication requirements, reservations requirements, and other exactions, and that pursuant to Government Code Section 66020(d)(1), these conditions
constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions.

BE IT FURTHER RESOLVED that the applicant is hereby further notified that the ninety (90) days approval period in which a protest of these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a) can be filed, begins on September 23, 2014, and that if a protest is not filed within this ninety (90)-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, 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 LINDGREN, City Attorney
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): AMENDMENT OF SECTION 7-3-9 OF THE ZONING MAP TO REZONE FROM PLANNED DEVELOPMENT ZONE, P-D(316), TO PLANNED DEVELOPMENT ZONE, P-D(597), PROPERTY LOCATED AT 1532 STANDIFORD AVENUE (STANDIFORD PROPERTIES, LLC)

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, L Street Architects, Limited on behalf of Standiford Properties, LLC has proposed that the zoning designation for property at 1532 Standiford Avenue be amended to rezone from Planned Development Zone, P-D(316) to Planned Development Zone, P-D(597), in the City of Modesto ("Project") to allow for a 20,288 square foot medical and professional office complex, 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 2014-16 ("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 September 3rd, 2014, 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 September 23, 2014, 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 rezone to Planned Development Zone, P-D(597), 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 23rd day of September, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, 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 LINDGREN, City Attorney
EXHIBIT A

Initial Study

EA/C&ED
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2014-16

For the proposed:

Rezone Portion P-D(316) to New P-D
The Offices at Standiford Place
Standiford Properties, LLC

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

June 3, 2014

Updated: June 3, 2014
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 HealthSouth Modesto 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: The Offices at Standiford Place

B. Address or Location: South side of Standiford Ave East of Carver Road, 1532 Standiford Ave

C. Applicant: Standiford Properties, LLC

D. City Contact Person: Rita Doscher

Project Manager: Rita Doscher
Department: Community & Economic Development Department – Planning Division
Phone Number: (209) 577-5279
E-mail address: rdoscher@modestogov.com

E. Current General Plan Designation(s): "MU", Mixed-Use

F. Current Zoning Classification(s): Planned Development Zone, P-D(316) C-1, Retail Nursery

G. Surrounding Land Uses:
   North: R-2, Medium-Density Residential Uses
   South: R-1, Single-Family Residential Uses
   East: P -O, Medical Office Development
H. 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 project site is currently zoned Planned Development Zone, P-D(316). The Offices at Standiford Place will consist of the rezoning of a 1.99 acre portion of the existing P-D(316), which allows for a retail nursery and C-1, Neighborhood Commercial Uses to a new P-D, which would allow for P-O uses including professional office and medical office uses; and a development plan to build four smaller single level buildings which will front on Standiford Avenue, and two larger single level buildings towards the rear of the parcel. Parking has been provided at the medical use ratio, which should leave ample parking if the office complex is parked at both medical and professional office. Reciprocal access to the adjacent parcel to the west will not be required; however access to the adjacent parcel to the east of the project site will be required.

I. Other Public Agencies Whose Approval is Required:

None

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X 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.

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.

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.

______________________________  Associate Planner  ____________  June 3, 2014
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.

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
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<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>
<td>☒</td>
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<tr>
<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>
<td>☒</td>
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<tr>
<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>
<td>☒</td>
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<tr>
<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>
<td>☒</td>
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<tr>
<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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</tr>
<tr>
<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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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></th>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>(1)</td>
<td>Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.</td>
<td>☒</td>
</tr>
<tr>
<td>(2)</td>
<td>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>
</tr>
<tr>
<td>(a)</td>
<td>No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.</td>
<td>☒</td>
</tr>
<tr>
<td>(b)</td>
<td>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>
</tr>
<tr>
<td>(c)</td>
<td>Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.</td>
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</tbody>
</table>
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).

Discussion:

The proposed construction of a professional office complex is compatible with the existing surrounding residential, commercial and professional office uses located in this neighborhood. The project is consistent with the surrounding uses and will not result in a change to the existing road capacities or levels of services.

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 none from the MEIR. 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>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
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<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>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>Level of Service Standard Established by the County Congestion Management Agency for Designated Roads or Highways?</td>
<td>Potentially Significant Impact</td>
<td>Less Than Significant with Mitigation Incorporated</td>
<td>Less Than Significant Impact</td>
<td>No Impact</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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<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 or as determined by staff.</td>
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<td>☐</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>
<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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</table>

**Discussion:**

1. Engineering and Transportation Staff reviewed the proposed project and have no comments pertaining to the project:
   A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.
   B. A site access study is not required for this project.

2. The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards.

3. Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.
The 101 parking spaces provided located throughout the project site for the 6 proposed buildings provided for the amendment to the P-D approval meets the parking required for medical office uses, and exceeds medical and professional office parking requirements.

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).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM_{10}) and 2.5 microns or less in diameter (PM_{2.5}) (see MEIR Table 2-8).

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).

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, PM_{10}, and PM_{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.

MEIR AQ-17
The City of Modesto should implement measures to reduce the temporary, yet potentially significant, local air quality impacts from construction activities. Potential measures to be implemented may include those measures listed in Table V-2-6 in the Master Environmental Impact Report. (General Plan Policy VII-H.2[n])

MEIR AQ-19
The City of Modesto shall require residential development projects and projects categorized as sensitive receptors (Hospitals, schools, convalescent homes, etc.) to be located an adequate distance from existing and potential sources of toxic and/or odorous emissions such as freeways, major arterials, industrial sites, refuse transfer or disposal sites and hazardous material locations (General Plan Policy VII-H.2[n])

MEIR AQ-20
To be consistent with the SJVAPCD’s Air Quality Guidelines for General Plans, the City of Modesto should determine air quality impacts using analysis methods and significance thresholds recommended by the SJVAPCD. (General Plan Policy VII-H.2 [n])
MEIR AQ-26
Review of new development shall be coordinated with SJVAPCD's staff to ensure all projects subject to the SJVAPCD Rule 9510 (Indirect Source Review) comply fully with the rule. This rule fulfills the SJVAPCD's emission reduction commitments in the PM10 and Ozone Attainment Plans through design features and onsite approval for a development project, or any portion thereof, which upon full build out will include any of the following:

- 50 residential units
- 2,000 square feet of commercial space
- 25,000 square feet of light industrial space
- 100,000 square feet of heavy industrial space
- 20,000 square feet of medical office space
- 39,000 square feet of general office space
- 9,000 square feet of educational space
- 10,000 square feet of government space
- 20,000 square feet of recreational space
- 9,000 square feet of space not identified above. (General Plan Policy VII-H.2[u])

MEIR AQ-40
The City of Modesto shall require all access roads, driveways, and parking areas serving new commercial and industrial development are to be constructed with materials that minimize particulate emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of the use.

MEIR AQ-41
The City of Modesto should reduce PM10 emissions from City of Modesto maintained roads to the maximum extend feasible.

The following controls are required to be implemented at all construction sites:

MEIR AQ-42
All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

MEIR AQ-43
All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

MEIR AQ-44
All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

MEIR AQ-46
When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

MEIR AQ-47
All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except
where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

**MEIR AQ-48**
Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

**MEIR AQ-49**
Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

**MEIR AQ-50**
Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts (note, these measures are to be implemented in addition to Regulation VIII requirements):

**MEIR AQ-51**
Limit traffic speeds on unpaved roads to 15 mph; and

**MEIR AQ-52**
Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

**MEIR AQ-53**
Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

**MEIR AQ-54**
Install wind breaks at windward side(s) of construction areas.

**MEIR AQ-55**
Suspend excavation and grading activity when winds exceed 20 mph. Regardless of windspeed, an owner/operator must comply with Regulation VIII’s 20 percent (20%) opacity limitation.

**MEIR AQ-56**
Limit the area subject to excavation, grading and other construction activity at any one time.

**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></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 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>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</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>
<td>☐</td>
</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>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</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>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>5) The proposed project would create objectionable odors affecting a substantial number of people.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:

A project such as this was anticipated in the General Plan Master EIR. The project site is within the City’s boundary at the time the Master EIR was updated in 2008. Although the site is designated for Mixed Use and Residential development in the General Plan, entitlements for a medical/professional office complex located on the same parcel and similar in scale to the proposed project was approved in 2004. In accordance with MEIR Mitigation Measure MEIR AQ-26, the project was routed to the San Joaquin Valley Air Pollution Control District (SJVAPCD) for comments. Since the project exceeds more than 20,000 square feet in floor area, the project is subject to SJVAPCD Rule 9510 (Indirect Source Review). This rule fulfills the SJVAPCD’s emission reduction commitments in the PM10 and Ozone Attainment Plans through design features or by payment of applicable off-site mitigation fees.

(1) The proposed project includes the development of a medical and professional office complex on approximately 1.99 acres of land. Air pollution emissions associated with the proposed project would result from construction activities, increased traffic volumes and operating activities. The net increase in emissions generated by these activities and other secondary sources have been estimated and compared to thresholds of significance recommended by the San Joaquin Valley Air Pollution Control District.

The project emissions were modeled using CalEEMod software. The software requires detailed timelines for construction events. The developer estimated that the project would be built out in one phase with the construction of six new buildings. Buildings 1-4 will be 2,576 square feet each and buildings 5-6 will be 4,992 square feet each for a total of 20,288 square feet.
Parking for the project is parked at 1 parking space for every 200 square feet of office space for a total of 101 parking spaces. These development assumptions were used to model the air quality impacts for the project.

**Short-Term Construction-Generated Emissions**

Emissions produced during site preparation and construction is short-term because it occurs only during the construction phase. Dust generation is normally the primary concern during demolition and initial site preparation. Because such emissions are not amenable to collection and discharge through a controlled source, they are called fugitive emissions. Fugitive dust emissions typically include emissions from on-site grading and excavation activities and from off-site truck and passenger car travel on unpaved roadways. Fugitive dust emission rates are affected by a variety of factors, including amount and type of exposed soil, amount of soil moisture, wind speed, number of vehicles and pieces of equipment in operation at one time, depth of disturbance or excavation, and the number of vehicle miles traveled. Fugitive dust emissions are measured as PM<sub>10</sub>. In addition, emissions of reactive organic gases (ROG) and nitrogen oxides (NOx) are generated primarily by the operation of gasoline- and diesel-powered motor vehicles. Construction-generated emissions vary from day to day, depending on the specific activities being conducted, the type of equipment, duration or equipment use, and the number of transport trips for construction workers and material. Actual pollutant concentrations depend on various factors, including the location and type of activities performed, meteorological conditions, distances to nearby receptors, and the effectiveness of the mitigation measures employed.

As shown in Table 2-1 below, the short-term construction-generated emissions have been modeled based on the construction (demolition, grading, paving, construction, and architectural coatings) of the new medical and professional office complex and associated parking and site improvements for one phase. The SJVAPCD thresholds of 10 tons per year of ROG and NOx would not be violated during project construction. PM<sub>10</sub> emissions would be below the District's threshold of 15 tons/year and would not pose a significant effect on sensitive receptors or contribute to air quality violations.

**Table 2-1**

**Summary of Modeled Short-Term Construction-Generated Emissions**

<table>
<thead>
<tr>
<th>Year</th>
<th>Emissions (tons/year)&lt;sup&gt;1&lt;/sup&gt;</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ROG</td>
<td>NOx</td>
<td>PM&lt;sub&gt;10&lt;/sub&gt;</td>
</tr>
<tr>
<td>2013</td>
<td>0.71</td>
<td>4.81</td>
<td>0.55</td>
</tr>
<tr>
<td>2014</td>
<td>1.82</td>
<td>1.16</td>
<td>0.10</td>
</tr>
<tr>
<td><strong>Total Unmitigated</strong></td>
<td><strong>2.35</strong></td>
<td><strong>4.60</strong></td>
<td><strong>0.56</strong></td>
</tr>
<tr>
<td><strong>Max. Threshold Allowed</strong></td>
<td><strong>10.0</strong></td>
<td><strong>10.0</strong></td>
<td><strong>15.0</strong></td>
</tr>
</tbody>
</table>

<sup>1</sup> Emissions (from demolition, site grading, and building) modeled using CalEEMod 2011.1.1 computer model and represent worst-case yearly conditions.

Compliance with SJVAPCD Rule 9510 and Regulation VIII, as required by law would result in a reduction in NOx emissions and visible emissions from heavy-duty diesel equipment, and would reduce fugitive dust emissions. Rule 9510, the Indirect Source Review, would require the project applicant to submit an Air Impact Assessment to provide information that enables the District to quantify construction, area, and operational PM<sub>10</sub> and NOx emissions.
The project is required to comply with SJVAPCD Rule VIII (Fugitive Dust Rules) per MEIR Mitigation Measures MEIR AQ-42 – MEIR AQ-56, which identifies control measures for PM\(_{10}\) emissions during the construction phase, as listed above under Existing Mitigation Measures Applicable to this Project. The controls are required to be implemented at all construction phases and have been incorporated into the project conditions. The construction ROG, NO\(_x\), and PM\(_{10}\) emissions would not exceed SJVAPCD thresholds and are not considered a significant impact.

**Long-Term Increases in Emissions**

An insignificant amount of stationary (area) source emissions are anticipated from operation of the rehabilitation facility. Therefore, long-term increases in regional emission of criteria pollutants would be associated primarily with motor vehicle trips following completion of the rehabilitation facility. Criteria pollutants are those pollutants, or their precursors, for which the U.S. Environmental Protection Agency (EPA) has established national ambient air quality standards, which are at least as stringent as the National Ambient Air Quality Standards (NAAQS). Although the proposed project includes various elements designed to reduce mobile source emissions (e.g. located proximal to transit routes and adjacent to a future Class II bike lane on Standiford Avenue, and incorporation of bus turn-outs), implementation of the proposed project would result in the generation of mobile source emissions, including ROG and NO\(_x\), which are both precursors to ozone.

The operational emissions of the project were modeled using CalEEMod Version 2011.1.1. Regional area and mobile source emissions were based on proposed land use types and sizes. **Table 2-2** below, illustrates the mobile emissions for ROG, NO\(_x\) and PM\(_{10}\). The CalEEMod software estimates reduced (“mitigated”) emissions for factors such as reduction in the number and distance of trips due to approximately 1,200 residential units located within the Specific Plan Area, pass-by trips and diverted trips, available transit services, bike and pedestrian facilities, etc. These factors have been incorporated into the figures below to estimate a “total mitigated” ROG, NO\(_x\), and PM\(_{10}\) calculation.

Mitigation Measure AQ-26 requires the developer to submit for Indirect Source Review prior to issuance of any permit. The Indirect Source Review process will mitigate project impacts on air quality through project design elements or payment of offsite mitigation fees. The project will be required to complete the Indirect Source Review process as a condition of project approval.

CEQA and the State CEQA Guidelines require the disclosure of the significant cumulative environmental effects, whether the project will make a cumulatively considerable contribution to any such effects, and, if so, mitigation measures intended to reduce the project’s contribution. The San Joaquin Valley Air Basin has been identified as an air quality non-attainment area. Any contribution to air pollution in a non-attainment area is considered a significant cumulative impact. The MIER acknowledged that traffic from development in the City of Modesto would contribute toward a cumulative increase in roadside air pollutant levels. Within the City itself, the traffic analysis and corresponding traffic air pollutant analysis takes into account cumulative traffic volumes. The traffic study data includes cumulative traffic volumes which were utilized as an input to the air quality modeling analysis.

Due to the size of Modesto, build out of its Urban Area General Plan will make a considerable contribution to this cumulative effect. This impact was previously identified as a significant and unavoidable impact in the MIER. Therefore, the long term air quality impacts resulting...
from the project are not a new significant impact. Appropriate mitigation measures from the MIER (including the requirement to complete the Indirect Source Review and SJVAPCD Rule VIII (Fugitive Dust Rules)) have been applied to help reduce impacts. The SJVAPCD thresholds of 10 tons per year of ROG and NOx would not be violated during project construction. PM\textsubscript{10} mobile emissions would be below the District's threshold of 15 tons/year and would not pose a significant effect on sensitive receptors or contribute to air quality violations. The project will not exceed the District's thresholds as seen in Table 2-2.

Table 2-2
Summary of Modeled Net Increase in Mobile Emissions

<table>
<thead>
<tr>
<th>Source</th>
<th>ROG (tons/year)</th>
<th>NOx (tons/year)</th>
<th>PM\textsubscript{10} (tons/year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mobile Source</td>
<td>1.15</td>
<td>3.91</td>
<td>1.23</td>
</tr>
<tr>
<td>Total mitigated</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>SJVAPCD Significance Threshold</td>
<td>10</td>
<td>10</td>
<td>15</td>
</tr>
</tbody>
</table>

1 Emissions modeled using CalEEMod Version 2011.1.1 computer model and represent worst-case yearly conditions.

(2) The project was referred to the San Joaquin Valley Unified Air Pollution Control District (SJVAPCD) for comments. Best management practices established by the SJVAPCD for ROG, NOx, and PM\textsubscript{10} have been incorporated as conditions of approval. The project is required to comply with SJVAPCD Rule VIII (Fugitive Dust Rules) per MEIR Mitigation Measures MEIR AQ-42 – MEIR AQ-56, which identifies control measures for PM\textsubscript{10} emissions during the construction phase, as listed above under Existing Mitigation Measures Applicable to this Project.

In addition, the project is subject to SJVAPCD Rule 9510 (Indirect Source Review). This rule fulfills the SJVAPCD's emission reduction commitments in the PM\textsubscript{10} and Ozone Attainment Plans through design features or by payment of applicable off-site mitigation fees.

(3) The project is consistent with the City's policies regarding air quality; therefore, project-specific effects will be less than significant.

(4) The project is surrounded on four sides with land that is developed with residential, professional office uses, commercial uses. The closest sensitive receptors are dwelling units to the south of the project site, off of Lenox Drive. The land uses proposed are not in themselves significant contributors to air pollution levels. The primary source of air pollution associated with the development would be traffic related. Since the traffic impacts do not result in a significant impact, there are no traffic-related air quality impacts. The PM\textsubscript{10} emissions created through construction activities will be mitigated as called for by the MEIR with the mitigation measure listed above.

(5) Construction activities for the project could potentially include the application of architectural coatings and asphalt paving materials that could generate localized temporary odors. The use of diesel-powered construction equipment could also generate localized temporary odors. Construction activities will be mitigated as called for by the MEIR with the mitigation measures...
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 to be applied to this project includes: N-7, N-8, N-9 and N-10 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-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:

City of Modesto
General Plan Master EIR

Initial Study EA No. 2014-16
June 3, 2014
3. GENERATION OF NOISE

<table>
<thead>
<tr>
<th>Effect Description</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 will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<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>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<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>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>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.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:

(1,2,3) The project is consistent with the noise policies of the General Plan. General Plan MEIR Mitigation Measure N-7 requires non-residential development to demonstrate that the project will incorporate measures to reduce noise impacts to a less than significant level. The proposed medical and professional office complex is not anticipated to generate noise levels that exceed the noise thresholds described above. Business activities will be conducted indoors with traffic coming and going from the site.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measure N-3 called for by the General Plan for projects within the baseline developed area, has been incorporated.

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.

Discussion:

The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project is an infill development and the surrounding properties are located within a fully developed urbanized area.

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 appropriate mitigation to be applied to this project includes none 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-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 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</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>Potential Impact</td>
<td>Less Than Significant with Mitigation Incorporated</td>
<td>Less Than Significant Impact</td>
<td>No Impact</td>
<td></td>
</tr>
<tr>
<td>------------------</td>
<td>-----------------------------------------------</td>
<td>-----------------------------</td>
<td>-----------</td>
<td></td>
</tr>
<tr>
<td>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:**

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanized land.

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:
The appropriate mitigation to be applied to this project includes none 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-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>5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES</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) The project is consistent with the water supply policies in the General Plan.
(2) The project was referred to Land Development Engineering Staff who determined the proposed development will not exceed estimates or water supplies needed to serve other
entitlements and resources. A 10-inch water main fronts the property on Standiford Avenue that is available for connection and adequately sized. The property is already served with water, and it is recommended to utilize existing connections for the proposed buildings.

(3) The proposed project is consistent with the ground water demands assumed in the General Plan. The project would not have a significant effect on ground water recharge or depletion of long-term water supplies.

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:**

The appropriate mitigation to be applied to this project includes none 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-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 Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>6. INCREASED DEMAND FOR SANITARY SEWER SERVICES</strong></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>X</td>
<td>X</td>
<td>X</td>
<td>X</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>X</td>
<td>X</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>X</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the wastewater policies in the General Plan, including Policy V.D.2a, which requires the City to maintain the standards for effluent and biosolids from its wastewater treatment plants as established by the Central Valley Regional Water Quality Control Board, in compliance with the Federal Clean Water Act and the State Porter-Cologne Act. Wastewater for the project will be treated at the City’s primary and secondary wastewater treatment plants and discharged into the San Joaquin River. The existing wastewater plants have adequate capacity to serve the project.

(2-3) There is an existing 12-inch sewer main in Mable Avenue, and an existing 16-inch trunk sewer main in Coffee Road available for connection. The submitted plan indicated a proposed sewer lateral connection to the Coffee trunk approx. 40 feet downstream of the existing lift station. This proposed location is considered too close to the lift station outfall and could adversely impact lateral sewer flow from this project. It is suggested that the project utilize the existing sewer manhole approximately 420 feet downstream of the lift station on Coffee Road or a connection to the existing 12-inch main in Mable Avenue. The site development layout street widening would need to account for the sewer lift station location.

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:**

The appropriate mitigation to be applied to this project includes none 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-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></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>7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT</td>
<td></td>
<td></td>
<td></td>
<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>
<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>
</tbody>
</table>

City of Modesto
General Plan Master EIR

Initial Study EA No. 2014-16
June 3, 2014
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.

- Potentially Significant Impact: ☐
- Less Than Significant with Mitigation Incorporated: ☐
- Less Than Significant Impact: ☐
- No Impact: ☒

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.

- Potentially Significant Impact: ☐
- Less Than Significant with Mitigation Incorporated: ☐
- Less Than Significant Impact: ☐
- No Impact: ☒

5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

- Potentially Significant Impact: ☐
- Less Than Significant with Mitigation Incorporated: ☐
- Less Than Significant Impact: ☐
- No Impact: ☒

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.

- Potentially Significant Impact: ☐
- Less Than Significant with Mitigation Incorporated: ☐
- Less Than Significant Impact: ☐
- No Impact: ☒

Discussion:

1) The project is not located in a biologically sensitive area and is consistent with the General Plan policies related to the loss of sensitive wildlife and plant habitat.

2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

3) The site does not qualify as a federally protected wetland per Section 404 of the Clean Water Act.

4) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The movement of fish or birds or other wildlife would not be significantly effected by the project.

5) There is no conflict with any local policies or ordinances protecting biological resources.

6) There is no conflict with any adopted habitat conservation plan, natural community conservation plan, or other approved local, regional or state habitat conservation plan.

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 appropriate mitigation to be applied to this project includes: AH-8, 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-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 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</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
### Discussion:

1. The project is consistent with the archeological and historical resource policies in the General Plan.

2-4. The project involves the removal of an existing building constructed in 1947 and is currently being used as a used furniture store. The removal of the building was analyzed for historic significance, and was found to not have met the criteria for inclusion on the California Register of Historic Resources. The building is therefore not considered to be a historical resource and is not listed as a cultural or historic resource in the City’s General Plan.

5. The project does not conflict with local policies affecting biological resources.

### 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: SD-7, 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>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><strong>9. INCREASED DEMAND FOR STORM DRAINAGE</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<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>
</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>[X]</td>
</tr>
<tr>
<td>3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[X]</td>
</tr>
<tr>
<td>Impact</td>
<td>Potentially Significant Impact</td>
<td>Less Than Significant with Mitigation Incorporated</td>
<td>Less Than Significant Impact</td>
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<td>--------</td>
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<td>-------------------------------</td>
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<tr>
<td>site and increase infiltration, resulting in no net increase in runoff before and after development.</td>
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</tbody>
</table>

Discussion:

(1) The project is consistent with the storm drain policies in the Urban Area General Plan.

(2) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

(3) The project will utilize low impact strategies and meet the standards contained in the “Guidance Manual for New Development-Storm Water Quality Control Measures.”

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: FWQ-14, 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-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><strong>10. FLOODING AND WATER QUALITY</strong></th>
<th><strong>Potentially Significant Impact</strong></th>
<th><strong>Less Than Significant with Mitigation Incorporated</strong></th>
<th><strong>Less Than Significant Impact</strong></th>
<th><strong>No Impact</strong></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>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>
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</tr>
</tbody>
</table>

**Discussion:**

(1) The project is consistent with the flooding and water quality policies in the General Plan.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.
(3) The project is not located within a 100-year flood plain and is limited to commercial uses.

(4) The project is not located within a 100-year flood plain.

(5) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures (MIER Policy SD-11). This will be implemented as a condition of project approval.

(6) The project will not violate water quality standards or waste discharge requirements.

(7) The project would not substantially alter the existing drainage pattern of the site, area or a watercourse in a manner that would result in erosion or siltation.

(8) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system or provide substantial additional sources of polluted runoff.

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 appropriate mitigation to be applied to this project includes none 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-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></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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</thead>
<tbody>
<tr>
<td><strong>11. INCREASED DEMAND FOR PARKS AND OPEN SPACE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<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:**

(1) The project is consistent with the parks and open space policies in the General Plan.

(2) The project would not eliminate an existing park or designated open space. The project is on a site designated for Residential and Mixed-use development.

(3) The project will include a new medical and professional office complex which will not cause an increase in the use of existing neighborhood park, Regional Park or other recreational facilities.

**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 none 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-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>
<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 policies relating to schools 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 SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the policies relating to schools in the General Plan.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.
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 none 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-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 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</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
</tr>
</tbody>
</table>
acceptable service ratios, response times, or other performance objectives.

Discussion:

(1) The project is consistent with the policies relating to police services in the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

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:

The appropriate mitigation to be applied to this project includes none 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-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>Description</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:**

1. The project is consistent with the fire service policies in the General Plan.
2. The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.
3. The project would not significantly impact adjacent fire districts or result in the elimination of fire protection services.

### 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-1S-4 through V-1S-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:

The appropriate mitigation to be applied to this project includes none 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-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:

(1) The project is consistent with the Modesto Urban Area General Plan "MU" (Mixed-Use) designations in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

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:
The appropriate mitigation to be applied to this project includes none 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-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 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:
(1) The project is consistent with the hazardous materials policies in the General Plan.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project would not 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 not create a significant hazard to the public or the environment.

(4) The project site is not known to contain any contaminants.

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:

The appropriate mitigation to be applied to this project includes none 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-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>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 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) 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:

(1) The project is consistent with policies relating to geology, soils, and mineral resources in the General Plan.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project. There are no known mineral resources of value to the region and the state on the property.

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 appropriate mitigation to be applied to this project includes none 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-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:

(1) The project is consistent with the energy policies in the General Plan.

(2) The project would not result in energy consumption during construction, operation, maintenance or removal that is more wasteful, inefficient and unnecessary than assumed in the 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 this project includes none 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-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</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
properties to a greater degree than assumed in the Urban Area General Plan.

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings. The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area.

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 appropriate mitigation to be applied to this project includes none 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-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>20. LAND USE AND PLANNING</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 land use and planning policies in the Urban Area 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>
<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:**

1. The project is consistent with the Modesto Urban Area General Plan "MU" (Mixed-Use) designations in both land use and intensity.
2. No amendment to the General Plan is required by this project.
3. The project is an infill project that will not result in division of a community.

**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 appropriate mitigation to be applied to this project includes none 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-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 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:
(1) The City of Modesto General Plan Master EIR addressed potential climate change impacts due to development and other activities associated with the Urban Area General Plan (UAGP). The Urban Area General Plan Master EIR (MEIR) determined that build-out of the UAGP would make a cumulatively considerable contribution to global climate change. The UAGP
nonetheless authorizes development that will contribute to global climate change by virtue of the production of greenhouse gases. The MEIR states the projected rate of growth of vehicle miles traveled (VMT) will increase the City’s contribution to global climate change as the City develops. Development under the UAGP is expected to generate approximately 1,096,226.4 metric tons per year above 2005 emissions. The City Council adopted a Statement of Overriding Considerations in 2008, finding that the benefits of the UAGP outweighed the City’s increased contribution to global climate change.

The MEIR identifies policies CL-3 through CL-26 as policies in effect that have been determined to reduce, avoid or mitigate air quality environmental impacts within the existing City limits and within the Planned Urbanizing Areas as they annex and develop. These policies include but are not limited to, the use of shade trees to reduce the heat island effect, current energy efficient building standards to reduce energy consumption, and the inclusion of facilities for alternative transportation. The proposed project is required to develop in accordance with climate change policies included in the UAGP and the MIER.

The General Plan designation for the site is Mixed Use. The proposed development is consistent with these designations in terms of land-use and intensity.

(2) Climate change is an inherently cumulative impact because no single project can produce enough greenhouse gases to substantially alter the global climate. No thresholds have been set for individual or cumulative greenhouse gases. Nonetheless, the proposed project would result in greenhouse gas emissions due primarily to automobile travel and energy use for lighting, heating, cooling and other activities. The primary source of CO2 emissions generated from the project would be related to automobile trips. As identified under the traffic and circulation discussion, traffic engineering staff has determined that the project will be in substantial conformance with the GP MEIR assumptions for traffic generation, the CO2 emissions generated from the project would also be in substantial conformance with that which was assumed under the GP MEIR analysis.

(3) A Sustainable Communities Strategy has not yet been implemented by the Air Resources Board. Future development will be required to comply with the provisions of the Sustainable Communities Strategy once it is established.

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). 

City of Modesto
General Plan Master EIR

Initial Study EA No. 2014-16
June 3, 2014
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:

N/A

Degradation of Air Quality:

SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM-10. The following controls are required to be implemented at all construction sites.

MEIR AQ-42
All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

MEIR AQ-43
All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

MEIR AQ-44
All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

MEIR AQ-46
When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

MEIR AQ-47
All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

MEIR AQ-48
Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

MEIR AQ-49
Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

**MEIR AQ-50**
Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts (note, these measures are to be implemented in addition to Regulation VIII requirements):

**MEIR AQ-51**
Limit traffic speeds on unpaved roads to 15 mph; and

**MEIR AQ-52**
Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

**MEIR AQ-53**
Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

**MEIR AQ-54**
Install wind breaks at windward side(s) of construction areas.

**MEIR AQ-55**
Suspend excavation and grading activity when winds exceed 20 mph. Regardless of windspeed, an owner/operator must comply with Regulation VIII’s 20 percent (20%) opacity limitation.

**MEIR AQ-56**
Limit the area subject to excavation, grading and other construction activity at any one time.

**Generation of Noise:**

1. The City’s noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the “loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine.”

   The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

   A. A hammer, or any other device or implement used to pound or strike an object.

   B. An impact wrench, or other tool or equipment powered by compressed air.

   C. A hand-powered saw.

   D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

   E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

I. Effects on Agricultural Lands:

N/A

Increased Demand for Long-Term Water Supplies:

N/A

Increased Demand for Sanitary Sewer Services:

N/A

Loss of Sensitive Wildlife and Plant Habitat:

N/A

Disturbance of Archaeological/Historic Sites:

MEIR Table V-8-1 (b-f)

b. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.

c. The project sponsor shall identify a qualified archeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor’s selection of a qualified archeologist. The archeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.
d. Reasonable time shall be allowed for the qualified archeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.

e. If any find is determined to be significant by the qualified archeologist, representatives from the construction contractor and the City, the qualified archeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.

f. All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional curation, and a report prepared according to current professional standards.

**Increased Demand for Storm Drainage:**

**MEIR SD-9**

Construction activities shall comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity.

**Flooding and Water Quality:**

N/A

**Increased Demand for Parks and Open Space:**

N/A

**Increased Demand for Schools:**

N/A

**Increased Demand for Police Services:**

N/A

**Increased Demand for Fire Services:**

N/A

**Generation of Solid Waste:**

N/A

**Generation of Hazardous Materials:**

N/A

**Geology, Soils, and Mineral Resources:**

N/A
Energy:
N/A

Effects on Visual Resources:
N/A

Land Use and Planning:
N/A

Climate Change:
N/A
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-385

RESOLUTION APPROVING THE SUBMISSION OF THE CITY OF MODESTO CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT FOR PROGRAM YEAR 2013 TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL RELATED DOCUMENTS

WHEREAS, the City of Modesto, as an entitlement grantee of U.S. Department of Housing and Urban Development HUD funds, is required to submit a Consolidated Annual Performance and Evaluation Report (CAPER) to HUD no later than 90 days after the completion of the fiscal year, and

WHEREAS, this report details the activities undertaken during the year by the grantee supporting the goals identified in the Five-Year Consolidated Plan and the Program Year 2013 Annual Action Plan for the use of CDBG, HOME and ESG funds, and

WHEREAS, as required by the City’s Citizen Participation Plan, a public notice informing the public of the availability of the report and the start of the public comment period was published in the Modesto Bee on August 23, 2014, and

WHEREAS, the public comment period closed on September 23, 2014 with a public hearing at the City Council meeting, and

WHEREAS, on September 17, 2014, the Citizens’ Housing and Community Development Committee reviewed the Draft CAPER at a public meeting and recommended forwarding to City Council for approval, and

WHEREAS, all public comments, and staff responses to these comments, were presented to the City Council for review and approval.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submission of the City of Modesto Consolidated Annual Performance Evaluation Report for Program Year 2013, a copy of said report is 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 all documents related to the submission of the CAPER.

BE IT FURTHER RESOLVED that staff is hereby authorized to submit the report to the U.S. Department of Housing and Urban Development.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2014, by Councilmember Kenoyer, 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 LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE CITY MANAGER OR DESIGNEE TO ENTER INTO AGREEMENTS WITH THE CITY’S LABOR ORGANIZATIONS; MCMA, MCEA, MPMA, MPOA AND MPNSA, TO IMPLEMENT A THREE-TIER RATE AND CONTRIBUTION STRUCTURE FOR HEALTH INSURANCE

WHEREAS, the City of Modesto offers its employees, their dependents and eligible retirees group health insurance coverage, and

WHEREAS, the City currently offers coverage based on employee only and employee plus family, and

WHEREAS, the City and the Employee Organizations; MCMA, MCEA, MPMA, MPOA AND MPNSA, have been meeting in good faith regarding the City’s proposal to create a three-tier rate structure and modify the City’s contribution levels for medical premiums, and

WHEREAS, the City has tentative agreements with all of its Employee Associations who have either obtained or are in the process of obtaining ratification votes from their members for a three-tier rate structure, and

WHEREAS, upon agreement by the Employee Organizations, the City needs to enter into agreements with the Employee Organizations by September 23, 2014 in order to implement and obtain health premium rates prior to the commencement of open enrollment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager to enter into agreements with the City’s Labor Organizations to implement a three-tier rate structure for health insurance; providing a
City monthly contribution of $621 for singles (employee), $858 for employee plus one, and $1,214 for family.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2014 by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Zoslocki, Mayor Marsh

NOES: Councilmembers: Kenoyer, Lopez, Madrigal

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDEGREN, City Attorney
RESOLUTION TO IMPLEMENT A THREE-TIER RATE AND CONTRIBUTION STRUCTURE FOR HEALTH INSURANCE FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES, INCLUDING CHARTER OFFICERS AND EXECUTIVES AND RESCINDING RESOLUTION NO. 2014-313

WHEREAS, the City of Modesto offers its employees, their dependents and eligible retirees group health insurance coverage, and

WHEREAS, the City currently offers coverage based on employee only and employee plus family, and

WHEREAS, the City desires to implement a three-tier rate structure for health insurance and modify the City’s contribution levels for medical premiums, providing a City monthly contribution of $621 for singles (employee), $858 for employee plus one, and $1,214 for family;

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

SECTION 1. HEALTH, DENTAL AND VISION BENEFITS. The City’s contribution to health, dental and vision benefits for Unrepresented Management and Confidential employees, including Charter Officers and Executives, shall be a three-tier system as follows:

<table>
<thead>
<tr>
<th>City Contribution (monthly)</th>
<th>1/1/2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sworn and Non-Sworn</td>
<td></td>
</tr>
<tr>
<td>Employee + Family</td>
<td>$1,214</td>
</tr>
<tr>
<td>Employee +1 Dependent</td>
<td>$858</td>
</tr>
<tr>
<td>Employee Only</td>
<td>$621</td>
</tr>
<tr>
<td>Opt Out</td>
<td>$450</td>
</tr>
</tbody>
</table>

RESCINDED

DEC 2 2014

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2014-387
The City shall deposit into the employee’s deferred compensation account any balance remaining from the above listed contributions not needed to pay for the employee’s health, dental or vision premiums. Already effective July 22, 2008, for employees enrolled in the City-sponsored High Deductible Health Plan, any balance of said contributions shall be directed to the employee’s Health Savings Account. Only in the event that an employee does not qualify for enrollment into a Health Savings Account, the City shall deposit any balance of the above contribution not needed to pay for the employee’s combined premium into the employee’s deferred compensation account.

Effective July 26, 2005, the City's contribution toward unrepresented employees with Family coverage shall not exceed the actual premium amount for the lowest cost health (HMO Plan), dental and vision plans offered by the City, regardless of the health plan selected by the employee or the contribution amounts listed above.

SECTION 2. UNIFORM ALLOWANCES. Uniform allowances for unrepresented Management and Confidential employees who are required to wear a uniform, are as follows:

<table>
<thead>
<tr>
<th>Positions</th>
<th>Effective Date</th>
<th>Allowance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sworn Police</td>
<td>January 1, 2008</td>
<td>$94.00 (Per Reso. No. 2005-602)</td>
</tr>
<tr>
<td>Sworn Fire Management</td>
<td>July 1, 2007</td>
<td>$85.00</td>
</tr>
</tbody>
</table>

SECTION 3. DEFERRED COMPENSATION 401(a) MONEY PURCHASE PLANS. The 401(a) Money Purchase Plans shall provide for a City-paid contribution and equal mandatory employee contribution, effective January 1, 2006, of 5% for Charter Officers, 3% for Executives other than Charter Officers, and 2% for all other unrepresented Management and Confidential employees.
SECTION 4. COMPENSATORY TIME OFF CAP. Management and Confidential employees who are overtime-eligible shall be paid quarterly for all CTO over their established cap. For employees hired on or after December 6, 2005, the CTO cap shall be 100 hours. For employees hired before December 6, 2005, the cap shall be 160 hours.

SECTION 5. HOLIDAY CAP. Holiday time for unrepresented non-sworn employees may be accrued up to a maximum of 40 hours. When the employee reaches the 40 hour maximum, additional holiday time shall be compensated in cash at straight time rates on a quarterly basis.

SECTION 6. MANAGEMENT LEAVE. Commencing January 1, 2012, management employees in exempt regular positions shall be advanced 80 hours of Management Leave (Fire Battalion Chiefs on a 56-hour schedule shall be advanced 112 hours) January of each calendar year to be taken at the discretion of the employee and upon approval of City Manager, or designee, and shall be prorated for less than full-time employees. Management Leave will be forfeited if not used by the last pay period ending in December. An exempt employee hired after Management Leave has been advanced shall be eligible for a pro-rated portion of Leave.

In the event of separation from City employment of any person who has taken Management Leave prior to the time all of said leave is earned, the employee shall be required to make full restitution to the City for that portion of leave taken but remaining unearned on the date of termination of employment. Employees separating from City service will be paid for earned Management Leave credit.

SECTION 7. MANAGEMENT LEAVE ANNUAL CASHOUT. The maximum
number of hours available for cash out each December shall be 40 hours annually for Management employees.

Effective December 2007, the maximum annual cash out shall be 80 hours for Executives and Charter Officers, and 60 hours for Police Captains, Fire Battalion Chiefs, Fire Division Chiefs, Deputy Directors, Assistant City Attorney and Deputy City Attorney I/II/III/Senior. For Fire Battalion Chiefs on a 56-hour schedule, the maximum cash out shall be 84 hours.

SECTION 8. FIRE CHIEF OFFICER SHIFT STIPEND. Effective December 27, 2005, Fire Battalion Chiefs and Fire Division Chiefs assigned to work extra shifts in order to maintain a consistent staffing of two (2) Battalion Chiefs to the extent possible, may receive a stipend of one thousand dollars ($1,000) per 24-hour shift. Criteria for assignment to extra shifts with the stipend shall be at the discretion of the Fire Chief, who shall also determine when staffing at the level of one Battalion Chief is acceptable. The Fire Chief shall annually determine the maximum number of assignments available for stipend, subject to funds budgeted and the needs of the City. As FLSA Exempt management employees, Fire Battalion Chiefs and Fire Division Chiefs may be required to work both emergency and non-emergency assignments without additional compensation.

SECTION 9. NEGATIVE VACATION. Effective March 7, 2006, use of negative vacation will be permitted only for extenuating circumstances and will require the approval of the City Manager, or designee.

SECTION 10. PROBATIONARY PERIOD. All original and promotional appointments to positions in the Classified Service shall be tentative and subject to a
probationary period of one year from the date of appointment to the position. The
purpose of the probationary period is to train, observe and evaluate the employee on
conduct, performance, attitude, adaptability and job knowledge.

Initial Probation: It is understood that the probationary period will normally last
for one year from the date of appointment, but may last longer than the one year if
absences, either paid or unpaid, cause the probationary employee to work less than 1680
hours. In the event that an employee works less than 1680 hours in the first twelve
months of employment, then the employee’s probation shall be extended until he/she has
worked 1680 hours.

Promotional Probation: It is understood that the probationary period, upon
promotion, will normally last for one year from the date of promotion, but may last
longer than the one year if absences, either paid or unpaid, cause the probationary
employee to work less than 1560 hours. In the event that an employee works less than
1560 hours during the twelve months following his/her promotion, then the employee’s
probation shall be extended until he/she has worked 1560 hours.

During the probationary period an employee may be released at any time without
right of appeal. Written notice of release shall be furnished to the probationer. An
employee released during or at the conclusion of probation following a promotion, shall
be reinstated to the position previously held, at the former salary step, except if the
reasons for release are cause for dismissal.

SECTION 11. DEFERRED COMPENSATION SERVICE DATES. The CITY
shall continue to provide access to a 457 deferred compensation program authorized by
the City Council for the voluntary participation of City employees. In addition, the
CITY shall match on behalf of a participating employee in a regular position, one and one-half percent (1.5%) of an employee's regular rate of pay on a bi-weekly basis; provided, the employee is contributing at least one and one-half percent (1.5%). For such employees who have been continuously employed by the CITY for nine (9) or more years, the CITY shall contribute two and one-half percent (2.5%); provided the employee is contributing at least two and one-half percent (2.5%). Effective January 1, 2006, this increase in the City's contribution shall be effective with the first pay period to begin in the month following completion of nine (9) years of service, provided that the employee has completed any required documents.

SECTION 12. DOMESTIC PARTNERS. Benefits applicable to spouses shall be extended to registered domestic partners, as required by law.

SECTION 13. MEDICAL LEAVES OF ABSENCE. Effective December 6, 2005, employees requesting an Authorized Medical Leave of Absence without pay, due to a medical incapacity to perform the duties of their position, must provide written medical verification of a long-term disability, illness or injury.

SECTION 14. CATASTROPHIC LEAVE. Effective December 6, 2005, employees requesting Catastrophic Leave donations must provide a written medical verification of long term illness or injury, or verification of a family member's illness or injury.

SECTION 15. HAZARDOUS MATERIALS CERTIFICATION PAY. Effective July 1, 2003, one (1) Fire Department Battalion Chief or Division Chief shall be authorized five (5%) percent Haz Mat Pay, when certified as a Hazardous Materials Specialist and assigned to administer the City of Modesto's participation in the Regional
Hazardous Materials Response Team. This pay replaced the annual Haz Mat Stipend.

SECTION 16. MASTERS DEGREE INCENTIVE PAY. Effective June 29, 2004, employees who possess a Masters Degree or Juris Doctor from an accredited institution, shall be granted one and one half (1.5%) percent Masters Pay, subject to criteria as established by the City.

SECTION 17. REGISTRATION AND CERTIFICATION FEES. Effective July 1, 2003, when an employee is required by the City to obtain or renew a certificate, license or registration in order to carry out their assigned duties, except a California Class C Driver's License, the City will pay the fee for the actual certificate, license or registration, (and exam fee, if any).

SECTION 18. LEAVE CASHOUTS FOR SWORN FIRE MANAGEMENT EMPLOYEES. Sworn Fire Management employees in the classifications of Fire Battalion Chief, Fire Division Chief and Fire Chief working a 40 hour schedule shall be afforded the opportunity to cash out up to 61 hours of vacation leave per calendar year (at straight time rates) and up to 88 hours of holiday leave per calendar year (at time and one-half), effective July 1, 2003. Employees in the classification of Fire Battalion Chief working a 56 hour schedule shall be afforded the opportunity to cash out up to 72 hours of vacation leave per calendar year (at straight time rates) effective June 20, 2000, and up to 132 hours of holiday leave per calendar year (at time and one-half). Holiday leave may not be carried over year-to-year regardless of the schedule worked.

SECTION 19. VEHICLE ALLOWANCE. Per Resolution No. 2001-271 effective July 1, 2001, the vehicle allowance for Executives and Charter Officers who receive an allowance, shall be $400/month, and the City Manager is authorized to grant
Deputy Directors either an assigned City vehicle or a vehicle allowance in the amount of $300/month. The City Manager is also authorized to grant selected Management employees a vehicle allowance of $100-$200/month based on Department Director recommendation and an annual justification relating to extensive use of a personal vehicle while conducting City business. Effective May 27, 2008, per Resolution 2008-305, the vehicle allowance for Charter Officers is increased to a maximum of $500/month.

SECTION 20. POST CERTIFICATION PAY. Effective August 26, 2014, Police Captains who provide evidence that they have received a Supervisory POST Certificate shall be eligible for three and two tenths percent (3.2%) certification pay. Effective August 26, 2014, Police Captains who provide evidence that they have received a Management POST Certificate shall be eligible for five and seven tenths percent (5.7%) certification pay. These amounts are not cumulative and Captains receiving Management POST pay shall not also receive Supervisory POST pay. The maximum allowable POST pay is 5.7%.

SECTION 21. EMERGENCY MEDICAL TECHNICIAN CERTIFICATION PAY. Effective July 1, 1990, sworn Fire Management employees in the classifications of Fire Battalion Chief and Fire Division Chief who are certified as Medical First Responders, shall receive a monthly allowance equivalent to two and one-half percent (2.5%) of the base salary for their classification. Employees who are certified as Emergency Medical Technicians (EMT-I), shall receive a monthly allowance equivalent to five percent (5.0%) of the base salary for their classification. The EMT-I allowance shall be in lieu of the Medical First Responder allowance.
SECTION 22. MUTUAL AID ASSIGNMENT. Per Resolution 2001-485, effective September 25, 2001, Sworn Fire Management employees in the classification of Fire Battalion Chief and Fire Division Chief shall receive a stipend when assigned to fill Strike Team and Task Force Leader assignments. Fire Battalion Chiefs assigned as Strike Team or Task Force Leader or Strike Team or Task Force Leader Trainee shall receive a stipend of $1000 for a 24 hour period. Fire Division Chiefs assigned as Strike Team or Task Force Leader or Strike Team or Task Force Leader Trainee shall receive a stipend of $1200 for a 24 hour period subject to the following conditions:

1. The assignment results from a request through the California Office of Emergency Services.
2. The assignment is subject to reimbursement through the “Cooperative Agreement for Local Government Fire Suppression.”
3. Regularly scheduled work hours are not included and partial periods are pro-rated to the nearest hour.

The City Manager is authorized to adjust the stipend amount, from time to time, consistent with increases in overall Fire Management salaries and reimbursement rates.

SECTION 23. ASSISTANT CHIEF OF POLICE ASSIGNMENT PAY.
Effective May 26, 1998, subject to the approval of the City Manager, the Police Chief may appoint employees currently employed by the Police Department in the classification of Police Captain to the assignment of Assistant Chief of Police. Such appointment may be made without competitive examination and shall continue at the will and pleasure of the Police Chief. The Police Chief may end the assignment at any time and such employee shall return to an assignment as Police Captain (unless removed due
to dismissal) at a step no lower than the step the employee held at time of assignment. The total number of assignments shall be at the sole discretion of the City Manager.

SECTION 24. SICK LEAVE. Non-sworn employees hired on or before December 31, 2010 shall have all accrued sick time transferred to a grandfathered sick leave bank effective the pay period ending October 22, 2012. Sworn employees hired on or before December 31, 2010 shall have all accrued sick time transferred to a grandfathered sick leave bank effective pay period ending August 25, 2014. When taking sick leave, employees with grandfathered sick leave banks shall utilize new sick leave accrued hours prior to utilizing hours from the grandfathered bank.

SECTION 25. SICK LEAVE CASHOUT FOR SWORN FIRE MANAGEMENT EMPLOYEES. Sworn Fire management employees who leave City service in good standing (other than retirement) after five (5) years of continuous service, shall be paid the first twenty-two hundred (2,200) hours of their current unused grandfathered sick leave, reduced by hours previously converted to Deferred Compensation, as follows: (1) Ninety (90%) percent of sick leave hours as of the date of the employee's initial promotion to a management classification shall be paid out at the current regular rate of pay (top step) for Fire Captain, and (2) In addition, twenty-five (25%) percent of the remaining sick leave hours accrued after promotion to a management classification shall be paid out at the employee's then current regular rate of pay.

SECTION 26. RETIREE HEALTH INSURANCE. Employees may elect on a one-time basis at retirement to purchase health, dental and/or vision insurance under a City-authorized plan and are responsible for all cost.
Non-sworn employees hired on or before December 31, 2010 and who retire from the City prior to October 23, 2012 after five (5) years of continuous service in good standing may, on a one-time basis, exercise the option to have ninety percent (90%) of their unused grandfathered sick leave accrued up to October 22, 2012, up to twenty-two hundred (2,200) hours, applied by the City upon retirement to premiums for health, dental and vision insurance plans covered by the CITY at the rate of eight (8) hours equals one month of contribution. Said insurance contribution shall be provided in an amount up to that contributed to active employees subject to changes in the median priced health HMO plan for active employees, as needed to cover the cost of retiree health, dental and vision premium.

Non-sworn employees hired on or before December 31, 2010 and who retire from the City on or after October 23, 2012 after five (5) years of continuous service in good standing may, on a one-time basis, exercise the option to have ninety percent (90%) of their unused grandfathered sick leave accrued up to October 22, 2012, up to twenty-two hundred (2,200) hours, applied by the City upon retirement to premiums for health, dental and vision insurance plans covered by the CITY at the rate of eight (8) hours equals one month of contribution. Said insurance contribution shall be provided as needed to cover the cost of retiree health, dental and vision premiums up to a monthly rate of $621 for retiree without dependents and up to $1,100 for retirees with dependent coverage.

For non-sworn employees hired on or before December 31, 2010, the City shall contribute to a Defined Contribution retiree medical benefit plan for each eligible employee in the form of a deposit into a Health Reimbursement Arrangement (HRA)
account effective July 2, 2013. The City shall contribute $25.00 per month for each eligible full time employee. For a full time employee, this equates to a maximum of $300 per year after the initial eligibility period is met. Employees in regular positions budgeted less than eighty (80) hours per pay period or job-shared positions, shall receive a pro-rated amount per month.

Sworn employees hired on or before December 31, 2010 and who retire from the City after five (5) years of continuous service in good standing may, on a one-time basis, exercise the option to have ninety percent (90%) of their unused grandfathered sick leave accrued up to August 25, 2014, up to twenty-two hundred (2,200) hours, applied by the City upon retirement to premiums for health, dental and vision insurance plans covered by the CITY at a rate of eight (8) hours equals one month of contribution (employees promoted on or after December 30, 2014 into a Fire Unrepresented position on a 56-hour schedule, shall have hours at retirement applied at a rate of twelve (12) hours equals one month of contribution). Said insurance shall be provided in an amount up to that contributed to active employees subject to changes in the median priced health HMO plan for active employees, as needed to cover the cost of retiree health, dental and vision premium.

For sworn employees hired on or before December 31, 2010, the City shall contribute to a Defined Contribution retiree medical benefit plan for each eligible employee in the form of a deposit into a Health Reimbursement Arrangement (HRA) account effective August 26, 2014. The City shall contribute $25.00 per month for each eligible full time employee. For a full time employee, this equates to a maximum of $300 per year after the initial eligibility period is met. Employees in regular positions
budgeted less than eighty (80) hours per pay period or job-shared positions, shall receive a pro-rated amount per month.

For all unrepresented employees (sworn and non-sworn) hired on or after January 1, 2011, the City shall contribute to a Defined Contribution retiree medical benefit plan for each eligible employee in the form of a deposit into a Health Reimbursement Arrangement (HRA) account. An employee is eligible to receive a City HRA contribution upon completion of two full years. If an employee separates employment before meeting eligibility requirement, the employee shall receive no benefit. On the first pay period following completion of two full years of continuous City service, the CITY shall deposit $2,400 into an HRA account established in the employee’s name. Employees in regular positions budgeted less than eighty (80) hours per pay period or job-shared positions, shall receive a pro-rated lump sum contribution based on hours worked. After the initial contribution is made, the City shall contribute $100 per month for each eligible full time employee. Employees in regular positions budgeted less than eighty (80) hours per pay period or job-shared positions, shall receive a pro-rated amount per month. Employees hired on or after January 1, 2011 and subject to this defined contribution plan shall not be eligible for any sick leave conversion towards retiree medical premiums of any sort. The City’s contribution under this section represents the entire contribution towards employee retiree medical.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2014-313 is hereby rescinded.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2014, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Zoslocki, Mayor Marsh

NOES: Councilmembers: Kenoyer, Lopez, Madrigal

ABSENT: Councilmembers: None

ATTEST:  
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE CITY TO OFFER AN ALTERNATIVE MEDICAL CONTRIBUTION PROGRAM TO CURRENT RETIREES FOR THEIR REMAINING SICK LEAVE CONVERSION; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN IMPLEMENTATION DOCUMENTS

WHEREAS, upon retirement, a current retiree was provided the option to convert ninety (90) percent of their unused sick leave hours to pay for City of Modesto’s retiree group health insurance coverage, and

WHEREAS, for every eight (8) hours of sick leave converted, the City will contribute the amount that is contributed to an active employee to the retiree’s group health plan, and

WHEREAS, it’s the City’s desire to change the active employees contribution structure to health insurance which will intrinsically change the existing retirees contribution structure, and

WHEREAS, it’s the City’s desire to change the methodology for determining the premiums for active employees and pre-65 retirees by unblending the groups which will decrease active employee group health rates and increase pre-65 group health rates, and

WHEREAS, the City realizes these changes will affect current retirees and wishes to offer an alternative medical contribution program to help mitigate these effects, and

WHEREAS, implementation of the Affordable Care Act (ACA) has afforded the City an opportunity to offer an alternative to current retirees since no retiree can be denied coverage in the open marketplace and having available an abundance of options; and
WHEREAS, the alternative medical contribution program will be a voluntary program that a retiree can elect this year between October 17, 2014 through December 5, 2014 which will require a retiree to purchase medical coverage through the private market, a plan in the State exchange, a plan through an employer sponsored plan, a government sponsored program or other alternative coverage approved by the Department of Health and Human Services (HHS) available to the retiree. The retiree would no longer have access to purchase medical coverage through the City’s group medical benefit plans, and

WHEREAS, under the alternative medical contribution program, the retiree would receive a semi-annual contribution into the City’s sponsored Retiree Health Reimbursement Arrangement (HRA) based on the retiree’s remaining months of sick leave conversion and based on the following monthly contribution amounts:

<table>
<thead>
<tr>
<th>Non-Medicare Eligible</th>
<th>Medicare Eligible</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retiree Only = $500</td>
<td>Retiree Only = $250</td>
</tr>
<tr>
<td>Retiree +1 Dep = $1,000</td>
<td>Retiree +1 Dep = $500</td>
</tr>
<tr>
<td>Retiree + Family = $1,000</td>
<td>Retiree + Family = $500</td>
</tr>
</tbody>
</table>

Combined contributions for Retirees
1 Non-Medicare + 1 Medicare coverage = $750

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City to offer an alternative medical contribution program to current retirees for their remaining sick leave conversion as outlined in the Retiree Medical Contribution Agreement (Exhibit A).

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to sign implementation documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2014 by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Zoslocki, Mayor Marsh

NOES: Councilmembers: Kenoyer, Lopez, Madrigal

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney
CITY OF MODESTO

RETIREE MEDICAL CONTRIBUTION AGREEMENT
AND RELEASE OF ALL CLAIMS

1. **Parties.** This Retiree Medical Contribution Agreement and Release of All Claims (hereinafter referred to as the “Agreement”) is made and entered into by and between the undersigned “Retiree,” his/her heirs, representatives, attorneys, successors and assigns, and anyone claiming through Retiree and the City of Modesto, a municipal corporation, and its City Council members, officers, agents, employees, administrators, representatives, executors, successors, assigns, and/or other individuals or entities related thereto (hereinafter referred to collectively as “the City”).

2. **Purpose of Agreement.** The parties agree that the purpose of this Agreement is for the City to provide the Retiree with a contribution option to purchase medical coverage (hereinafter referred to as the “contribution program”) and the Retiree will no longer have access to purchase medical coverage through the City’s medical benefit plans, nor will the Retiree be entitled to any contribution amounts other than the amounts described in Section 4 of this Agreement. The City agrees to provide a semi-annual contribution to a City sponsored Retiree Health Reimbursement Arrangement (HRA) to the retiree based upon the number of months the Retiree has left from the sick leave conversion program as described below. The Retiree agrees to then seek minimum essential medical coverage through an employer-sponsored plan, a government-sponsored program, a plan in the private market, a plan in the State exchange, or other alternative coverage approved by the Department of Health and Human Services (HHS) available to the Retiree.

3. **Effective Date.** This Agreement shall become effective and irrevocable by either party upon the expiration of seven (7) calendar days after this document is signed by both parties, in accordance with the revocation period set forth in paragraph 8(e) below (“Effective Date”). This Agreement must be executed by December 5, 2014.

4. **Terms of the Agreement.**

   A. In consideration for voluntarily agreeing to no longer have access to purchase medical coverage through the City’s medical plans and for the releases contained herein, Retiree shall receive a semi-annual contribution into the City’s sponsored Retiree Health Reimbursement Arrangement (HRA) based on the Retiree’s remaining months of sick leave conversion based on the following monthly contribution amounts:
<table>
<thead>
<tr>
<th>Non-Medicare Eligible</th>
<th>Medicare Eligible</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retiree Only = $500</td>
<td>Retiree Only = $250</td>
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<td>Retiree +1 Dep = $500</td>
</tr>
<tr>
<td>Retiree + Family= $1,000</td>
<td>Retiree + Family = $500</td>
</tr>
</tbody>
</table>

Combined contributions for Retirees
1 Non-Medicare + 1 Medicare coverage = $750

i. Retiree would be eligible for Retiree Only contribution regardless of where the retiree acquired minimum essential medical insurance coverage (i.e. through State Exchange, through individual insurance company, through a current employer, through spouse employer).

ii. Eligible dependent of a retiree is defined as a spouse or registered domestic partner and a retiree’s natural-born children, adopted children, or stepchildren up to age 26. You will need to provide proof of eligibility of dependents upon City’s request.

iii. Retiree shall not be eligible to receive a contribution for dependent, spouse or registered domestic partner under the Retiree + 1 or Retiree + Family if:
   a) The retiree’s dependent, spouse or registered domestic partner has medical insurance through their current employer, or
   b) Dependent is covered under Retiree’s current employer, or
   c) Retiree does not purchase individual insurance for dependent, spouse or registered domestic partner, or
   d) The Retiree’s spouse or registered domestic partner is currently receiving a Retiree only contribution from the City of Modesto through this contribution program.

iv. The contributions described in this section are the only retiree health contributions that the Retiree shall receive.

B. To receive the semi-annual contribution, the Retiree must provide the City with proof and cost of coverage by December 5, 2014 for initial enrollment in the contribution program and by December 15th of all subsequent years to receive a semi-annual contribution for the following calendar year. Failure to provide proof of coverage will result in the retiree losing a City contribution for that calendar year. This will not
result, however, in a reduction to the number of months the Retiree is eligible for receiving contributions in the future.

C. Upon commencement of this agreement, Retiree would have a one-time election to continue the City’s dental and vision insurance plan at retiree’s cost.

D. Upon commencement of this agreement, the City shall transfer contributions based on eligibility above into the City’s sponsored Retiree Health Reimbursement Arrangement (HRA) for the individual. Contributions will be made as follows:

i. Initial contribution for January 31, 2015 only: Retiree will receive an initial contribution of seven (7) months of conversion into the HRA no later than January 31, 2015.

ii. Ongoing contribution: Retiree will receive on a going forward basis a semi-annual years’ worth (six (6) months of conversion) into HRA by July 31st for months July through December, and by January 31st for months January through June. This contribution will continue every calendar year the retiree remains eligible to participate, unless the Retiree desires to defer the payment as explained in paragraph (f) below. As of December 31, 2014, the retiree has _______ months of remaining conversion.

E. Retirees are required to provide notice by December 15 in the year prior to becoming Medicare eligible.

F. The Retiree has the option to defer contributions annually to any subsequent year. The Retiree must still provide proof of coverage by December 15 of each year to remain eligible to participate in the contribution program.

G. If Retiree has a status change during any calendar year that would change the monthly contribution, such as a marriage, death, birth, spouse or dependent loss of coverage, the City will reconcile the new amount the Retiree is eligible for with the following semi-annual contribution. The change in status is presumed effective the 1st of the month following the month when the retiree provided notice to the City of the change in status. For example, if the Retiree’s status changes from Retiree Only to Retiree +1 on November 15, the City will provide an additional $500 along with the total semi-annual contribution for the following calendar year to compensate the Retiree for the change in status for the month of December in the previous calendar year. If the Retiree’s change in status results in monies owed to the City, the City will recoup the amount owed by
deducting it from the semi-annual contribution. However, in the event of a death of the Retiree receiving a contribution for the Retiree Only level during the calendar year in which the contribution was already received, any remaining months of contribution will be deleted for subsequent calendar years, but the City will not endeavor to seek payments already made for the months following the Retiree’s death.

H. In the event of the death of Retiree participating in the contribution program, surviving qualified dependents/spouse/registered domestic partner will be eligible to receive a contribution for the following calendar year if the retiree would have been eligible to receive a contribution. If eligible, the contribution will be $500 for one dependent or one spouse/registered domestic partner or $1000 for spouse/registered domestic partner and one or more dependents and continue until the exhaustion of the deceased retiree’s sick leave bank, upon the death of the surviving dependents/spouse/registered domestic partner, upon the dependents or spouse/registered domestic partner coverage for other insurance through an employer, or upon voluntarily election to not continue with the contribution program.

I. If Retiree engages in any fraudulent act connected in any way to the Retiree’s participation in this program, the City may take any steps it deems appropriate to respond to the fraudulent act, through and including removing the Retiree from this program and ceasing any contributions on behalf of the Retiree for the remaining months of sick leave conversion.

J. Retiree agrees that Retiree is forever waiving any and all rights to any retiree health benefit other than the benefit described herein and is voluntarily agreeing to participate in the contribution program. Retiree agrees they will no longer have access to the City’s medical plans unless (1) the State/Federal Exchange ceases to exist, or (2) the State/Federal Exchange determines eligibility based on pre-existing conditions. Should either of these circumstances occur, retirees returning to the City’s plan shall be limited to a City contribution based on the amounts listed in section 4(a) above.

5. **Tax consequences.** The City intends for the contributions made hereunder to be excluded from the Retiree’s income for purposes of federal, state, and local taxation and for the reimbursements for medical insurance to be similarly excluded except with respect to reimbursements made for medical insurance for, or other expenses incurred by, a domestic partner of the Retiree to the extent required by federal, state, or local law. Notwithstanding the foregoing, the City does not guarantee that any particular federal or state income, payroll, or other tax consequence will occur as a result of participation in this Agreement. The Retiree should consult with professional tax
advisors to determine the tax consequences of his or her participation. To the extent applicable, the City shall make any required deductions, withholdings, and tax reports with respect to contributions and reimbursements under this Agreement to the extent that it reasonably and in good faith believes that it is required to do so. Nothing in this Agreement shall be construed to require the City to make any payments to compensate the Retiree for any adverse tax effect associated with any contributions or reimbursements under the Agreement or any deduction or withholding from any reimbursement or benefit.

6. **No Admission of Liability.** This Agreement and compliance with this Agreement shall not be construed as an admission of any liability by either Retiree or the City of any unlawful or wrongful acts by either party, individually or collectively. The parties disclaim liability as to or for any and all wrongful acts against each other.

7. **Waiver and Release.** In exchange for the valuable consideration and compromises set forth in this Agreement, Retiree, on behalf of himself/herself and his/her representatives, family members, heirs, administrators, executives, successors, assigns and anyone claiming through Retiree, hereby releases and forever discharges the City, its City Council members, officers, directors, agents, and employees (whether former or current), volunteers, successors, assigns, insurers, attorneys, consultants, affiliates, and/or related organizations or entities (all hereafter referred to singularly and collectively as "the parties hereby released"), from any and all actions, claims, judgments, obligations, damages, liabilities, and rights of whatsoever kind and character which Retiree may now have or has ever had arising in any way from Retiree participation in the City’s Health Plans.

Retiree’s Initials: __________

8. **Older Workers Benefit Protection Act.** This law applies to employees, however, the City agrees to abide by the terms of this law for retirees seeking elect participation in this contribution program. For an Employee 40 years or older and in accordance with the Older Workers Benefit Protection Act, covered Retiree acknowledges having been advised by this writing of the following:

a. Retiree acknowledges having been advised to consult an attorney of his/her choosing before executing this Agreement. Retiree also acknowledges having been advised to consult a CPA or financial advisory of his/her choosing before executing this Agreement.

b. Retiree acknowledges that the compensation provided in this Agreement constitutes independent consideration for the said waiver and is in addition to any other payment to which Retiree is entitled.
c. Retiree acknowledges that this Agreement is written in a manner designed to be understood by Retiree and that Retiree has read the Agreement carefully and understands its terms.

d. Retiree acknowledges that he/she has up to twenty-one (21) calendar days from the date of receipt of this Agreement to consider whether to accept it, although Retiree may accept it at any time within those twenty-one (21). If Retiree accepts and signs the Agreement before the end of the twenty-one (21) period, Retiree acknowledges doing so voluntarily and waives any further period for consideration.

e. Retiree has the right to revoke this Agreement within seven (7) calendar days after signing the Agreement. This Agreement shall not become effective or enforceable until the seven (7) day revocation period has expired. In the event that Retiree revokes pursuant to this section, the entire Agreement shall be void and ineffective.

Retiree’s Initials (40 years or older): __________

9. **Specific Waiver of Section 1542 of the California Civil Code.** Retiree acknowledges that he/she has read, and hereby waives the application of Section 1542 of the Civil Code, which provides:

   "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM, MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH DEBTOR."

Retiree understands and acknowledges that the significance and consequence of this waiver of Section 1542 of the Civil Code is that, even if he/she should eventually suffer or discover damages arising out of Retiree’s agreement to stop participation in the City’s Health Plans, Retiree will not be permitted to make any claim for those damages. Furthermore, Retiree acknowledges that he/she intends these consequences even as to claims that may exist as of the date of this release but which Retiree does not know exist, and which, if known, would materially affect Retiree’s decision to execute this release, regardless of whether Retiree’s lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

Retiree’s Initials: __________

10. **Protected Rights.** Retiree and City agree that nothing in this Agreement is intended to or shall be construed to affect, limit or otherwise interfere with any non-waivable right of Retiree under any Federal, state or local law, including but not limited

9/5/2014
to, the right to enforce this Agreement and recover for any breach of it, or to exercise any other right that cannot be waived under applicable law.

Retiree’s Initials: ______

11. **Construction of the Agreement.** The parties agree that in any construction to be made of this Agreement, the same shall not be construed against any party on the basis that the party was the drafter.

12. **Acknowledgement of Voluntary Execution.** Retiree has carefully read the Agreement and understands the contents. Retiree has been afforded the opportunity to consult with his/her own counsel regarding this Agreement. Retiree freely, knowingly, and voluntarily enters into this Agreement without any duress or undue influence on the part of any person released by this Agreement, or by any third party. Retiree warrants and represents that he/she has the mental and emotional capacity to understand the provisions of this Agreement and its effects upon his/her legal rights.

Retiree’s Initials: ______

13. **Partial Invalidity.** In the event that any of the covenants, duties, or restrictions of this Agreement is found to be illegal, invalid or unenforceable, such provision, if possible, shall be construed so as to render the provision legal, valid and enforceable. In the event such provision cannot be amended or construed to be legal, valid and enforceable, such provision shall be deemed deleted and the remainder of this Agreement shall remain in full force and effect.

14. ** Entire Agreement.** This Agreement sets forth the entire agreement between the parties and supersedes any and all prior agreements or understandings, written or oral, between the parties pertaining to the subject matter hereof. No other promises or agreements shall be binding upon the parties with respect to the subject matter of this Agreement unless contained herein or separately agreed to in writing by the parties. This Agreement may not be modified except by a writing signed by Retiree and the City Manager.

15. **Applicable Law.** This Agreement shall be governed by the laws of the State of California, and shall in all respects, be interpreted and enforced under the laws of the State of California. Litigation arising out of or connected with this Agreement shall be instituted and maintained in the courts of Stanislaus County in the State of California, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation in such court, and consent to service of process issued by such court.

16. **No Assignment.** Retiree warrants that he/she has not assigned, transferred, nor purported to assign or transfer, any claim(s) Retiree may have against the City, and he/she will not assign or transfer, nor purport to assign or transfer, any claim(s) he/she may have against the City. The City warrants that it has not assigned, transferred nor purported to assign or transfer any claim(s) it may have against Retiree and that it
will not assign nor purport to assign or transfer hereafter any claim(s) it may have against Retiree.

17. **Waiver.** Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

18. **Section Headings.** The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

19. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall, for all purposes, be deemed an original and all such counterparts, taken together, shall constitute one and the same instrument.

20. **Attorney’s Fees and Costs.** Each party shall bear all attorney’s fees and costs arising from and/or in any way related to the actions of its own counsel with regard to the negotiation and creation of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written below.

By: ____________________________  By: ____________________________
Retiree  Jim Holgersson
Interim City Manager

____________________________________
Print (Retiree Name)

Date: ____________  Date: ____________

APPROVED AS TO FORM:

By: ____________________________
Adam Lindgren
City Attorney

9/5/2014  Page 8
A RESOLUTION APPROVING APPOINTMENT OF MICHAEL JOHNSON TO FILL A POSITION ON THE AIRPORT ADVISORY COMMITTEE FOR THE MODESTO CITY-COUNTY AIRPORT

WHEREAS, the City of Modesto operates the Modesto City-County Airport (Airport) for the benefit of all businesses, industries, visitors and residents in the City of Modesto, Stanislaus County and surrounding areas, and

WHEREAS, the Modesto City Council and the Stanislaus Board of Supervisors seek to ensure that the Airport is maintained and developed in such a manner that it will continue to be a high quality aviation facility for its users and a good neighbor in the community, recognizing that both the users and community may change as the surrounding area continues to grow and develop, and

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 Special Appointments Committee met on Thursday August 28, 2014 and approved forwarding this item to the City Council for consideration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the appointment to fill the position on the Modesto City-County Airport Advisory Committee, representing commercial or air service provider,

BE IT FURTHER RESOLVED that the Council of the City of Modesto approve the appointment of Michael Johnson of Instant Avionics, Inc., a commercial or air service provider at the Modesto City-County Airport, to the Airport Advisory Committee for a term of two (2) years,
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2014, 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 LINDGREN, City Attorney

STEFANIE LOPEZ, City Clerk
A RESOLUTION APPOINTING ROSA ESCUTIA-BRAATON 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 September 10, 2014 and on September 12, 2014, and recommended appointment of Rosa Escutia-Braaton to the Modesto Planning Commission.

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

SECTION 1. Rosa Escutia-Braaton is hereby appointed to the Modesto Planning Commission with a term expiration of January 1, 2017.

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 7th day of October, 2014, by Councilmember Kenoyer, 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 LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-391

A RESOLUTION APPOINTING BOB SELOVER TO THE CITY OF MODESTO BOARD OF ZONING ADJUSTMENT

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 September 10, 2014 and on September 12, 2014, and recommended appointment of Bob Selover to the Board of Zoning Adjustment.

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

SECTION 1. Bob Selover is hereby reappointed to the Board of Zoning Adjustment with a term expiration of January 1, 2017.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Modesto Board of Zoning Adjustment, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2014, by Councilmember Kenoyer, 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 LINDGREN, City Attorney
RESOLUTION APPROVING AN AMENDMENT TO THE ADMINISTRATIVE SERVICES AGREEMENT WITH INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT CORPORATION (ICMA-RC) FOR ADMINISTRATIVE SERVICES AND INVESTMENTS OF CITY EMPLOYEES’ 401(A) AND 457 DEFERRED COMPENSATION PLANS, AND RENEWING THE ADMINISTRATIVE SERVICES AGREEMENT FOR RHS PLANS; AND EXTENDING THE AGREEMENTS FOR AN ADDITIONAL TWO-YEAR PERIOD; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto first entered into an agreement with The International City Management Association Retirement Corporation (ICMA-RC) on April 12, 1983, to provide administrative services and investments for the City employees’ plans, and

WHEREAS, ICMA-RC offers several plan enhancements at no cost to the City as a result of a long-term relationship with the City of Modesto, and

WHEREAS, the ICMA-RC has established an excellent working relationship with the City of Modesto to deliver excellent service, and

WHEREAS, the City wishes to amend the agreement for administrative services and investments wherein ICMA-RC will continue to pay the City an administrative allowance in the amount of $135,000 per year to assist with the administration of programs, and

WHEREAS, this amendment will also provide for the continued elimination of the Plan Administration fee and the Mutual Funds fee contingent upon ICMA-RC acting as the exclusive provider of administrative and investment services for the Plans over the term of the Agreement, and
WHEREAS, the City wishes to renew the Administrative Services Agreement for RHS plans;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the Administrative Services Agreement with International City Management Association Retirement Corporation (ICMA-RC) for administrative services and investments of City employees' 401(a) and 457 deferred compensation plans, and renewing the Administrative Services Agreement for RHS plans; and extending the agreements for an additional two year period wherein ICMA-RC will pay the City an administrative allowance in the amount of $135,000 per year. A copy of the amendment and the renewed 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 Agreements, 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 7th day of October, 2014, 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]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2013-2014 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 2013-2014,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2013-2014 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 7th day of October, 2014, 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]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney
FISCAL YEAR 2013-14

UTILITIES DEPARTMENT

A budget adjustment is necessary to transfer $7,759,926 from the Water Fund (Fund 4100) to the Water CIP Fund (Fund 4180) in Fiscal Year 2013-14. This transfer is to reimburse the Water CIP Fund for FY 2013-14 eligible expenses. The Water CIP Fund (4180) receives annual reimbursements from the Water Bond Fund (4130), Water Developer Funds (4101), and Water Fund Reserves (4100) for expenses incurred from various Capital Improvement Projects. The Water Bond Fund proceeds have been expended per requirements and there were no new Developer Funded projects in Fiscal Year 2013-14 which left the CIPs to be funded through Water Fund Reserves.

FINANCE DEPARTMENT

A budget adjustment is necessary to increase the expense budget for the Wastewater Debt Service Amortization account in the Sewer Operations Fund (Fund 4210) by $187,308 in Fiscal Year 2013-14. This amount will be increased from the Sewer Fund reserves. The amount needs to be increased to cover the deferred amount on the refunding of the 2006 Series A Wastewater Debt Service Bond that was not budgeted for in FY 2013-14.

PUBLIC WORKS DEPARTMENT

A budget adjustment is necessary to transfer funds from the various Fleet Replacement Funds to the main Fleet Replacement Fund (Fund 5409). These transfers are to cover the costs of replacing various vehicles that are assigned to the funds in which they were replaced throughout Fiscal Year 2013-14. The transfer amounts being moved from each fund to the main Fleet Replacement Fund can be seen below:

<table>
<thead>
<tr>
<th>From:</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surface Transportation Fleet Replacement Fund (1709)</td>
<td>$448,757</td>
</tr>
<tr>
<td>Water Fleet Replacement Fund (4109)</td>
<td>$124,202</td>
</tr>
<tr>
<td>Wastewater Fleet Replacement Fund (4219)</td>
<td>$632,645</td>
</tr>
<tr>
<td>Airport Fleet Replacement Fund (4319)</td>
<td>$51,018</td>
</tr>
<tr>
<td>Fleet Equipment Replacement Fund (5410)</td>
<td>$636,082</td>
</tr>
<tr>
<td>Total Transfer Amount</td>
<td>$1,892,704</td>
</tr>
</tbody>
</table>

A budget adjustment is necessary to increase the expense budget for Repair and Maintenance Services to add $52,022 from Water PCE Mitigation Fund reserves in Fiscal Year 2013-14. This adjustment is necessary to fund contract payments for Contract #1420 that was approved by resolution #2010-309 by Council. The expenses ended up being higher than anticipated in Fiscal Year 2013-14 and this adjustment will correct the negative balance in discretionary appropriations.
PARKS RECREATION & NEIGHBORHOODS DEPARTMENT

A budget adjustment is necessary to increase the expense budget to appropriate $68,335 from Green Waste Fund Reserves to the Green Waste Division to cover increased fleet expenses posted to the operating budget in Fiscal Year 2013-14. This budget adjustment will correct the negative discretionary appropriation amount at Fiscal Year-end 2013-14.

A budget adjustment is necessary to increase the General Fund subsidy to the Golf Fund by $232,692 in Fiscal Year 2014. This adjustment is necessary to correct the current negative cash balance in the Golf Fund that has built up over time. This adjustment will correct the negative cash balance between the Golf Funds.
RESOLUTION APPROVING A WILL SERVE LETTER FOR THE PROPERTY LOCATED AT 900 COUNTRY CLUB DRIVE IN DEL RIO (APN: 004-007-043) 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. 2012-203, and

WHEREAS, it amended City of Modesto Municipal Code section 11-1.05 and Council Policy 5.001 relating to water connection charges, and

WHEREAS, it required that the City Manager, upon the recommendation of the Director responsible for utility system planning, to request City Council approval for all extensions of water and sewer services into unincorporated areas, and

WHEREAS, the property located at 900 Country Club Drive, is not connected to City’s water system, and

WHEREAS, this property is located outside Modesto City limits, and inside 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 900 Country Club 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 7th day of October, 2014, 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)

APPROVED AS TO FORM:

By: (Signature)

ADAM LINDGREN, City Attorney
RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT 
BETWEEN THE CITY OF MODESTO AND JOHN Z. ISMAIL, AND DIANA 
ISMAIL, TRUSTEES OF THE JD ISMAIL TRUST, FOR WATER SERVICE 
FOR THE PROPERTY LOCATED AT 900 COUNTRY CLUB DRIVE IN DEL 
RIO (APN: 004-007-043), AND AUTHORIZING THE CITY MANAGER, OR HIS 
DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the property located at 900 Country Club Drive is not connected to 
the City’s water system, and

WHEREAS, this property is located outside Modesto City limits, and inside 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 900 
Country Club Drive in Del Rio (APN: 044-007-043).

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 7th day of October, 2014, 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]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney
RESOLUTION APPROVING A WILL SERVE LETTER FOR THE PROPERTY LOCATED AT 1406 AVENIDA DEL RIO IN DEL RIO (APN: 004-088-016) 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.2012-203, and

WHEREAS, it amended City of Modesto Municipal Code section 11-1.05 and Council Policy 5.001 relating to water connection charges, and

WHEREAS, it required that the City Manager, upon the recommendation of the Director responsible for utility system planning, to request City Council approval for all extensions of water and sewer services into unincorporated areas, and

WHEREAS, the property located at 1406 Avenida Del Rio, is not connected to City’s water system, and

WHEREAS, this property is located outside Modesto City limits, and inside 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 1406 Avenida Del Rio 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 7th day of October, 2014, 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 LINDGREN, City Attorney
RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT BETWEEN THE CITY OF MODESTO AND DAVID RANCANO AND JAQUELIN AVILA RANCANO, WHO ARE MARRIED TO EACH OTHER, FOR WATER SERVICE FOR THE PROPERTY LOCATED AT 1406 AVENIDA DEL RIO IN DEL RIO (APN: 004-088-016), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the property located at 1406 Avenida Del Rio is not connected to the City’s water system, and

WHEREAS, this property is located outside Modesto City limits, and inside 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 1406 Avenida Del Rio in Del Rio (APN: 004-088-016).

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 7th day of October, 2014, 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 LINDGREN, City Attorney
RESOLUTION APPROVING MACERICH / VINTAGE FAIR MALL’S REQUEST TO REDUCE THE $930,600 FAITHFUL PERFORMANCE BOND FOR THEIR PROJECT, TO A $77,707 BOND COVERING ONLY IMPROVEMENTS ASSOCIATED WITH THE UNRECORDED EASEMENTS, AND AUTHORIZING THE CITY CLERK, OR HER DESIGNEE, TO RELEASE AND EXECUTE THE BONDS AS REQUESTED

WHEREAS, MACERICH PROPERTY MANAGEMENT COMPANY, LLC., ("DEVELOPER"), is the developer of the "VINTAGE FAIR MALL EXPANSION OFF-SITE IMPROVEMENTS" ("DEVELOPMENT"), and

WHEREAS, the DEVELOPER has provided the CITY with Faithful Performance Bond #6524672 dated February 19, 2008 for the construction of the "Vintage Faire Mall Expansion Off-Site Improvements" project, and

WHEREAS, the DEVELOPER has completed the construction of the off-site improvements to the satisfaction of the City of Modesto, and

WHEREAS, the DEVELOPER has recorded all the dedications from his own property, and

WHEREAS, the DEVELOPER has been trying to coordinate the dedications with Ester Alison LLC, another property owner of the Vintage Faire Mall, and has not been able to help Ester Alison LLC record the dedications for the improvements on their property, and

WHEREAS, only a small portion of the improvements are effected by the dedications, and
WHEREAS, the DEVELOPER has requested to replace the existing $930,600 Faithful Performance Bond with a $77,707 Faithful Performance Bond to cover only the effected improvements.

NOW, THEREFORE, BE IT RESOLVED by the City of Modesto Council that the DEVELOPER provides to the City Clerk’s Office a new Faithful Performance Bond in the amount of $77,707 which meets the approval of the City Attorney’s office. Once this bond is approved and recorded, the City Council authorizes the City Clerk, or her designee, to release the $930,600 Faithful Performance Bond currently on file with the City of Modesto. The $77,707 bond will be released once the 3 remaining easements are recorded and provided to the City Clerk’s Office.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2014, 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 LINDGREN, City Attorney
RESOLUTION REJECTING ALL BIDS FOR THE COLLECTOR AND ARTERIAL REHABILITATION PROJECT, AND AUTHORIZING CITY STAFF TO RE-ADVERTISE THE PROJECT

WHEREAS, the bids received for the Collector and Arterial Rehabilitation Project were opened at 11:00 a.m. on September 9, 2014, and later tabulated by the Director of Community and Economic Development 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 sole bid, and

WHEREAS, City staff recommends re-advertising the project in January 2015.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rejects all bids received for the Collector and Arterial Rehabilitation Project, opened in the office of the City Clerk on September 9, 2014.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project in January 2015.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2014, 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]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-400

RESOLUTION AUTHORIZING THE DIRECTOR OF UTILITIES TO ISSUE CHANGE ORDERS ON THE “EMERALD LIFT STATION” PROJECT IN THE TOTAL AMOUNT OF $269,000 (10.0% OF THE ORIGINAL CONTRACT PRICE)

WHEREAS, the City Council, on July 9, 2013, by Resolution No. 2013-259, awarded a $2,690,000 contract to Aztec Consultants for the construction and installation of a sanitary sewer lift station for the Emerald Lift Station Project in the City of Modesto, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the project, and

WHEREAS, the cost of the extra work has been estimated to be $269,000, an amount which exceeds the Director’s authority for the project as established by the Council’s Change Order Approval Policy adopted by Resolution No. 94-443, on July 19, 1994, and

WHEREAS, the Director of Utilities currently has authority to approve change orders up to a cumulative amount of $215,200,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Director of Utilities to issue change orders on the Emerald Lift Station Project in the total amount of $269,000 (10.0% of the original contract price).
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2014, 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 LINDGREN, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES FOR ENGINEERING SERVICES FOR THE PREPARATION OF A REPORT OF WASTE DISCHARGE, AN ANTI-DEGRADATION ANALYSIS, AND A TITLE 22 REPORT FOR THE WASTEWATER SERVICES DIVISION FOR AN AMOUNT NOT TO EXCEED $177,400, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City currently has two Waste Discharge Requirement (WDR) Permits that are being reviewed by the Central Valley Regional Water Quality Control Board (CVRWQCB), and

WHEREAS, Permit Order No. 99-112 dated July 28, 1999, is for land disposal at the Jennings Road Ranch giving the City authorization to dispose of cannery segregation wastewater during the processing season (July to September) onto the ranch property along with other requirements, and

WHEREAS, Permit Order No. 94-030 dated January 31, 1994, is for disposal of Biosolids onto Jennings Road Ranch property along with other requirements, and

WHEREAS, in September 2013, CVRWQCB advised the City that the current WDR Permits need to be updated and also indicated that it is appropriate to combine the requirements of these two existing WDRs into the same order, and

WHEREAS, a Report of Waste Discharger (ROWD) must be submitted to the CVRWQCB with the information needed to support the adoption of the new WDR Permits, and

WHEREAS, on August 27, 2014, the CVRWQCB staff issued a guidance letter, along with a temporary Order to the City, outlining the requirements for the ROWD, which also needs to include the following:
• Anti-degradation Analysis, which documents the level of degradation (if any) observed or expected due to a discharge, and whether such degradation meets the state's Anti-degradation Policy requirements for discharges to groundwater

• Title 22 Engineering Report to the California Department of Public Health because our current practice is to use domestic wastewater to irrigate crops.

WHEREAS, staff is recommending approval of the agreement with West Yost Associates for development of the necessary documents required by the CRWQCB for updates to the City’s WDR Permits,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between West Yost Associates for Engineering Services for the preparation of a Report of Waste Discharge, an Antidegradation Analysis, and a Title 22 Report for the Wastewater Services Division for Waste Discharge Requirement Permits for an amount not to exceed $177,400.

BE IT FURTHER RESOLVED that the Interim 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 7th day of October, 2014, 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: 

(SEAL)

APPROVED AS TO FORM:

By: 

ADAM LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2014-15 WASTEWATER PLANT OPERATIONS OPERATING BUDGET BY APPROPRIATING $177,400 FROM WASTEWATER FUND RESERVES TO ACCOUNT 4210-44312-53300 TO FUND AN AGREEMENT WITH WEST YOST ASSOCIATES FOR WASTE DISCHARGE REQUIREMENT PERMITS

WHEREAS, amending the fiscal year 2014-15 Wastewater Plant Operations operating budget by appropriating $177,400 from Wastewater Reserves is necessary to fund an Agreement with West Yost Associates for Wastewater Discharge Requirement Permits,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds in the amount of $177,400 from Wastewater Reserves to Operating Budget 4210-44312-53300 – Plant Operations, Professional Services as shown in Exhibit A, which is attached hereto and incorporated by reference herein.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2014, 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]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney
EXHIBIT A

The City of Modesto currently has two Waste Discharge Permits being reviewed by the Central Valley Regional Water Quality Control Board (CVRWQCB). The CVRWQCB has issued a guidance letter indicating that a Report of Waste Discharge, a Title 22 Engineering Report to California Department of Public Health, and an Antidegradation Analysis are needed.

To fund an agreement with West Yost Associates to assist with the requests from CVRWQCB, $177,400 will be transferred from Wastewater Fund Reserves into Operating Account 4210-44312-53300.
RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF GILBERT GONZALEZ FROM THE CITY OF MODESTO EQUAL OPPORTUNITY/DISABILITY COMMISSION AND HUMAN RELATIONS COMMISSION, EFFECTIVE SEPTEMBER 11, 2014

WHEREAS, GILBERT GONZALEZ was appointed to serve jointly on the Equal Opportunity/Disability Commission and Human Relations Commission, and

WHEREAS, GILBERT GONZALEZ has tendered his resignation from the Equal Opportunity/Disability Commission and Human Relations Commission effective September 11, 2014, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the resignation of GILBERT GONZALEZ is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to GILBERT GONZALEZ for his service to the community.
The foregoing resolution was adopted in a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2014, 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 LINDGREN, City Attorney
RESOLUTION APPOINTING BOB BARZAN, DAVID BURKETT, ROSA ESCUTIA-BRAATON, AND SARAH STEVENSON, LENG POWER AND ANN BAILEY TO FILL THE VACANCIES ON THE CITY OF MODESTO'S CULTURE 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 Culture Commission has four (4) vacancies for members who reside within Modesto and are registered voters of Stanislaus County, and

WHEREAS, the Culture Commission has two (2) vacancies for members who reside outside Modesto and are registered voters of Stanislaus County, and

WHEREAS, the Appointments Committee met on May 29, 2014, and recommended appointment of Bob Barzan, David Burkett, Rosa Escutia-Braaton, Sarah Stevenson, to represent Modesto City residents on the Culture Committee, and

WHEREAS, the Appointments Committee recommended appointment of Leng Power and Ann Bailey to represent Stanislaus County on the Culture Commission.

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

SECTION 1. Bob Barzan is hereby appointed to the Culture Commission with a term expiration of January 1, 2018; David Burkett is hereby appointed to the Culture Commission with a term expiration of January 1, 2018; Rosa Escutia-Braaton is hereby appointed to the Culture Commission with a term expiration of January 1, 2016; Sarah Stevenson is appointed to the Culture Commission with a term expiration of January 1, 2017; Leng Power is appointed to the Culture Commission with a term expiration of
January 1, 2016; and Ann Bailey is appointed to the Culture Commission with a term expiration of January 1, 2017.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed members of the Culture Commission, and the Secretary thereof.

The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2014, 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: 

APPROVED AS TO FORM:

By: ADAM LINDGREN, City Attorney
RESOLUTION APPOINTING MATTHEW SCOTT LIPPERT TO FILL THE VACANCY ON THE CITY OF MODESTO’S LANDMARK PRESERVATION 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 Landmark Preservation Commission has a vacancy, and

WHEREAS, the Appointments Committee met on May 29, 2014, and recommended appointment of Matthew Scott Lippert to represent Modesto City residents on the Landmark Preservation Committee, and

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

SECTION 1. Matthew Scott Lippert is appointed to the Landmark Preservation Commission with a term expiration of January 1, 2018.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed members of the Landmark Preservation Commission, and the Secretary thereof.
The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2014, 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: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney
RESOLUTION APPROVING THE 2015 CITY COUNCIL MEETING CALENDAR

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the 2015 City Council Meeting Calendar, attached hereto as Exhibit “A,” is hereby approved.

The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2014, 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 LINDGREN, City Attorney
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*April 7<sup>th</sup> due to Spring Break

**August 5<sup>th</sup> Wednesday Meeting due to National Night Out on August 4<sup>th</sup>

*** November 4<sup>th</sup> Wednesday Meeting due to Election Day on November 3<sup>rd</sup>
RESOLUTION AUTHORIZING ONE ADDITIONAL YEAR EXTENSION FOR THE CONTRACT FOR EXTERNAL FINANCIAL STATEMENT AUDIT SERVICES TO BROWN ARMSTRONG ACCOUNTANCY CORPORATION, BAKERSFIELD, CA, TO COMPLETE THE AUDITING SERVICES FOR FISCAL YEAR 2013-14 FINANCIALS

WHEREAS, Section 1306 of the Modesto City Charter requires the Council to employ independent auditors to perform an annual financial audit of the city, and

WHEREAS, Brown Armstrong Accountancy Corporation, Bakersfield’s largest local public accounting firm, has been performing the financial audit for the previous five years, and

WHEREAS, unexpected circumstances with the implementation of the banking services with the Bank of America and shortages in staff resources have prevented City staff from completing a Request for Proposal (RFP) in time for the Fiscal Year 2013-14 Audit, and

WHEREAS, this one year extension of the contract with Brown Armstrong Accountancy Corporation will continue with the same pricing of $134,950 that was estimated in previous fiscal years for work performed related to the financial audit of the City of Modesto, and

WHEREAS, this one year extension of the contract with Brown Armstrong Accountancy Corporation will also allow for the Finance Department to carry out the process of issuing a new RFP for the Fiscal Year 2014-15 financial statements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes one additional year extension for the contract for external audit
financial services to Brown Armstrong Accountancy Corporation to complete the auditing services for Fiscal Year 2013-14 financials for an estimated cost of $134,950.

BE IT FURTHER RESOLVED that the Interim City Manager, or his designee, is hereby authorized to execute the one year extension agreement and 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 14th day of October, 2014, 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]

(APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney)
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-408

A RESOLUTION ADOPTING THE REVISED DEBT MANAGEMENT POLICY

WHEREAS, pursuant to the City of Modesto Debt Management Policy, the City of Modesto is required to periodically review and update its Debt Management Policy to address changes to the primary objectives related to the City’s debt and financing related activities, and

WHEREAS, staff has identified the need to update the City’s Debt Management Policy in order to continue to maintain cost-effective access to capital markets through prudent yet flexible policies; moderate debt principal and debt service payments through effective planning and project cash management; and achieve the highest practical credit ratings, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby adopts the revised Debt Management Policy.

BE IT FURTHER RESOLVED that City staff is hereby authorized and directed to proceed with any and all actions deemed necessary or advisable, following the adopted policy guidelines pursuant to this Resolution, in connection with the future issuances of the City Debt, for future consideration by this City Council.
The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2014, 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 LINDGREN, City Attorney
I. INTRODUCTION

The purpose of this Policy is to organize and formalize debt issuance-related policies and procedures for the City of Modesto (the City) and to establish a systematic debt policy (Debt Policy). The debt policies and practices of the City are, in every case, subject to and limited by applicable provisions of state and federal law and to prudent debt management principles.

II. DEBT POLICY OBJECTIVE

The primary objectives of the City’s debt and financing related activities are to maintain cost-effective access to the capital markets and other financing venues through prudent yet flexible policies:

- Moderate debt principal and debt service payments through effective planning and project cash management; and
- Achieve the highest practical credit ratings.

III. SCOPE AND DELEGATION OF CITY

This Debt Policy shall govern, except as otherwise covered by the City of Modesto Investment Policy and the City of Modesto Swap policies (copies of which are attached hereto), the issuance and management of all debt funded through the capital markets and private placements, including the selection and management of related financial and advisory services and products, and the investment of bond proceeds.

This Policy shall be reviewed and updated periodically as required. Any changes to the policy are subject to approval by the City Council at a legally noticed and conducted public meeting. Overall policy direction of this Debt Policy shall be provided by the City Council. Responsibility for implementation of the Debt Policy, and day-to-day responsibility for structuring, implementing, and managing the City’s debt and finance program, shall lie with the Director of Finance. The City Council’s adoption of the City Annual Budget does not, in and of itself, constitute authorization for debt issuance for any reason. This Debt Policy requires that the City Council specifically authorize each debt financing. Each financing shall be presented to the City Council.
While adherence to this Policy is required in applicable circumstances, the City recognizes that changes in the capital markets, agency programs and other unforeseen circumstances may from time to time produce situations that are not covered by the Policy and will require modifications or exceptions to achieve policy goals. In these cases, management flexibility is appropriate, provided specific authorization from the City Council is obtained.

IV. ETHICS AND CONFLICTS OF INTEREST

Officers and employees of the City involved in the debt management program will not engage in any personal business activities that could conflict with proper and lawful execution of the debt management program, or which could impair their ability to make impartial decisions.

V. CAPITAL IMPROVEMENT PROGRAM INTEGRATION

The City’s multi-year Capital Improvement Program (CIP), which identifies the projects and the appropriate funding mechanisms to pay for them, shall be used in combination with the CIP Financial and Budget Policies and this Debt Policy to ensure the proper allocation and financing of eligible projects. The CIP and its related policies set priorities and strategies for allocating and tracking funding, while the Debt Policy provides policy direction and limitations for proposed financings. Debt issuance for capital projects shall not be recommended for City Council approval unless such issuance has been incorporated into the Capital Improvement Program.

VI. STANDARDS FOR USE OF DEBT FINANCING

The City’s debt management program will promote debt issuance only in those cases where public policy, equity and economic efficiency favor debt over cash (pay-as-you-go) financing. Long-term debt financing shall not be used to fund operating costs.

A. Credit Quality

Credit quality is an overriding consideration. All City debt management activities for new debt issuances will be conducted in a manner conducive to receiving the highest credit ratings possible consistent with the City’s debt management objectives, and to maintaining or improving the current credit ratings assigned to the City’s outstanding debt by the major credit rating agencies.

B. Term of Financing

Debt can be used to provide funding for long-term capital projects. The debt repayment period should relate to the expected useful life for the facilities or equipment being financed, and should, as a general matter, be concurrent with the stream of benefits from these facilities. When the City finances capital projects by issuing bonds, the debt repayment period generally should not exceed 120% of the useful life of the project being financed. Inherent in its long-term debt policies, the City recognizes that future taxpayers will benefit from the capital investment and that it is appropriate that they pay a share of the asset cost.

C. Debt Financing Mechanism

The City will evaluate the use of all financial alternatives available including, but not limited to, long-term debt, short-term debt, commercial paper, tax revenue and grant anticipation notes, private placement and inter-fund borrowing. The City will utilize the most cost advantageous financing alternative available while limiting the City’s risk exposure.
D. Ongoing Debt Administration and Internal Controls

The City shall maintain all debt-related records. At a minimum, this repository will include all official statements, bid documents, ordinances, indentures, trustee reports, etc. for all City debt. To the extent that official transcripts incorporate these documents, possession of a transcript will suffice (transcripts may be hard copy, stored on CD-ROM or other forms of electronic record). The City will collect all available documentation for outstanding debt and will develop a standard procedure for archiving transcripts for any new debt. The City will establish internal controls to ensure compliance with the Debt Policy, all debt covenants and any applicable requirements of the State and Federal Government Codes.

E. Rebate Policy and System

The City will accurately account for all interest earnings in debt-related funds. These records will be designed to ensure that the City is in compliance with all debt covenants, and with State and Federal laws. The City will maximize the interest earnings on all funds within the investment parameters set forth in each respective indenture, and as permitted by the City Investment Policy. The City will develop a system of reporting interest earnings that relates to and comply with Internal Revenue Code rebate, yield limits and arbitrage.

VII. FINANCING DEBT

A. Purpose of Debt

When the City determines that the use of debt is appropriate, the following criteria will be utilized to evaluate the type of debt to be issued:

1. NEW MONEY FINANCING

New money issues are financings that generate funding for capital projects, equipment or enterprise software systems. Eligible capital projects for allocation of City funds include the acquisition, construction or major rehabilitation of capital assets.

2. REFUNDING FINANCING

Refunding bonds are issued to retire all or a portion of an outstanding bond issue. Refunding issuances can be used to achieve present-value savings on debt service or to restructure the payment schedule, type of debt instrument used, or covenants of existing debt. The City must analyze the refunding issue on a present-value basis to identify economic effects before approval.

B. Type of Debt

When the City determines that the use of debt is appropriate, the following criteria will be utilized to evaluate the type of debt to be issued:

1. LONG-TERM DEBT

The City may issue long-term debt (e.g. revenue bonds or variable rate bonds) when equipment, project, or software costs cannot be financed from current...
revenues. The proceeds derived from long-term borrowing will not be used to finance current operations or normal/current maintenance. Long-term debt will be structured such that the obligations generally do not exceed 120% of the expected average useful life of the asset being financed or the sunset date of any current, pledged revenues.

- **Current Coupon Bonds** are bonds that pay interest periodically and principal at maturity. They may be used for both new money and refunding transactions. Bond features may be adjusted to accommodate the market conditions at the time of sale, including changing dollar amounts for principal maturities, offering discount and premium bond pricing, modifying call provisions, utilizing bond insurance, and determining how to fund the debt service reserve fund.

- **Zero Coupon and Capital Appreciation Bonds** pay interest only when principal matures. Interest continues to accrue on the unpaid interest, therefore representing a more expensive funding option. In the case of zero-coupon bonds, principal and interest, at one coupon rate, is repaid at maturity. In the case of Capital Appreciation Bonds, the value of the bond accretes until maturity.

- **Taxable Debt, including Build America Bonds (BABs)** are bonds sold whose interest payments are not tax-exempt for federal tax purpose to bondholders, but are deemed taxable. The federal government pays a subsidy to the issuer of BABs. The City will consider the issuance of taxable debt when it is necessary for federal tax reasons or if these bonds would lower the overall cost of the financing.

2. SHORT-TERM DEBT

Short-term borrowing may be utilized for the temporary funding of operational cash flow deficits or anticipated revenues, where anticipated revenues are defined as an assured revenue source with the anticipated amount based on conservative estimates. The City will determine and utilize the least costly method for short-term borrowing. The City may issue short-term debt when there is a defined repayment source or amortization of principal, subject to the following policies:

- **Commercial Paper Notes** may be issued as an alternative to fixed rate debt, particularly when the timing of funding requirements is uncertain. The City may maintain an ongoing commercial paper program to ensure flexibility and immediate access to capital funding when needed. The retirement of commercial paper is most commonly a result of the issuance of long-term bonds but they may also be retired with available cash.

- **Grant Anticipation Notes (GANs)** are short-term notes that are repaid with the proceeds of State or Federal grants of any type. The City shall generally issue GANs only when there is no other viable source of funding for the project.
• Bond Anticipation Notes (BANs) are short-term notes issued prior to the issuance of long-term debt. It is anticipated that BANs will be retired, or taken-out, with long term debt or commercial paper. BANs will be issued only when there is no better alternative to reduce the overall cost of a financing program.

• Tax and Revenue Anticipation Notes (TRANs) shall be issued only if the sizing of the issue fully conforms to Federal IRS requirements and limitations.

• Lines of Credit shall be considered as an alternative to other short-term borrowing options. The lines of credit shall be structured to limit concerns as to Internal Revenue Code compliance.

• Other Short-term debt may also be considered and utilized when appropriate such as a Direct Purchase Loan from a bank or Floating Rate Notes.

3. VARIABLE RATE DEBT

To maintain a predictable debt service burden, the City may give preference to debt that carries a fixed interest rate. An alternative to the use of fixed rate debt is floating or variable rate debt. It may be appropriate to issue short-term or long-term variable rate debt to diversify the City’s debt portfolio, reduce interest costs, provide interim funding for capital projects and improve the match of assets to liabilities. Variable rate debt typically has a lower cost of borrowing than fixed rate financing and shorter maturities in the range of 7 to 35 days. Under no circumstances will the City issue variable rate debt solely for the purpose of earning arbitrage. The City, however, may consider variable rate debt in certain instances.

A) Variable Rate Debt Capacity. The City will maintain a conservative level of outstanding variable rate debt in consideration of general rating agency guidelines recommending a maximum of a 20-30% variable rate exposure, in addition to maintaining adequate safeguards against risk and managing the variable revenue stream both as described below:

(1) Adequate Safeguards Against Risk. Financing structure and budgetary safeguards are in place to prevent adverse impacts from interest rate shifts; such structures could include, but are not limited to, interest rate swaps, interest rate caps and the matching of assets and liabilities.

(2) Variable Revenue Stream. The revenue stream for repayment is variable, and is anticipated to move in the same direction as market-generated variable interest rates, or the dedication of revenues allows capacity for variability.
4. FINANCIAL DERIVATIVE PRODUCTS

Financial Derivative Products will be considered appropriate in the issuance or management of debt only in instances where it has been demonstrated that the derivative product will either provide a hedge that reduces the risk of fluctuations in expense or revenue, or alternatively where the derivative product will reduce total project cost.

VIII. TERMS AND CONDITIONS OF BONDS

The City shall establish all terms and conditions relating to the issuance of bonds, and will control, manage, and invest all bond proceeds. Unless otherwise authorized by the City, the following shall serve as bond requirements.

A. Term

All capital improvements financed through the issuance of debt will be financed for a period generally not to exceed 120% of the expected average useful life of the assets being financed, and in no event should exceed the lesser of thirty (30) years or the period of time until the sunset of a revenue source.

B. Capitalized Interest

The nature of the City's revenue stream is such that funds are generally continuously available and the use of capitalized interest should not normally be necessary. However, certain types of financings may require the use of capitalized interest from the issuance date until the City has constructive use/benefit of the financed project. Unless otherwise required, the City will avoid the use of capitalized interest to obviate unnecessarily increasing the bond size. Interest shall not be funded (capitalized) beyond three (3) years or a shorter period whether based upon project needs or if further restricted by statute. The City may require that capitalized interest on the initial series of bonds be funded from the proceeds of the bonds. Interest earnings may, at the City's discretion, be applied to extend the term of capitalized interest but in no event beyond 3 years, or less, if restricted by state law.

C. Lien Levels

Senior and Junior Liens for each revenue source will be utilized in a manner that will maximize the most critical constraint, typically either cost or capacity, thus allowing for the most beneficial use of the revenue source securing the bond.

D. Maximum Annual Debt Service (MADS)

Concerning revenue bonds, the MADS for any given year must not exceed a level at which the City's net revenues are less than one and a quarter times (1.25x) the total debt service within
any year unless allowed by existing bond covenants.

E. Additional Bonds Test

Any new debt issuance must not cause the City's debt service to exceed the level at which the net revenues are less than one and a quarter times (1.25x) the maximum annual principal, interest and debt service for the aggregate outstanding senior lien bonds including the debt service for the new issuance unless allowed by existing bond covenants.

F. Debt Service Structure

Debt issuance shall be planned to achieve relatively rapid repayment of debt while still matching debt service to the useful life of facilities. The City will amortize its debt within each lien to achieve overall level debt service or may utilize more accelerated repayment schedules after giving consideration to bonding capacity constraints. The City shall avoid the use of bullet or balloon maturities except in those instances where these maturities achieve one of the City's stated goals, such as minimizing annual debt service or leveling annual existing debt service, among others.

G. Call Provisions

In general, the City's securities will include a call feature, which is no later than ten (10) years from the date of delivery of the bonds. The City will avoid the sale of non-callable bonds absent careful evaluation by the City with respect to the value of the call option. If the City were to issue BABs, or other taxable bonds, the City will carefully consider the financial impacts of a 10 year call, a make-whole call, or non-callable debt.

H. Original Issue Discount

An original issue discount will be permitted only if the City determines that such discount results in a lower true interest cost on the bonds and that the use of an original issue discount will not materially reduce the value of the bonds' call provisions and adversely affect the project identified by the bond documents.

I. Deep Discount Bonds

Deep discount bonds may provide a lower cost of borrowing in certain markets. The City will carefully consider their value and effect on any future refinancing as a result of the lower-than-market coupon.

J. Derivative Products

The City will consider the use of derivative products only in instances where it has been demonstrated that the derivative product will either provide a hedge that reduces risk of fluctuations in expense or revenue, or alternatively, where the derivative product will reduce the total project cost. If interest rate swaps are considered, the City shall develop and maintain Swap Policies (see attached swap policies) governing the use of these derivative products. For derivatives other than interest rate swaps, the City will undertake an analysis of early termination costs and other conditional terms given certain financing and marketing assumptions. Such analysis will document the risks and benefits associated with the use of a particular derivative product. Derivative products will only be utilized with prior approval from the City Council.
K. Multiple Series

In instances where multiple series of bonds are to be issued, the City shall make a final determination as to which allocations are of the highest priority. Projects chosen for priority financing, based on funding availability and proposed timing, will generally be subject to the earliest or most senior lien of the bond series.

IX. CREDIT ENHANCEMENTS

The City will consider the use of credit enhancement on a case-by-case basis, evaluating the economic benefit versus cost for each case. Only when a clearly demonstrable savings can be shown shall enhancement be considered. The City will consider each of the following enhancements as alternatives by evaluating the cost and benefit of such enhancement.

A. Bond Insurance

The City may purchase bond insurance when such purchase is deemed prudent and advantageous. The predominant determination shall be based on such insurance being less costly than the present value of the difference in the interest on insured bonds versus uninsured bonds.

B. Debt Service Reserves

When required, a reserve fund equal to the lesser of 10% of the original principal amount of the bonds, maximum annual debt service or 125% of average annual debt service, and if permitted, 10% of par value of bonds outstanding, (the "Reserve Requirement") shall be funded from the proceeds of each series of bonds, subject to federal tax regulations and in accordance with the requirements of credit enhancement providers and/or rating agencies.

The City may purchase reserve equivalents (i.e., the use of a reserve fund surety) when such purchase is deemed prudent and advantageous. Such equivalents shall be evaluated in comparison to cash funding of reserves on a net present value basis, the creditworthiness of the surety provider and market acceptance.

C. Letters of Credit

The City may enter into a letter-of-credit agreement when such an agreement is deemed prudent and advantageous. Only those financial institutions with long-term ratings greater than or equal to that of the City, and minimum short-term ratings of VMIG 1, A-1, F1, by Moody’s Investor Services, Standard & Poor’s and Fitch, respectively, may participate in City letter of credit agreements unless there are no other practicable options for the City. The City may also consider a Direct Purchase loan by a financial institution if the terms and conditions are similar to a traditional letter of credit. Fixed or Floating Rate Notes are another alternative to Variable Rate Demand Bonds with a letter-of-credit.

X. REFINANCING OUTSTANDING DEBT

The City shall have the responsibility to analyze outstanding bond issues for refunding opportunities that may be presented by underwriting and/or financial advisory firms. The City will consider the following issues when analyzing possible refunding opportunities:
A. Debt Service Savings
The City has established a minimum savings threshold goal of 3% of the refunded bond debt service compared to the refunding bonds debt service unless there are other compelling reasons for defeasance. The present value savings will be net of all costs related to the refinancing. The decision to take savings on an upfront or deferred basis must be explicitly approved by the City Council.

B. Restructuring
The City will refund debt when in its best interest to do so. Refunding’s will include restructuring to meet unanticipated revenue expectations, terminate swaps, achieve cost savings, mitigate irregular debt service payments, release reserve funds or remove unduly restrictive bond covenants.

C. Term of Refunding Issues
The City will refund bonds within the term of the originally issued debt. However, the City may consider maturity extension, when necessary to achieve a desired outcome, provided that such extension is legally permissible. The City may also consider shortening the term of the originally issued debt to realize greater savings. The remaining useful life of the financed facility and the concept of inter-generational equity should guide this decision.

D. Escrow Structuring
The City shall utilize the least costly securities available in structuring refunding escrows. The City will examine the viability of an economic versus legal defeasance on a net present value basis. A certificate from a third party agent, who is not a broker-dealer, is required stating that the securities were procured through an arms-length, competitive bid process (in the case of open market securities), that such securities were more cost effective than State and Local Government Obligations (SLGS), and that the price paid for the securities was reasonable within Federal guidelines.

Under no circumstances shall an underwriter, agent or financial advisor sell escrow securities to the City from its own account.

E. Arbitrage
The City shall take all necessary steps to optimize refunding escrows and to avoid negative arbitrage. Any resulting positive arbitrage, on funds other than advance refunding escrows (which are not allowed to generate positive arbitrage earnings), will be rebated as necessary according to Federal guidelines.

XI. METHODS OF ISSUANCE
The City will determine, on a case-by-case basis, whether to sell its bonds competitively or through negotiation.

A. Competitive Sale
In a competitive sale, the City’s bonds shall be awarded to the bidder providing the lowest true
interest cost as long as the bid adheres to the requirements set forth in the official notice of sale. Conditions under which a competitive sale would be preferred are as follows:

- Bond prices are stable and/or demand is strong.
- Market timing and interest rate sensitivity are not critical to the pricing. There are no complex explanations required during marketing regarding issuer’s projects, media coverage, political structure, political support, and funding or credit quality.
- The bond type and structure are conventional.
- Bond insurance is included or pre-qualified (available).
- Manageable transaction size.
- The City (or a City enterprise) has strong credit ratings.
- The City (or a City enterprise) is well known to investors.

**B. Negotiated Sale**

The City recognizes that some securities are best sold through negotiation. Conditions under which a negotiated sale would be preferred are as follows:

- Interest rates are volatile.
- Demand is weak or supply of competing bonds is high.
- Market timing is important, such as for refunding’s.
- Issuer has lower or weakening credit rating.
- Issuer is not well known to investors.
- Sale and marketing of the bonds will require complex explanations about the issuer’s projects, media coverage, political structure, political support, funding, or credit quality.
- The bond type and/or structural features are non-standard, such as for a forward delivery bond sale, issuance of variable rate bonds, or where there is the use of derivative products.
- Bond insurance is not available or not offered.
- Early structuring, investor outreach and other market participation by underwriters are desired.
- The par amount for the transaction is significantly larger than normal.
- Demand for the bonds by retail investors is expected to be high.
- Participation from DBE firms is required.

**C. Private Placement**

From time to time the City may elect to privately place its debt. Such placement shall be considered if this method is demonstrated to result in a cost savings to the City relative to other methods of debt issuance.

**D. Issuance Method Analysis**

The City shall evaluate each method of issuance on a net present value basis, using the City’s investment rate as the appropriate measure of the discount rate.
E. Feasibility Analysis

Issuance of revenue bonds will be accompanied by a finding that demonstrates the projected revenue stream's ability to meet future debt service payments.

XII. MARKET RELATIONSHIPS

A. Rating Agencies and Investors

The Director of Finance shall be responsible for maintaining the City’s relationships with Moody’s Investors Service, Standard & Poor’s, Fitch and any other major rating agency. The City may, from time-to-time, choose to deal with only one or two of these agencies as circumstances dictate. In addition to general communication, the Director of Finance shall meet with credit analysts prior to each competitive or negotiated sale and/or offer conference calls with agency analysts in connection with the planned sale as needed.

B. Continuing Disclosure

The City shall remain in compliance with Rule 15c2-12 by filing its annual financial statements and other financial and operating data for the benefit of its bondholders within 240 days of the close of the fiscal year. The inability to make timely filings must be disclosed and is a negative reflection. While there is reliance on timely audit and preparation of the City’s annual report, the Director of Finance will ensure that the City’s timely filing with the Municipal Securities Rulemaking Board.

If the City is found to have violated any of its continuing disclosure requirements, it will make best efforts to correct the violations and to self-report the violations.

C. Rebate Reporting

The use of bond proceeds and their investments must be monitored to ensure compliance with arbitrage restrictions. The City will cause arbitrage rebate calculations to be completed, or cause to be completed by an experienced firm the City has retained for this purpose related to any bond issues, with any positive rebate paid every five years and as otherwise required by applicable provisions of the Internal Revenue Code and regulations. Therefore, the Director of Finance shall ensure that proceeds and investments are tracked in a manner that facilitates accurate, complete calculation, and timely rebates, if necessary.

D. Other Jurisdictions/Conduit Financing

• From time to time, the City may issue bonds on behalf of other public entities. While the City will make every effort to facilitate the desires of these entities, the Director of Finance will ensure that the highest quality financings are done and that the City is insulated from all risks.

• City may issue bonds through another issuing entity such as a joint powers authority (JPA). The City may issue debt in this manner if it would result in the least costly method to issue debt (e.g. reduced costs of issuance). The City will evaluate the timing of such issuance.
E. Fees

When appropriate, the City will charge an administrative fee equal to direct costs to reimburse its administrative costs incurred in debt issuance and ongoing reporting costs.

XIII. CONSULTANTS

Periodically, the City shall create an approved pool of qualified financing team members such as financial advisors and underwriters.

A. Selection of Financing Team Members

The Director of Finance will make recommendations to the City Manager for all financing team members, with the City Council providing final approval.

B. Financial Advisor

The City shall utilize a financial advisor to assist in its debt issuance and debt administration processes as prudent. In compliance with SEC regulations, the City shall only utilize a financial advisor that is an Independent Registered Municipal Advisor (IRMA). To the best of its efforts, the City will take action to only rely upon advice from independent municipal advisors that have a fiduciary duty to act in the best interests of the City.

Selection of the City’s financial advisor(s) shall be based on, but not limited to, the following criteria.

- Prior knowledge and experience with the City.
- Experience in providing consulting services to complex issuers.
- Knowledge and experience in structuring and analyzing complex issues.
- Experience and reputation of assigned personnel.
- Registration as an Independent Registered Municipal Advisor.
- Fees and expenses.

Financial advisory services provided to the City shall include, but shall not be limited to the following.

- Evaluation of risks and opportunities associated with debt issuance.
- Monitoring marketing opportunities.
- Evaluation of proposals submitted to the City by investment banking firms.
- Structuring and pricing.
- Preparation of request for proposals for other financial services such as trustee and paying agent services, printing, credit facilities, remarketing agent services, etc.
- Advice, assistance and preparation for presentations with rating agencies, credit providers and investors.
- Assisting in preparation of official statements and other financing documents.

The City also expects that its financial advisor will provide the City with objective advice and analysis, maintain the confidentiality of City financial plans, and be free from any conflicts of interest.
C. Bond Counsel

City debt will include a written opinion by legal counsel affirming that the City is authorized to issue the proposed debt, that the City has met all constitutional and statutory requirements necessary for issuance, and a determination of the proposed debt’s federal income tax status. The approving opinion and other documents relating to the issuance of debt will be prepared by counsel with extensive experience in public finance and tax issues. The counsel will be selected by the City Attorney and subject to Council approval.

The services of bond counsel may include, but are not limited to:

- Rendering a legal opinion with respect to authorization and valid issuance of debt obligations including whether the interest paid on the debt is tax exempt under federal and State of California law;
- Preparing all necessary legal documents in connection with authorization, sale, issuance and delivery of bonds and other obligations;
- Unless this task is assigned to disclosure counsel, as selected by the City separately from bond counsel, assisting in the preparation of the preliminary and final official statements and commercial paper memorandum;
- Participating in discussions with potential investors, insurers and credit rating agencies, if requested; and
- Providing continuing advice, as requested, on the proper use and administration of bond proceeds under applicable laws and the indenture, particularly arbitrage tracking and rebate requirements.

XIV. UNDERWRITER SELECTION

A. Senior Manager Selection

The City shall have the right to select a senior manager for a proposed negotiated sale. The criteria shall include but not be limited to the following:

- The firm’s ability and experience in managing similar and/or complex transactions.
- Demonstrated ability to structure debt issues efficiently and effectively.
- Prior knowledge and experience with the City.
- The firm’s willingness to risk capital and demonstration of such.
- The firm’s ability to reach a wide network of investors.
- The firm’s ability to sell bonds at the lowest market interest rates.
- Quality and experience of personnel assigned to the City’s engagement.
- Financing and marketing plans presented.

B. Co-Manager Selection

Co-managers will be selected on the same basis as the senior manager. In addition to their qualifications, co-managers appointed to specific transactions will be a function of transaction size and the necessity to ensure maximum distribution of the City’s bonds.
C. Selling Groups
The City may establish selling groups in certain transactions. To the extent that selling groups are used, the City may make appointments to selling groups from within the pool of underwriters or from outside the pool, as the transaction dictates.

D. Underwriter’s Counsel
In any negotiated sale of City debt in which legal counsel is required to represent the underwriter, the lead underwriter will make the appointment subject to the City’s approval.

E. Underwriter’s Discount
- The City will evaluate the proposed underwriter’s discount against comparable issues in the market. If there are multiple underwriters in the transaction, the City will determine the allocation of fees with respect to the takedown and management fee (if any). The determination of the size and allocation of the management fee will be based upon participation in the structuring phase of the transaction.
- Generally, the City will not pay for risk in its underwriter’s discount.
- All fees and allocation of the management fee will be determined prior to the sale date; a cap on management fee, expenses and underwriter’s counsel will be established and communicated to all parties by the City. The senior manager shall submit an itemized list of expenses charged to members of the underwriting group. Any additional expenses must be substantiated.

F. Evaluation of Financing Team Performance
The City will evaluate each bond sale after its completion to assess the following: costs of issuance including underwriters’ compensation, pricing of the bonds in terms of the overall interest cost and on a maturity-by-maturity basis, and the distribution of bonds and sales credits. Following each sale, the Financial Advisor shall provide a post-sale evaluation on the results of the sale to the City Council.

G. Syndicate Policies
For each negotiated transaction, the Director of Finance will prepare syndicate policies that will describe the designation policies governing the upcoming sale. The Director of Finance shall ensure receipt of each member’s acknowledgement of the syndicate policies for the upcoming sale prior to the sale date.

H. Designation Policies
To encourage the pre-marketing efforts of each member of the underwriting team, orders for the City’s bonds will be net designated, unless otherwise expressly stated. The City shall require the senior manager to:
- Equitably allocate bonds to other managers and the selling group.
- Comply with MSRB regulations governing the priority of orders and allocations.
- Within 10 working days after the sale date, submit to the Director of Finance a detail of orders, allocations and other relevant information pertaining to the City’s sale.
I. Disclosure by Financing Team Members

All financing team members will be required to provide full and complete disclosure, relative to agreements with other financing team members and outside parties. The extent of disclosure may vary depending on the nature of the transaction. However, in general terms, no agreements shall be permitted which could compromise the firm’s ability to provide independent advice which is solely in the City’s best interests or which could reasonably be perceived as a conflict of interest.
GLOSSARY

Arbitrage- The difference between the interest paid on the tax-exempt securities and the interest earned by investing the security proceeds in higher-yielding taxable securities. IRS regulations govern arbitrage on the proceeds from issuance of municipal securities.

Balloon Maturity- A later maturity within an issue of bonds that contains a disproportionately large percentage of the principal amount of the original issue.

Bond Allocation Policies- Outline as to how an investor’s order is filled when a maturity in an underwriting syndicate is oversubscribed. The senior managing underwriter and issuer decide how the bonds will be allocated among the syndicate. There are three primary classifications of orders, which form the designation policy. The highest priority is given to Net Designated orders; the next priority is given to Group Net orders and Member orders are given the lowest priority (unless the Member orders are retail orders in which case it would be given the highest priority).

Bullet Maturity- Maturity for which there are no sinking fund payments prior to the stated maturity date.

Call Provisions- The terms of the bond contract giving the issuer the right to redeem all or a portion of an outstanding issue of bonds prior to their stated dates of maturity at a specific price, usually at or above par.

Capitalized Interest- A portion of the proceeds of an issue that is set aside to pay interest on the securities for a specific period of time. Interest is commonly capitalized for the construction period of the project.

Commercial Paper- Very short-term, unsecured promissory notes issued in either registered or bearer form, and usually backed by a line of credit with a bank.

Competitive Sale- A sale of securities by an issuer in which underwriters or syndicates of underwriters submit sealed bids to purchase the securities in contrast to a negotiated sale.

Continuing Disclosure- The principle that accurate and complete information material to the transaction which potential investors would be likely to consider material in making investment decisions with respect to the securities be made available on an ongoing basis.

Credit Enhancement- Credit support purchased by the issuer to raise the credit rating of the issue. The most common credit enhancements consist of bond insurance, direct or standby letters of credit, and lines of credit.

Debt Service Reserve Fund- The funds in which moneys are placed which may be used to pay debt service if pledged revenues are insufficient to satisfy the debt service requirements.
**Deep Discount Bonds**- Bonds that are priced for sale at a substantial discount from their face or par value.

**Derivatives**- A financial product whose value is derived from some underlying asset value.

**Designation Policies**- Concerning a negotiated sale of bonds, the rules regarding how the takedown (sales commission) is allocated among the underwriters for each order put in for the bonds.

**Direct Purchase Loan**- A source of financing where the loan is purchased by a financial institution instead of being offered to the general public for purchase. The loan can bear interest at a fixed rate or on a variable rate tied to market index (i.e. LIBOR or SIFMA). This form of financing does not require a remarketing agent to set the variable rate. As such, a Direct Purchase Loan can be used to replace traditional forms of variable-rate debt.

**Escrow**- A fund established to hold moneys pledged and to be used to pay debt service on an outstanding issue.

**Expenses**- Compensates senior managers for out-of-pocket expenses including: underwriters counsel, DTC charges, travel, syndicate expenses, dealer fees, overtime expenses, communication expenses, computer time and postage.

**Floating Rate Notes (FRNs)**- A note with a variable interest rate sold either in the public market or directly to financial institutions. The adjustments to the interest rate are typically tied to a certain index like LIBOR or SIFMA and are made periodically. The rate would continue to reset in the same manner through maturity. The LIBOR-based floating rate note market typically does not require bank support and as a result, offers issuers an alternative to traditional floating rate debt.

**Grant Anticipation Notes (GANs)**- Short term notes issued by the government unit, usually for capital projects, which are paid from the proceeds of State or Federal grants of any type.

**Letters of Credit**- A bank credit facility wherein the bank agrees to lend a specified amount of funds for a limited term.

**Management Fee**- The fixed percentage of the gross underwriter’s spread which is usually only paid to the managing underwriter for the structuring phase of a transaction.

**Members**- Underwriters in a syndicate other than the senior underwriter.

**Moody’s Median**. Key financial, debt, economic and tax base statistics with median values for each statistic presented. Moody’s uses audits for both rated and unrated agencies to ensure that the medians presented are representative of all agencies.

**Negotiated Sale**- A method of sale in which the issuer chooses one underwriter to negotiate terms pursuant to which such underwriter will purchase and market the bonds.

**Original Issue Discount**- The amount by which the original par amount of an issue exceeds its
public offering price at the time it is originally offered to an investor.

Pay-As-You-Go- An issuer elects to finance a project with existing cash flow as opposed to issuing debt obligations.

Present Value- The current value of a future cash flow.

Private Placement- The original placement of an issue with one or more investors or financial institutions as opposed to being publicly offered or sold.

Rebate- A requirement imposed by the Tax Reform Act of 1986 whereby the issuer of the bonds must pay the IRS an amount equal to its profit earned from investment of bond proceeds at a yield above the bond yield calculated pursuant to the IRS code together with all income earned on the accumulated profit pending payment.

Registered Municipal Advisor- A person or entity that provides advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues. As required by the Securities and Exchange Commission (SEC), municipal advisors must be registered with the SEC to provide advice to municipal entities.

Tax and Revenue Anticipation Notes (TRANs)- Short-term notes issued by a government unit, usually for capital projects, which are paid from the proceeds of sales tax or other revenue sources.

Selling Groups- The group of securities dealers who participate in an offering not as underwriters but rather as those who receive securities less the selling concession from the managing underwriter for distribution at the public offering price.

Syndicate Policies- The contractual obligations placed on the underwriting group relating to distribution, price limitations and market transactions.

Underwriter- A dealer that purchases new issues of municipal securities from the Issuer and resells them to investors.

Underwriter’s Discount- The difference between the price at which the Underwriter buys bonds from the Issuer and the price at which they are reoffered to investors.

Variable Rate Debt- An interest rate on a security, which changes at intervals according to an index or a formula or other standard of measurement as, stated in the bond contract.
1. City of Modesto Philosophy Regarding Use of Interest Rate Swaps

A. Introduction

Interest rate exchange agreements or interest rate swaps ("Swaps") and related financial instruments and derivatives are appropriate interest rate management tools. Properly used, Swaps can increase the City of Modesto’s (the "City") financial flexibility and provide opportunities for interest rate savings.

Swaps are appropriate to use when they achieve a specific financial objective consistent with the City’s overall Swap and Debt Management policies. Swaps may be used, for example, to lock-in a current market fixed rate or create additional variable rate exposure. Swaps may be used to produce interest rate savings or alter the pattern of debt service payments. Swaps may be used to cap, limit or hedge variable rate payments. Options granting the right to commence or cancel an underlying Swap is permitted to the extent the Swap itself is otherwise consistent with this policy.

The authorized Swaps contemplated in this policy are intended to reduce the amount or duration of interest rate risk, or produce a lower cost of borrowing when used in combination with the issuance of bonds.

B. Rationales for Utilizing Interest Rate Swaps

The use of Swaps and related financial instruments should balance the City’s primary objectives of reducing the cost of capital, minimizing the City’s exposure to interest rate volatility, and gaining flexibility in structuring and managing its debt portfolio over time with the risks associated with these tools and instruments. Examples of how the City’s debt management objectives can be achieved through the use of Swaps and other financial instruments are described below:

- Reduce borrowing costs at the time of issuance
  "Create synthetic fixed rate debt through a floating-to-fixed Swap."

- Actively manage interest rate risk
  "Lock-in current market rates through (forward starting) floating-to-fixed Swap."

- Balance financial risk
  "Purchase of an interest rate cap."

- Achieve appropriate asset/liability match
  "Create variable rate exposure through fixed-to-floating Swap."

Under no circumstances will Swaps be used for speculative purposes, e.g., to realize trading gains.
2. Authority for Entering Into Swap Agreements

The purpose of this policy is to integrate the use of Swaps into the City’s overall debt management practice, and other funds of the City where particular debt strategies, both long-term and short-term, factor into these decisions. Swaps will not be used for speculation. The City Manager, in conjunction with the Director of Finance, shall be responsible for determining if and when it is in the City’s overall best financial interests to enter into a Swap or related financial instruments covered by this policy.

The City shall comply with all applicable laws. The City must receive an opinion acceptable to the financial market from a nationally recognized law firm that the swap contract is a legal, valid, and binding obligation of the City and that entering into such a contract complies with applicable provisions of the City Charter and State statutes.

3. Permitted Instruments

The City may utilize financial instruments that (i) lower its interest expense, (ii) manage its financial risk or (iii) improve its financial condition.

The City shall not use financial instruments that (i) create substantial leverage or financial risk, (ii) lack adequate liquidity to terminate at market, (iii) provide insufficient price transparency to allow reasonable valuation on an ongoing basis, or (iv) are primarily speculative in nature.

The use of swaps and other hedging products should produce a result not otherwise available in the cash market (i.e., lack of advance refunding/non-callable debt), or provide a higher level of net savings compared to conventional financing methods.

A. Permitted Financial Instruments

The City may expressly utilize the following financial instruments, after identifying the financial objective(s) to be realized and assessing the attendant risks:

- Interest Rate Swaps including, but not limited to:
  - Fixed-to-Floating
  - Floating-to Fixed
  - Forward Starting Interest Rate Exchange Agreements

  *Current or forward starting floating-to-fixed rate swaps, designed to reduce a fixed interest rate below that which would otherwise be available through the use of traditional fixed rate debt. Fixed-to-floating rate swaps, designed to create additional variable interest rate exposure*

- Rate Locks

  *Cash-settled forward contracts based on indices such as the MMD™ “AAA” scale.*
• Interest Rate Caps, Floors or Collars
  
  Financial contracts that limit exposure to interest rate volatility.

• Options on Variable Rate Indices
  
  Indices could include the Securities Industry and Financial Markets Association ("SIFMA") Index, London Interbank Offered Rate ("LIBOR"), etc.

• Options on Swaps ("Swaptions")
  
  Methods used to control the commencement or cancellation of interest rate swaps.

• Basis Swaps
  
  Floating-to-floating rate swaps using different variable-rate indices, such as a swap from the SIFMA index to a percentage of LIBOR.

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1 MMDTM is a trademark of Municipal Market Data, a Thompson Financial Company.
2 The SIFMA Index is an index of more than 500 high-grade, tax-exempt, weekly reset VRDO issues.
3 LIBOR is the benchmark short-term loan rate in the corporate (taxable) market.
4. Swap Risk Analysis

The City shall require for each proposed financing an evaluation of all financial products with respect to the unique risks that they bear. A specific determination must be made that the proposed or expected benefits exceed the identified risks by an adequate margin over those available in the traditional cash market. At a minimum, the City shall perform an evaluation of the risks and what steps have been taken to mitigate any risks. The City shall retain a financial/swap advisor to assist in assessing these risks. Questions that may arise include the following:

• **Market or Interest Rate Risk**
  
  *Does the transaction hedge (i.e., decrease or eliminate) or increase interest rate volatility?*

• **Tax Risk**
  
  *How is the transaction or its benefits affected by a future change in federal income tax policy?*

• **Termination Risk**
  
  *Under what circumstances might the transaction be terminated? At what value?*

• **Risk of Uncommitted Funding (Put Risk)**
  
  *Does the transaction create additional financing dependent upon third party participation (such as requiring a letter of credit, grant or other anticipation funding, etc.)?*

• **Rollover Risk**
  
  *Is the term of the Swap shorter than the term of the underlying hedged debt or financial instrument? Does the City anticipate entering into another Swap when the first Swap terminates?*

• **Legal Risk**
  
  *Is the transaction expressly legally authorized?*

• **Counterparty Risk**
  
  *What is the creditworthiness of the counterparty?*

• **Rating Agency Risk**
  
  *Is the proposed transaction consistent with the City’s current ratings and ratings objectives?*

• **Basis Risk**
  
  *Is it anticipated that the projected Swap payments the City will receive closely match the debt service payments it will make?*

• **Subsequent Business Conditions**
  
  *Does the transaction or its benefits depend upon the continuation, or realization, of specific industry business conditions (e.g., unusual demand for state-specific variable rate debt)?*
\*Operational Risk

*Does the City have adequate systems, policies, and practices in place to monitor and manage the transaction over its term?*

5. Swap Procurement and Execution

A. Procurement

The City will not have a fixed policy with respect to the procurement of Swaps and other financial instruments authorized by this policy. On a product-by-product basis, the City will have the authority to negotiate or competitively bid the procurement of financial instruments that have customized or specific attributes designed on its behalf. The Director of Finance will be responsible for determining the method of procurement for Swaps and related financial instruments. An independent financial/swap advisor shall be retained to assist the Director of Finance in evaluating the proposed pricing of Swaps or related financial instruments.

B. Swap Execution

The Director of Finance may recommend the use of financial derivative products if they:

1. Provide a specific benefit not otherwise available;
2. Produce greater expected interest rate savings than cash market alternatives;
3. Do not create substantial leverage or financial risk;
4. Result in an improved capital structure or better asset/liability match; and
5. Reasonably pass the Swap Risk Evaluation required by Section 4 of this policy.

C. Credit Rating Designations

For purposes of this Swap Policy, references to credit ratings will be based on those ratings issued by Moody’s Investors Service, and/or Standard & Poor’s Corporation, and/or Fitch Ratings. The credit ratings will reflect the designations assigned by each of these rating agencies utilized for comparable credit and will be listed for each rating agency utilized in the order shown in the preceding sentence.

6. Swap Documentation

The City will use standard International Swap and Derivatives Association, Inc. (“ISDA”) Master Agreement, including the Counterparty Schedule to the Master Agreement and a Credit Support Annex (utilizing such versions thereof as the Director of Finance shall determine), as supplemented and amended in accordance with the recommendations of the City’s financial/swap advisor and legal counsel. Each Swap entered into by the City shall include payment, term, security, collateral, default, remedy, termination and other terms, conditions and provisions as the Director of Finance may deem necessary or desirable.
A. Terms and Notional Amount of Swap Agreement

The City shall determine the appropriate term for Swaps on a case-by-case basis. The slope of the swap curve, the marginal change in swap rates from time to time along the swap curve, and the impact that the term of the Swap will have on the City’s overall financial (e.g., interest rate, market value, counterparty, etc.) exposure shall be considered in determining the appropriate term of any Swap agreement. In connection with the issuance or carrying of bonds, the term of the Swap agreement between the City and qualified swap counterparty shall not extend beyond the final maturity date of existing City debt, or in the case of a refunding transaction, beyond the final maturity of the refunding bonds. At no time shall the total net notional amount of all Swaps, excluding any offsetting Swaps exceed the total amount of outstanding applicable bonds. Variable rate debt exposure created through the use of Swaps will be consistent with the limitations set forth in the City’s adopted Debt Management Policy. Terms and conditions of any Swap shall be negotiated by the Director of Finance in the best interests of the City subject to the applicable legal provisions and this policy. The Swap agreements entered into between the City and each counterparty shall include payment, term, security collateral, default, remedy, termination, and other terms, conditions and provisions as the Director of Finance, in consultation with City legal counsel and its swap advisor, deems necessary or desirable.

Subject to the provisions contained herein, the City’s swap documentation and terms should include the following:

- The City will be able to terminate the swap without cause subject to market termination costs.
- The swap counterparty will only be able to terminate the swap if the City’s credit ratings fall below a certain pre-determined threshold and/or the City’s failure to perform, as required by the swap contract.
- Governing law for Swaps will be New York, but should reflect California authorization provisions.
- The specified indebtedness related to credit events in the Master Agreement should be narrowly drafted and refer only to specific debt of the issuing fund.
- Eligible collateral should be limited to Treasuries, Federal Agencies and any other securities which, in the City’s sole discretion, shall be deemed reasonable and creditworthy.
- Collateral thresholds should be set on a sliding scale reflective of credit ratings.
- Termination value should be set by “market quotation” methodology.
- Whenever possible use a credit support annex to document swap termination value collateralization procedures.
• Ratings downgrade triggers.

7. Policy on Swap Counterparties

The City shall only do business with highly rated counterparties, and will structure swap agreements to protect itself from credit deterioration. All Swap transactions shall contain provisions granting the City the right to optionally terminate a swap agreement at-market at any time over the term of the agreement.

A. Qualified Swap Counterparties

The City should not have an immutable credit standard. However the City shall attempt to do business with highly rated counterparties the long-term ratings of which at the date of execution are at least “Aa” or “AA” by one or more Nationally Recognized Statistical Ratings Organizations (NRSRO) and no less than “A2” or “A” by one or more NRSRO. For lower rated counterparties, the City should seek credit enhancement in the form of:

1. Contingent swap counterparty providing support;
2. Collateral;
3. Ratings downgrade triggers; and,
4. Minimum rating threshold of “Baa3/BBB-/BBB-,” below which provisions will allow an assignment or trigger an additional termination event, with the counterparty as the affected party (i.e., the counterparty would pay market based transaction costs).

In addition, the counterparty must have a demonstrated record of successfully executing swap transactions as well as creating and implementing innovative ideas in the swap market. The City shall be authorized to enter into interest rate swap transactions only with qualified swap counterparties.

8. Limitations on Counterparty Exposure

A. Guidelines

In order to diversify the City’s counterparty credit risk, and to limit the City’s credit exposure to any one counterparty, limits will be established for each counterparty based upon both the credit rating of the counterparty as well as the relative level of risk associated with each existing and proposed swap transaction. The guidelines shown in the following table provide general termination exposure guidelines with respect to whether the City should enter into an additional transaction with an existing counterparty. The City may make exceptions to the guidelines at any time to the extent that the execution of a swap achieves one or more of the goals outlined in these guidelines or provides other benefits to the City. In general, the maximum net termination exposure to any single counterparty should be set so that it does not exceed a prudent level as measured against the gross revenues, available assets or other financial resources of the City.

25
For example, if the City has two Swaps with one counterparty, and if the first Swap’s market value positive $10 million and the second Swap’s market value is negative $20 million, then the City’s total net exposure to the counterparty is negative $10 million.

Such guidelines will also not mandate or otherwise force automatic termination by the City or the counterparty. Maximum net termination exposure is not intended to impose retroactively any terms and conditions on existing transactions. Such provisions will only act as guidelines in making a determination as to whether or not a proposed transaction should be executed given certain levels of existing and projected net termination exposure to a specific counterparty. Collateral posting guidelines are described in the collateral section below. The calculation of net termination exposure per counterparty will take into consideration multiple transactions, some of which may offset the overall exposure to the City.

Under this approach, the City will set limits on individual counterparty exposure based on existing as well as new or proposed transactions. The sum of the current market value and the projected exposure shall constitute the maximum net termination exposure. For outstanding transactions, current exposure will be based on the market value as of a recently completed swap valuation report provided by the City’s swap advisor. Projected exposure shall be calculated based on the swap’s potential termination value taking into account possible adverse changes in interest rates as implied by historical or projected measures of potential rate changes applied over the remaining term of the swap. For purposes of this calculation, the City shall include all existing and projected transactions of an individual counterparty and all transactions will be analyzed in aggregate such that the maximum exposure will be additive.

The exposure thresholds, which will be reviewed periodically by the City to ensure that they remain appropriate, will also be tied to long-term credit ratings of the counterparties and whether or not collateral has been posted as shown in the table below. If a counterparty has more than one rating, the lowest rating will govern for purposes of the calculating the level of exposure. If contingent swap counterparty or swap insurance is used to provide financial support for the primary counterparty, the rating of the support entity shall be used. A summary table is provided below:

<table>
<thead>
<tr>
<th>Credit Ratings</th>
<th>Maximum Collateralized Net Termination Value</th>
<th>Maximum Uncollateralized Net Termination Value</th>
<th>Maximum Net Termination Exposure</th>
</tr>
</thead>
<tbody>
<tr>
<td>AAA</td>
<td>N/A</td>
<td>$30.0 million</td>
<td>N/A</td>
</tr>
<tr>
<td>AA Category</td>
<td>$30.0 million</td>
<td>$20.0 million</td>
<td>$30.0 million</td>
</tr>
<tr>
<td>A Category</td>
<td>$20.0 million</td>
<td>$10.0 million</td>
<td>$20.0 million</td>
</tr>
<tr>
<td>Below A Category</td>
<td>$10.0 million</td>
<td>$5.0 million</td>
<td>$15.0 million</td>
</tr>
</tbody>
</table>

If the exposure limit is exceeded by counterparty, the City shall conduct a review of the exposure limit per counterparty. The City, in consultation with its bond counsel and swap advisor, shall explore remedial strategies to mitigate this exposure.
9. Benefit Expectation

Financial transactions, using Swaps or other derivative products, intended to produce the effect of a synthetic advance refunding, must generate at least 25% greater savings than the benefit threshold then in effect for fixed-rate bonds as determined by the City's Director of Finance. (see Debt Management Policy Section 10A).

*The higher savings target reflects the greater complexity and higher risk of derivative financial instruments.*

In calculating the prospective savings against the target for implementing a fixed-to-variable swap, the cost of remarketing, in addition to the cost of credit and liquidity fees must be added to the variable rate representing the ten-year average of comparable variable rate securities.


All swap transactions shall contain provisions granting the City the right to optionally terminate a swap agreement at market at any time over the term of the agreement, but shall NOT grant this right to the counterparty. In general, exercising the right to terminate an agreement produces a benefit to the City, either through the receipt of a payment from a termination, or if the termination payment is made by the City, in conjunction with a conversion to a more beneficial (desirable) City debt obligation, as determined by the City.

11. Collateral

As part of any swap agreement, the City shall require collateralization or other credit enhancements to secure any or all swap payment obligations. As appropriate, the City, in consultation with its bond counsel and swap advisor, may require collateral or other credit enhancements to be posted by each swap counterparty under the following circumstances:

- Each counterparty to the City may be required to post collateral if the highest credit rating of the counterparty or parent falls below the "Aa/AA" category. Additional collateral for further decreases in credit ratings of each counterparty shall be posted by each counterparty in accordance with the provisions contained in the collateral support agreement to each counterparty with the City.
- Collateral shall be deposited with a third party trustee, or as mutually agreed upon between the City and the counterparty.
- A list of acceptable securities that may be posted as collateral and the valuation of such collateral will be determined and mutually agreed upon during negotiation of the swap agreement with each swap counterparty.
- The market value of the collateral shall be determined on at least a weekly basis.
- The City shall determine the reasonable threshold limits for the initial deposit and for increments of collateral posting thereafter.
• The City shall determine on a case-by-case basis whether other forms of credit enhancement, such as swap insurance, are more beneficial in lieu of the posting of additional collateral.
• An evaluation of the performance of the swap relative to the rate on the bonds.
• A computation of the effective cost of borrowing inclusive of all fees and costs associated with the underlying financing.

12. Conformance with Dodd-Frank

It is the intent of the City to conform this policy to the requirements relating to legislation and regulations for over-the-counter derivatives transactions under Title VII of the Wall Street Transparency and Accountability Act of 2010, as supplemented and amended from time to time (herein collectively referred to as “Dodd-Frank”). Pursuant to such intent, it is the policy of the City that: (i) each swap advisor engaged or to be engaged by the City will function as the designated qualified investment representative of the City, sometimes referred to as the “Designated QIR”; (ii) each swap advisor agrees to meet and meets the requirements specified in Commodity Futures Trading Commission Regulation 23.450(b)(1) or any successor regulation thereto (herein referred to as the “Representative Regulation”); (iii) each swap advisor provide a written certification to the City to the effect that such swap advisor agrees to meet and meets the requirements specified in the Representative Regulation; (iv) the City monitor the performance of each swap advisor consistent with the requirements specified in the Representative Regulation; (v) the City exercise independent judgment in consultation with its swap advisor in evaluating all recommendations, if any, presented by any counterparty with respect to transactions authorized pursuant to this Debt Policy; and (vi) the City rely on the advice of its swap advisor with respect to transactions authorized pursuant to this Debt Policy and not rely on recommendations, if any, presented by any counterparty with respect to transactions authorized pursuant to this Debt Policy.

13. Monitoring and Reporting

At least once per year normally as part of the City Financial Annual Report (CAFR), or as requested by the City Council, the Director of Finance shall prepare a information describing the various Swaps and financial arrangements entered into by the City pursuant to this policy that are in effect as of the date of the report’s publication. The report shall include the following information:

1. A summary of key terms of the agreements, including notional amounts, interest rates, maturity and method of procurement.
2. The mark-to-market value of each agreement.
3. The full name, description, and credit ratings of each counterparty or the applicable guarantor.
4. The amounts that were required to be paid and received and any amounts that were
actually paid and received.

5. A listing of any credit enhancement, liquidity facility, or reserves and an accounting of all costs and expenses associated with the credit enhancement, liquidity facility, or reserves.

6. The aggregate mark-to-market value and potential termination value for each swap by counterparty.

7. A discussion of other risks associated with each transaction.

At the end of each fiscal year, the Director of Finance shall provide to the City Council all information required for financial reporting under GASB as well as any other reporting or disclosure requirements. The City shall adhere to California Government Code Section 5922 and applicable Government Accounting Standards Board (GASB) guidelines for reporting and disclosure guidelines for derivative products.
A RESOLUTION ADOPTING THE REVISED ANNUAL INVESTMENT POLICY

WHEREAS, staff has identified the need to update the City’s Annual Investment Policy in order to continue to effectively invest funds in accordance with the principles of sound treasury management and applicable laws.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby adopts the Annual Investment Policy.

BE IT FURTHER RESOLVED that City staff is hereby authorized and directed to proceed with any and all actions deemed necessary or advisable, following the adopted policy guidelines pursuant to this Resolution, in connection with the future investments of funds, for future consideration by this City Council.

The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2014, 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]

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney
PURPOSE.
The purpose of this document is to identify various policies and procedures that enhance opportunities for a prudent and systematic investment policy and to organize and formalize investment-related activities.

SCOPE.
The Investment Policy applies to all funds and investment activities of the City except the investment of bond proceeds, which are governed by the appropriate bond documents, and any pension or other post-employment benefit funds held in a trust.

BACKGROUND.
Under Section 2-3.401 of the Municipal Code, it is the function of the Finance Department to deposit and invest funds in accordance with sound treasury management. As a charter city, Modesto operates its pooled idle cash investment under the “prudent investor” rule which states that:

"When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with the care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency."

The City is also governed by Sections 53600 et seq. of the California Government Code. This affords the City a broad spectrum of investment opportunities, so long as the investment is deemed prudent and allowable under current legislation of the State of California and the charter of the City of Modesto.

On an annual basis, the Finance Director/Treasurer will render to the City Council the statement of investment policy. The report will be considered, with any changes, by the City Council at a public meeting.

ETHICS AND CONFLICTS OF INTEREST.
Officers and employees involved in the investment process will refrain from personal business activities that could conflict with proper execution of the investment program, or which could impair their ability to make impartial decisions.
INVESTMENT REPORT
The Finance Director/Treasurer shall provide the City Council with a monthly report of investment transactions. In addition, the Finance Director/Treasurer shall render a quarterly report to the City Council, City Manager and the internal auditor within 30 days following the end of the quarter. The report shall contain the following:

1. The type of investment, issuer, purchase date, date of maturity, credit rating, overall portfolio yield based on cost, total par and dollar amount invested on all securities, investments and monies.

2. The weighted average maturity of the portfolio.

3. A description of any funds, investments or programs that are under management of contracted parties, including lending programs. Funds and investments held by contracted parties shall be reported at market value and the source of valuation shall be reported.

4. The market value as of the date of the report, and the source of the valuation.

5. A statement of compliance with the investment policy or manner in which the portfolio is not in compliance.

6. A statement denoting the City’s ability to meet its expenditure requirements for the next six months or provide an explanation as to why sufficient money shall, or may, not be available.

INVESTMENT CRITERIA
Public funds are invested in the following manner in order of priority:

1. Safety of Principal The duty of the Finance Director/Treasurer is to protect, preserve and maintain cash and investments on behalf of the citizens of the community. To guard against loss of principal, only prudent and safe investments will be considered.

2. Liquidity The receipt of revenues and maturities of investments should be scheduled so that adequate cash will be available to meet disbursements. An adequate portion of the portfolio should be maintained in liquid short-term instruments which can be readily converted to cash if necessary.

3. Return on Investment The investment portfolio of the City shall be designed with the objective of attaining a market rate of return on its investments consistent with the constraints imposed by its safety objective and cash flow considerations. Return becomes a consideration only after the basic requirements of safety and liquidity have been met.
SAFEKEEPING AND CUSTODY
All security transactions entered into by the City shall be conducted on a delivery-versus payment basis. Securities will be held by third party custodian designated by the Finance Director/Treasurer and evidenced by safekeeping receipts.

The only exception to the foregoing are Local Agency Investment Pools, Certificates of Deposit, and money market funds since the purchased securities are not deliverable. In all cases, purchased securities shall be held in the City’s name.

AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS
The Finance Director/Treasurer will maintain a list of financial dealers and institutions qualified and authorized to transact business with the City.

The purchase by the City of any investment other than those purchased directly from the issuer, will be purchased either from an institution licensed by the State as a broker-dealer, as defined in Section 25004 of the Corporations Code, which is a member of the Financial Industry Regulatory Authority (FINRA), or a member of a federally regulated securities exchange, a national or state chartered bank, a federal or state association (as defined by Section 5102 of the Financial Code), or a brokerage firm designated as a Primary Government Dealer by the Federal Reserve Bank.

The Finance Director/Treasurer will investigate all institutions that wish to do business with the City, to determine if they are adequately capitalized, make markets in securities appropriate for the City’s needs, and agree to abide by the conditions set forth in the City’s Investment Policy and any other guidelines that may be provided. This will be done annually by having the financial institutions:

1. Provide written notification that they have read, and will abide by, the City’s Investment Policy.
2. Submit their most recent audited Financial Statement within 120 days of the institution’s fiscal year end.

If the City has an investment advisor, the investment advisor may use its own list of authorized broker/dealers to conduct transactions on behalf of the City.

Purchase and sale of securities will be made on the basis of competitive bids and offers with a minimum of three quotes being obtained.

PERFORMANCE STANDARDS
The investment portfolio shall be designed with the objective of obtaining a rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow needs. The City will measure the portfolio’s performance against a market benchmark that is commensurate with the City’s investment risk constraints and the cash flow characteristics of the portfolio.
AUTHORIZED INVESTMENTS
Credit criteria and maximum percentages listed in this section refer to the credit of the issuing organization at the time the security is purchased. The City may from time to time be invested in a security whose rating is downgraded subsequent to the date of purchase. In the event a rating drops below the minimum allowed rating category for that given investment type, the investment advisor shall notify the Finance Director and/or Designee and recommend a plan of action. The City will limit investments in any one non-government issuer, except investment pools, to no more than 5% regardless of security type. Commencing with Section 53600 of Article 1, Chapter 4 of the Government Code of the State of California, surplus money may be invested in the following:

A. City of Modesto bonds. Bonds issued by the City.

B. U.S. Treasury securities. United States Treasury notes, bonds, bills or certificates of indebtedness or those for which the faith and credit of the United States are pledged for the principal and interest.

C. State of California securities. Registered State of California warrants, treasury notes or bonds, provided that the securities are rated at least A by a nationally recognized statistical rating agency.

D. California municipal securities. Bonds, notes, warrants or other evidence of indebtedness of any local agency within California, provided that the securities are rated at least A by a nationally recognized statistical rating agency.

E. Other 49 State municipal securities. Registered treasury notes or bonds of any of the other 49 states in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state, or by a department, board, agency, or authority of any of these states.

F. Federal Agency securities. Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.

G. Bankers' Acceptances. Bankers' Acceptances issued by domestic or foreign banks, which are eligible for purchase by the Federal Reserve System, the short-term paper of which is rated in the highest category by a nationally recognized statistical rating agency.

Purchases of Bankers' Acceptances may not exceed 180 days maturity or 40 percent of the City's surplus money.
H. Commercial Paper. Commercial paper of "prime" quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical-rating organization. The entity that, issues the commercial paper shall meet all of the following conditions in either paragraph (1) or paragraph (2):

(1) The entity meets the following criteria: (a) is organized and operating within the United States as a general corporation. (b) Has total assets in excess of $500 million. (c) Has debt other than commercial paper, if any, that is rated "A" or higher by a nationally recognized statistical-rating organization (NRSRO).

(2) The entity meets the following criteria: (a) is organized within the United States as a special purpose corporation, trust, or limited liability company. (b) Has program wide credit enhancements including, but not limited to, over collateralization, letters of credit, or surety bond. (c) Has commercial paper that is rated "A-1" or higher, or the equivalent, by an NRSRO.

Investments in commercial paper are limited to a maximum of 25 percent of the portfolio. Purchases shall not exceed 10 percent of the outstanding paper of the issuing corporation. The maximum investment maturity is restricted to 270 days.

I. Certificates of Deposit. FDIC insured or fully collateralized time certificates of deposit in financial institutions located in California. Eligible investments are restricted to those issuing institutions that have been in business at least five years. The maximum term for deposits shall be one year. Investments in certificates of deposit are further limited to 20 percent of surplus funds. All time deposits must be collateralized in accordance with California Government Code section 53561. The City, at its discretion, may waive the collateralization requirements for any portion of the deposit that is covered by federal insurance.

J. Negotiable Certificates of Deposit. Negotiable certificates of deposit issued by a nationally- or state-chartered bank or a state or federal savings and loan association or by a federally-licensed or state-licensed branch of a foreign bank; provided that the senior debt obligations of the issuing institution are rated "A" or better by Moody's or Standard & Poor's. Investments in negotiable certificates of deposit are limited to 30 percent of the portfolio.

K. Repurchase Agreements. Repurchase Agreements used solely as short-term investments not to exceed 90 days.

The following collateral restrictions will be observed: Only U.S. Treasury securities or Federal Agency securities as described in 1 and 2 will be acceptable collateral. All securities underlying Repurchase Agreements must be delivered to the City's custodian bank versus payment or be handled under a tri-party repurchase agreement. The total of all collateral for each Repurchase Agreement must equal or exceed, on the basis of market value plus accrued interest, 102 percent of the total dollar value of the money invested by the City for the term of the investment. For any Repurchase Agreement with a term of more than one day, the value of the underlying securities must be reviewed on a regular basis.
Market value must be calculated each time there is a substitution of collateral.

The City or its trustee shall have a perfected first security interest under the Uniform Commercial Code in all securities subject to Repurchase Agreement.

The City may enter into Repurchase Agreements with (1) primary dealers in U.S. Government securities who are eligible to transact business with, and who report to, the Federal Reserve Bank of New York, and (2) California and non-California banking institutions having assets in excess of $1 billion and in the highest short-term rating category as provided by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

The City will have specific written agreements with each firm with which it enters into Repurchase Agreements.

L. Reverse Repurchase Agreements. The City may invest in reverse repurchase agreements only with "primary dealers" with which the City has entered into a master repurchase agreement contract. The City may invest in reverse repurchase agreements with the following conditions:

The City may only use reverse repurchase agreements to (1) cover a temporary cash shortage, or (2) augment earnings. Reverse repurchase agreements may not be used to leverage the portfolio.

In addition, if a reverse repurchase agreement is authorized, it may be utilized only if the security to be sold on reverse repurchase agreement has been owned and fully paid for by the City for a minimum of 30 days prior to the sale; the total of all reverse repurchase agreements on investments owned by the City does not exceed 20 percent of the portfolio; and the agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of the security using a reverse repurchase agreement and the final maturity date of the same security. The proceeds of the reverse repurchase agreement may not be invested in securities whose maturity exceeds the term of the Reverse Repurchase Agreement.

M. Medium-term corporate notes. Medium-term corporate notes defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or any state and operating within the U.S. Medium-term notes shall be rated in a rating category "A" or its equivalent or better by a nationally recognized rating service. Purchase of medium-term corporate notes may not exceed 30 percent of the City's investment portfolio.

N. Money market funds. Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (money market funds).

O. State of California Local Agency Investment Fund (LAIF).
P. Mortgage and asset-backed securities. Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable-backed bond that has been issued by a Federal Agency and has a maximum of five years maturity. Purchases of mortgage and asset-backed securities should not exceed 20 percent of the City's investment portfolio.

Q. California Asset Management Program (CAMP)

MAXIMUM MATURITY
Investment maturities shall be based on a review of cash flow forecasts. Maturities will be scheduled so as to permit the City to meet all projected obligations.

Maximum maturity of an authorized investment is limited to five years. The City may not invest in a security whose maturity exceeds five years from the date of purchase unless the City Council has provided approval for a specific purpose at least 3 months before the investment is made.

Proceeds of sales or funds set aside for the repayment of any notes (e.g., Tax and Revenue Anticipation Notes) shall not be invested for a term that exceeds the term of the notes.

INELIGIBLE INVESTMENTS
Any security type or structure not specifically approved by this policy is hereby specifically prohibited. Security types which are thereby prohibited include, but are not limited to:

Investment in inverse floaters, range notes, or interest only strips that are derived from a pool of mortgages is prohibited.

Investment in any security that could result in a zero interest accrual if held to maturity is prohibited.

RESTRICTIONS SET BY THE FINANCE DIRECTOR/TREASURER
A. Prior approval of the Finance Director/Treasurer is required for the following transactions, unless the City utilizes the services of an investment advisor registered with the Securities and Exchange Commission in a fiduciary relationship as outlined in this policy.

Sale of securities
Swaps and trades
Purchase of collateralized mortgage obligations (CMO)
Purchase of mortgage-backed obligations
Purchase of corporate notes
Purchase transaction in excess of $3 million

B. The following investments are not deemed appropriate for the City and will not be utilized:

Futures and options
Small Business Administration notes
AUTHORIZED INVESTMENT PERSONNEL.

Pursuant to the Government Code, the City Council delegates the authority to invest or to reinvest funds, or to sell or exchange securities so purchased, to the Finance Director/Treasurer for a one-year period. The Finance Director/Treasurer is charged with the responsibility for carrying out the policies of the City Council and shall assume full responsibility for investment transactions until the delegation of authority is revoked or expires.

Idle cash management and investment transactions are the responsibility of the Finance Department, which is under the control of the Finance Director/Treasurer. The Finance Director/Treasurer may designate an individual(s) ['Designee'] to be responsible for the daily management of the City’s portfolio of treasury investments. The Designee may also be directed to monitor and forecast the City’s cash flows, and prepare periodic investment reports that are submitted to the City Council. The Accounting Division of the Finance Department monitors all treasury transactions and prepares accounting records of all investment transactions as to type of investment, amount, yield, and maturity. No other person has authority to make investment transactions without the written authority of the Finance Director/Treasurer. Pursuant to Government Code chapter 53600, all persons investing monies are trustees and therefore fiduciaries subject to the prudent investor standard. Financial market security transactions will be executed by delivery versus payment and the securities will be held by a third party custodian.

Subject to required procurement procedures, the City may engage the support services of outside professionals in regard to its financial program, so long as it can be demonstrated or anticipated that these services produce a net financial advantage or necessary financial protection of the City’s resources.

POLICY REVIEW

The investment policy shall be adopted by resolution of the City Council on, at minimum, an annual basis. This investment policy shall be reviewed at least annually to ensure its consistency with the overall objectives of preservation of principal, liquidity and yield, and its relevance to current law and financial and economic trends. Any amendments to the policy shall be forwarded to City Council for approval.

This policy and the internal controls related to the investment of City funds will be reviewed by the City’s independent external auditors as part of their annual audit of the City’s financial statements.
APPENDIX A - GLOSSARY

Bankers Acceptances (BAs)
Bankers Acceptance is a time bill of exchange drawn on and accepted by a commercial bank to finance the exchange of goods. When a bank "accepts" such a bill, the time draft becomes, in effect, a predated certified check payable to the bearer at some future specified date. Little risk is involved for the investor because the commercial bank assumes primary liability once the draft is accepted.

California Asset Management Program (CAMP)
CAMP is a Joint Powers Authority ("JPA") designed to assist public agencies with their investment needs through the use of the Cash Reserve Portfolio ("Pool"), which is rated "AAAm" by Standard & Poor's, its highest rating category. The Pool seeks to attain a high level of current income consistent with the preservation of principal.

Certificates of Deposit (CDS)
A certificate of deposit is issued against funds deposited in a commercial bank for a definite period of time and earning a specified rate of return. They are issued in two forms, negotiable and non-negotiable:

A negotiable certificate of deposit may be sold by one holder to another prior to maturity. This is possible because the issuing bank agrees to pay the amount of the deposit, plus earned interest, to the Bearer of the certificate at maturity.

A non-negotiable certificate of deposit is collateralized and is not a money market instrument since it cannot be traded in the secondary market. It is issued on a fixed maturity basis and often pays a higher interest rate than is permissible on other savings or time deposit accounts.

Collateralized Mortgage Obligation (CMO)
A CMO is a pool of mortgages sold as a single investment with interest paid monthly, quarterly, or semi-annually. Mortgage securities pay a higher rate than U.S. Treasury securities due to risk of prepayment and default.

Commercial Paper (CP)
This is a short-term promissory note issued by a corporation to raise working capital. The interest rates tend to be higher than other investments of similar liquidity.

Derivatives
A financial instrument with a value derived from the value of one or more underlying assets or indexes of asset values. The term "derivative products" refers to instruments or features such as collateralized mortgage obligations (CMOs), interest-only (IOs) and principal-only (POs), forwards, futures, currency and interest rate swaps, options, floaters/inverse floaters, and caps/floors/collars.
Federal Agency Securities

Certain agencies created by Congress and sponsored by the federal government issue debt that is considered to be of prime quality and have a very high standing in the bond market. The major federal agencies are described as follows:

**Federal National Mortgage Association** (FNMA, “Fannie Mae”) provides funds to the mortgage market primarily by purchasing loans from local lenders.

**Federal Home Loan Mortgage Corporation** (FHLMC, “Freddie Mac”) purchases conventional mortgages and sells mortgage-backed securities.

**Student Loan Marketing Association** (SLMA, “Sallie Mae”) facilitates the flow of private capital into various federally-guaranteed student loan programs maintained through banks, S&Ls, educational institutions and other participating lenders.

**Federal Farm Credit System** (FFCB) sells securities to provide mortgage loans and short-term and intermediate-term credit to farmers, ranchers, and agricultural cooperatives.

**Federal Home Loan Bank** (FHLB) acts as a credit reserve system for the thrift industry to stabilize the flow of funds to member savings and loan and savings banks.

Futures

Exchange traded contracts specifying a future date of delivery or receipt of a specific product (physical commodity or financial instrument). Futures are used by business as a hedge against unfavorable price changes, and by speculators who hope to profit from such changes.

Local Agency Investment Fund (LAIF)

State of California LAIF is designed to provide a convenient and safe means of investing temporarily idle monies by the State Treasurer. LAIF provides high liquidity and generally pays higher yields than can be realized by individual local agencies (for similar maturities) due to economies of scale.

Medium-Term Notes

Issued by corporations (in the form of secured or unsecured debt) for the purpose of raising working capital and purchasing capital assets.

Options

A right to buy (call) or sell (put) a fixed amount of a given stock at a specified price within a limited period of time. The purchaser hopes that the stock’s price will go up (if he bought a call) or down (if he bought a put) by an amount sufficient to provide a profit when he sells the option. If the price is static or moves in the opposite direction, the price paid for the option is lost entirely.

Repurchase Agreement

As authorized in Government Code Section 5360(1), these investment vehicles are (generally short-term) agreements between the local agency and seller for the purchase of Government securities to be resold at a specific date and for a specific amount.
**Reverse Repurchase Agreement**
This transaction is the opposite of a repurchase agreement. The dealer buys securities with a contractual agreement to sell them back at a prearranged date. The local agency pays the dealer interest for the use of the funds. The money "borrowed" on a "reverse repo" can be reinvested in higher yielding instruments.

**U.S. Treasury Securities**
The highest quality, most liquid debt investments available in the fixed income market-place; unconditionally backed by the "full faith and credit" of the U.S. Government. Treasury bills are short-term instruments (maturity of three months to one year); Treasury notes and bonds are currently issued with maturities of two to ten years.
RESOLUTION APPROVING A COMMUNITY BASED DEVELOPMENT ORGANIZATION (CBDO) GRANT FUNDING AGREEMENT IN THE AMOUNT OF $200,000 WITH STANISLAUS MULTI-CULTURAL COMMUNITY HEALTH COALITION – WEST MODESTO/KING KENNEDY NEIGHBORHOOD COLLABORATIVE (THE COLLABORATIVE) TO CARRY OUT A MICROENTERPRISE INCUBATOR BASED OUT OF THE KING-KENNEDY MEMORIAL CENTER; AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO SIGN ALL RELATED DOCUMENTS

WHEREAS, on February 5, 2008, the City Council, by Resolution 2008-081, approved a management agreement with the Collaborative to operate the King-Kennedy Memorial Center (KKMC), and

WHEREAS, to guide CDBG investment in West Modesto, on May 7, 2013, City Council, by Resolution 2013-178, the City, in consultation with residents and other community stakeholders, developed the West Modesto Neighborhood Revitalization Strategy (NRS) Plan, and

WHEREAS, the NRSA plan is pending U.S. Department of Housing and Urban Development (HUD) approval, and

WHEREAS, on June 3, 2014, City Council, by Resolution 2014-206, authorized certification of the Collaborative as a CBDO, and

WHEREAS, the Collaborative will carry out Microenterprise Incubator comprised of two components: Kitchen Incubator and Family Child Care Home, and

WHEREAS, the Microenterprise Incubator Program is defined as a commercial enterprise that has five [5] or fewer employees, one [1] or more of whom owns the enterprise, and
WHEREAS, the Kitchen Incubator component includes hourly rental of the KKMC commercial kitchen, and

WHEREAS, the commercial kitchen will not be available to the general public for hourly rental until which time this pilot program has been implemented and full extent of operation has been determined, and

WHEREAS, hours of operation, hourly rental fee, and use requirements of the commercial kitchen will be developed by the Parks, Recreation, and Neighborhoods Department in consultation with the Collaborative and other community stakeholders and will be brought before the City Council at a later time.

WHEREAS, the Family Child Care Home (FCCH) component provides financial assistance to start-up or expand an FCCH, and

WHEREAS, the FCCH component of the Microenterprise Incubator Program is designed to fill gaps that exist for low-income persons seeking to provide quality child care as a home business, while helping to address the high demand for and low supply of quality child care in West Modesto, and

WHEREAS, in lieu of repayment of this CDBG financial assistance provided through the Collaborative, the FCCH providers will enter into a service agreement with the Collaborative to provide units of service equivalent to the financial assistance received, thereby creating more child care slots for West Modesto children, and

WHEREAS, FCCH started with CDBG funds will be expected to give back to West Modesto by providing quality child care at a sliding scale to low-income families – in lieu of repaying the financial assistance provided with CDBG.
WHEREAS, on September 17, 2014, the Citizens’ Housing and Community Development Committee reviewed the Community-Based Development Organization (CBDO) Microenterprise Incubator grant funding proposal with Stanislaus Multi-Cultural Community Health Coalition – West Modesto/King Kennedy Neighborhood Collaborative (the Collaborative) and recommended forwarding to City Council for approval.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Community-Based Development Organization (CBDO) grant funding agreement in the amount of $200,000 with Stanislaus Multi-Cultural Community Health Coalition – West Modesto/King Kennedy Neighborhood Collaborative (the Collaborative) to carry out a Microenterprise Incubator based out of the King-Kennedy Memorial Center.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all documents related to the submission this agreement.
The foregoing resolution was adopted at a regular meeting of the Council of the
City of Modesto held on the 14th day of October, 2014, by Councilmember Gunderson,
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

(Seal)

ATTEST: [Signature]

STEFHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney

WHEREAS, on February 5, 2008, the City Council, by Resolution 2008-081, approved a management agreement with the Collaborative to operate the King-Kennedy Memorial Center (KKMC), and

WHEREAS, to guide CDBG investment in West Modesto, on May 7, 2013, City Council, by Resolution 2013-178, the City, in consultation with residents and other community stakeholders, developed the West Modesto Neighborhood Revitalization Strategy (NRS) Plan, and

WHEREAS, on April 8, 2014 City Council, by Resolution 2014-136, approved the Program Year 2014-2015 Annual Action Plan which authorized $200,000 in CDBG Grant Funds to activities in NRS.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Finance Director, or their 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 14th day of October, 2014, by Councilmember Gunderson, who moved its adoption, with motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINGREN, City Attorney
RESOLUTION APPROVING FRESNO COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION (FRESNO CDFI) TO ADMINISTER COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SMALL BUSINESS LOAN PROGRAM; AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO SIGN ALL RELATED DOCUMENTS

WHEREAS, in August, 2010, the City of Modesto designed a CDBG-funded small business loan program called the Community Development Revolving Loan Program, and

WHEREAS, the intent of the CDBG Program is to develop viable communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for LMI persons and

WHEREAS, this program has deployed two (2) small business loans totaling $244,000 and created and retained seven (7) jobs for LMI persons, and

WHEREAS, this Revolving Loan Program will leverage local small business development resources and also leverage a dollar-for-dollar match with non-CDBG funds to be deployed to small businesses in Modesto and its Sphere of Influence to create and retain more jobs for LMI persons, and

WHEREAS, a Community Development Financial Institution (CDFI) is a specialized financial institution that has been certified by the U.S. Department of the Treasury as working in market niches that are underserved by traditional financial institutions, and

WHEREAS, on April 16, 2014, the City released a Request for Qualifications to select a qualified CDFI to administer its small business loan program, and

WHEREAS, Statements of Qualifications were due on May 9, 2014, and
WHEREAS, the only submission received by the City was from Fresno CDFI, and

WHEREAS, the terms of the CDBG Funding Allocation are outlined in the Sub-recipient Agreement with Fresno CDFI and include Five-year, $250,000, non-amortizing loan borrowed at one (1) percent interest with balloon payment due at the end of the five-year term, and

WHEREAS, this activity must meet National Objective and meet or exceed the CDBG public benefit standard of one (1) permanent, full-time-equivalent job for every $35,000 lent in CDBG funds – in the aggregate, and

WHEREAS, this funding allocation will be reimbursement-based, and

WHEREAS, Fresno CDFI will submit reimbursement requests with summarized loan packages as supporting documentation.

WHEREAS, on September 17, 2014, the Citizens’ Housing and Community Development Committee reviewed and approved to forward to City Council for consideration the approval of Financial Institution (Fresno CDFI) to administer Community Development Block Grant (CDBG) Small Business Loan Program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Fresno Community Development Financial Institution (Fresno CDFI) to administer Community Development Block Grant (CDBG) Small Business Loan Program, and

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all documents related to the submission this agreement.
The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2014, 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 LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2014-2015 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO REFLECT APPROVED ALLOCATION FUNDED IN THE 2014-2015 ANNUAL ACTION PLAN AND NOTED IN FUNDING AGREEMENT WITH COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION (CDFI) FOR $250,000, AND AUTHORIZING THE FINANCE DIRECTOR, OR THEIR DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, in August, 2010, the City of Modesto designed a CDBG-funded small business loan program called the Community Development Revolving Loan Program, and

WHEREAS, the intent of the CDBG Program is to develop viable communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for LMI persons and

WHEREAS, this Revolving Loan Program will leverage local small business development resources and also leverage a dollar-for-dollar match with non-CDBG funds to be deployed to small businesses in Modesto and its Sphere of Influence to create and retain more jobs for LMI persons, and

WHEREAS, on April 8, 2014 City Council, by Resolution 2014-136, approved the Program Year 2014-2015 Annual Action Plan which authorized $250,000 in CDBG Grant Revolving Loan Funds for a Revolving Loan Program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Finance Director, or their 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 14th day of October, 2014, by Councilmember Lopez, who moved its adoption, with 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 LINGREN, Interim City Attorney

10/14/2014/FRN/HRamirez/Item 10 2 2014-413
A RESOLUTION ACCEPTING AN AGREEMENT WITH STANISLAUS COUNTY BEHAVIORAL HEALTH AND RECOVERY SERVICES (BHRS) IN THE AMOUNT OF $20,000 TO PROVIDE PARTY PATROL POLICE OFFICERS TO CONDUCT JUVENILE ALCOHOL EDUCATION, PREVENTION AND INTERVENTION PROGRAMS FOR THE CITY OF MODESTO AND STANISLAUS COUNTY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY DOCUMENTS

WHEREAS, Stanislaus County Behavioral Health and Recovery Services (BHRS) requires Party Patrol Police Officers to conduct juvenile alcohol education, prevention and intervention programs with the goal of reducing underage drinking parties and activities throughout Modesto and Stanislaus County, and

WHEREAS, Behavioral Health and Recovery Services is collaborating with the Modesto Police Department and other Stanislaus County law enforcement agencies to perform Party Patrol, Shoulder Tap and Decoy Operations to deter youths and adults from hosting underage drinking parties and providing alcohol to minors, and

WHEREAS, the Modesto Police Department will participate in monthly Stanislaus County Prevention network meetings held every month, and

WHEREAS, BHRS agrees to reimburse the City of Modesto for services and supplies associated with this Agreement, and

WHEREAS, the term of this Agreement is July 1, 2014 through June 30, 2015, and

WHEREAS, the City shall be compensated in the amount of $20,000 for the services of Party Patrol Police Officers to conduct juvenile alcohol education, prevention and intervention program, and
WHEREAS, there is no fiscal impact to the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts an Agreement with Stanislaus County Behavioral Health and Recovery Services (BHRS) in the amount of $20,000 to provide Party Patrol Police Officers to conduct juvenile alcohol education, prevention and intervention programs for the City of Modesto and Stanislaus County.

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

The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2014, 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 LINDGREN, City Attorney
A RESOLUTION AMENDING THE MULTI-YEAR BUDGET ESTIMATING REVENUE OF $20,000 FOR OVERTIME AND REIMBURSEMENT FOR THE PARTY PATROL AGREEMENT WITH THE COUNTY OF STANISLAUS BEHAVIOR HEALTH AND RECOVERY SERVICES (BHRS)

WHEREAS, since May 2, 2006, the City of Modesto Police Department has had an annual Party Patrol Agreement with the County of Stanislaus Behavioral Health and Recovery Services (BHRS) to allow for completion of services/activities related to Party Patrol, and

WHEREAS, this Agreement is to provide Party Patrol Police Officers and conduct juvenile alcohol education, prevention and intervention programs to reduce underage drinking parties and activities throughout Modesto and Stanislaus County, and

WHEREAS, the term of the new Agreement is July 1, 2014 through June 30, 2015, and

WHEREAS, the multi-year budget must be amended to reflect the Agreement revenues associated with this program as shown in Exhibit A, which is incorporated by reference herein, and

WHEREAS, there is no local match required for this program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the multi-year budget is hereby amended estimating revenue of $20,000 for overtime and reimbursement for the Party Patrol Agreement with the County of Stanislaus Behavioral Health and Recovery Services (BHRS).
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 adopted at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2014, 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 LINDGREN, City Attorney
## Exhibit A

**Project Name:** 2015 BHRS Party Patrol Grant  
**Project Fund:** 1341 – Grants – Operation Grants Reimbursed  

The Multi-Year 2014/2015 Operating Budget will be amended as follows:

<table>
<thead>
<tr>
<th>Revenues</th>
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<th>Description</th>
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<tr>
<td>To:</td>
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<td>Intergov-Other – Misc Grants/Donations</td>
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<table>
<thead>
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<th>Expenses</th>
<th>Increase/(Decrease)</th>
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<td>Services City Forces (Overtime)</td>
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<td>MY-100834 - Appr. C - 52300 $5,000</td>
<td>$2,000</td>
<td>Tools &amp; Field Supplies &lt;</td>
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<tr>
<td>$20,000</td>
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<td></td>
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10/14/2014/MPD/RAmendariz/Item 11  
2014-415
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-416

A RESOLUTION AUTHORIZING STAFF TO ACCEPT ANNUAL PARTY PATROL AGREEMENTS WITH THE COUNTY OF STANISLAUS BEHAVIORAL HEALTH AND RECOVERY SERVICES (BHRS) FOR OVERTIME AND REIMBURSEMENT AS THEY BECOME AVAILABLE IN THE FUTURE, AMENDING THE ANNUAL BUDGET TO RECOGNIZE THE REVENUE AND OFFSETTING EXPENSES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY DOCUMENTS

WHEREAS, there is a Party Patrol Agreement with the County of Stanislaus Behavioral Health and Recovery Services (BHRS) each year for overtime and reimbursement to the Modesto Police Department, and

WHEREAS, resolutions authorizing the City Manager, or his designee, to sign grant applications and agreements and related forms, accept grant awards, and amend the budget are required with each grant package, and

WHEREAS, to simplify the grant application process, staff is requesting open ended resolutions, providing staff with an ongoing approval to accept this annual partnership Agreement with BHRS for Party Patrol for overtime and reimbursement as the opportunities arise in the future, and amend the annual budget to recognize revenue and offsetting expenses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to accept annual Party Patrol Agreements with the County of Stanislaus Behavioral Health and Recovery Services (BHRS) for overtime and reimbursement as they become available in the future, amending the annual budget to recognize the revenue and offsetting expenses.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary documents.

The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2014, 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: ADAM LINDGREN, City Attorney
RESOLUTION AMENDING THE POSITION ALLOCATION FOR FISCAL YEAR 14/15 AS ADOPTED IN THE OPERATING BUDGET TO ESTABLISH MAINTENANCE WORKER POSITIONS IN THE FORESTRY, COMPOST, AND SOLID WASTE ENTERPRISE FUNDS, AND REALLOCATING FUNDS CURRENTLY BUDGETED TO FUND THE POSITIONS

WHEREAS, a Position Allocation for the City of Modesto was adopted by Modesto City Council on June 10, 2014, as part of the Annual Budget of the City of Modesto for Fiscal Year 2014-2015, and
WHEREAS, in the past, due to budget reductions the City has used skilled temporary labor services to fill in due to staff shortages in the Forestry, Compost, and Solid Waste Divisions, and
WHEREAS, this option is no longer available because the temporary staffing agencies no longer provide skilled laborers for field operations positions, and
WHEREAS, these Divisions have attempted to use 1,000 hour Service and Maintenance Aides to provide supplemental labor, and
WHEREAS, the skills levels of these workers, restrictions on the number of hours they are able to work, and the training time required has limited their usefulness, and
WHEREAS, in the last 10 years, due to budget reductions the number of Maintenance Worker I/II positions in the Forestry Division has dropped from 11 to 3, and
WHEREAS, the dramatic reduction in staffing has reduced maintenance and taken a toll on the City’s trees, increasing the City’s liability and putting its “Tree City USA” status in jeopardy, and
WHEREAS, with the adoption of the Fiscal Year 2014-15 Annual Budget, the City’s Forestry Division became part of the Solid Waste Division, and
WHEREAS, Forestry operations are now funded as a Solid Waste Enterprise through AB 939 Green Waste Fees in Fund 4892, and

WHEREAS, it is recommended that 6, full-time Maintenance Worker I/II positions be re-established in the Forestry cost center 56040 at a cost of approximately $290,000, to be funded from the reallocation of funds currently budgeted for 12 temporary labor positions and administrative costs within the Fund, and

WHEREAS, the City operates a 65 acre composting facility which processes about 65,000 tons of organic material a year into compost, and,

WHEREAS, the facility is operated under State permits, and is a critical component of the City’s compliance with State solid waste diversion laws, and

WHEREAS, the facility is a self-supporting Enterprise Fund, and to maintain an effective staff to throughput ratio that enables the City to meet permit requirements, it is recommended that 2, Maintenance Worker I/II positions be established at a cost of approximately $98,000, and

WHEREAS, funds for the establishment of these positions would come from the reallocation of funds currently budgeted in Fund 4890 for 4 temporary labor positions and professional services, and

WHEREAS, the Solid Waste Division uses part time labor to provide many of the grant-funded materials collection and enforcement services that it provides to residents, and

WHEREAS, the current 19 hour per week limit on the hours that the 1,000 hour Service and Maintenance Aides can work has greatly constrained the City’s ability to
program services to prevent dumping and contamination of materials, and to perform mandated public education programs, and

WHEREAS, to address these needs, staff is recommending the establishment of 2 full-time Maintenance Worker I positions at a cost of $98,000, and

WHEREAS, funds for the establishment of these positions would come from the reallocation of funds currently budgeted in Fund 4891 for 4 temporary labor positions and professional services, and

WHEREAS, the Finance Committee considered this item at their September 22, 2014 meeting and recommended forwarding this item to the Council for approval.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation for Fiscal Year 2014-15 as follows:

1. To re-establish 6 Maintenance Worker I/II positions in the Forestry Division, (4892-56040).

2. To establish 2 Maintenance Worker I/II positions in the Compost Division, (4890-56030).

3. To establish 2 Maintenance Worker I positions in the Solid Waste Division (4891-56010).

BE IT FURTHER RESOLVED that the funding for these positions will be reallocated from existing funding within the FY 2014-2015 budgets for these enterprise funds for 20 temporary labor positions, administrative costs, and professional services.

BE IT FURTHER RESOLVED that the Director of Human Resources, or his designee, is hereby authorized to implement the provisions of this resolution.

This resolution shall become effective on and after October 14, 2014.
The foregoing resolution was adopted in a meeting of the Council of the City of Modesto held on the 14th day of October, 2014, 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 LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-418

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
SUPPORTING THE REDESIGNATION OF THE STANISLAUS COUNTY
RECYCLING MARKET DEVELOPMENT ZONE AND RESCINDING
RESOLUTION NO. 2004-464

WHEREAS, California Public Resources Code Section 42010, et al. provides for
the establishment of the Recycling Market Development Zone (RMDZ) program
throughout the State which provides incentives to stimulate development of post-
consumer and secondary materials markets for recyclables, and

WHEREAS, all California jurisdictions must meet a 50% reduction in landfill
waste disposal as mandated by the California Integrated Waste Management Act, and

WHEREAS, the Stanislaus County Recycling Market Development Zone
includes the Cities of Ceres, Hughson, Modesto, Newman, Oakdale, Patterson,
Riverbank, and Waterford and the unincorporated areas of Stanislaus County surrounding
these cities, and

WHEREAS, the Stanislaus County Recycling Market Development Zone is
dedicated to establishing, sustaining and expanding recycling-based manufacturing
businesses, which is essential for market development and to assist these jurisdictions in
meeting the established landfill waste reduction goals, and

WHEREAS, the designation of the Stanislaus County Recycling Market
Development Zone expires on November 14, 2014, and

WHEREAS, the City Modesto desires existing and new recycling-based
manufacturing businesses located within the Stanislaus County Recycling Market
Development Zone to be eligible for the technical and financial incentives associated with the RMDZ program, and

WHEREAS, the renewal of the Stanislaus County Recycling Market Development Zone as a RMDZ is still necessary to facilitate local and regional planning, coordination, and support existing recycling-based manufacturing businesses, as well as attract private sector recycling investments to the RMDZ, and

WHEREAS, the continued development of local markets for recycled materials would reduce the need to transport them out of the region in the future, and

WHEREAS, the current and proposed waste management practices and conditions are favorable to the development of post-consumer and secondary waste materials markets, and

WHEREAS, the California Legislature has defined environmental justice as “the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies” [Government Code section 65040.12(e)], and has directed the California Environmental Protection Agency to conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the state [Public Resources Code section 71110(a)], and

WHEREAS, CalRecycle has adopted a goal to continuously integrate environmental justice concerns into all of its programs and activities, and
WHEREAS, the Cities of Ceres, Hughson, Modesto, Newman, Oakdale, Patterson, Riverbank, Turlock, and Waterford and the unincorporated areas of Stanislaus County surrounding these cities have agreed to submit an application to CalRecycle requesting renewal as a RMDZ, and

WHEREAS, the County of Stanislaus has agreed to act as Lead Agency for the proposed renewal of the RMDZ, and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), the County of Stanislaus has determined that this redesignation is exempt from CEQA, and

WHEREAS, the City of Modesto finds there are no grounds for the City of Modesto to assume the lead Agency role or to prepare an environmental document.

WHEREAS, the City of Modesto still desires existing and new recycling-based manufacturing businesses locating within the region to be eligible for the technical and financial incentives associated with the RMDZ program, and

WHEREAS, the renewal of the Stanislaus County RMDZ is still necessary to facilitate local and regional planning, coordination, support of existing recycling-based manufacturing businesses, as well as attract private sector recycling business investments to the region, and

NOW THEREFORE, BE IT RESOLVED, that the City of Modesto as Responsible Agency, approves the renewal of the Stanislaus County Recycling Market Development Zone as a RMDZ and directs the Stanislaus County RMDZ Administrator to submit an application to CalRecycle requesting renewal of the Stanislaus County Recycling Market Development Zone as a RMDZ which includes the Cities of Ceres,
Hughson, Modesto, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford and the unincorporated areas of Stanislaus County surrounding these cities.

BE IT FURTHER RESOLVED, that the member jurisdictions of the Stanislaus County Recycling Market Development Zone will administer the RMDZ program in a manner that seeks to ensure the fair treatment of people of all races, cultures, and incomes, including but not limited to soliciting public participation in all communities within the RMDZ, including minority and low income populations.

BE IT FURTHER RESOLVED that resolution No. 2004-464 is hereby rescinded effective October 14, 2014.

The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2014, 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 LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE INCREASE OF FUNDS ALLOCATED FOR ANNUAL AGREEMENT #19078 ISSUED TO AMERINE SYSTEMS, OAKDALE, CA, AND ANNUAL AGREEMENT #19079 ISSUED TO DON PEDRO PUMPS, HUGHSON, CA FOR PUMP STATION REJUVENATION SERVICES FOR THE TOTAL AMOUNT OF $560,000, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUES CHANGE ORDERS TO THE AGREEMENTS

WHEREAS, the City owns and operates 110 water well sites, which have a production capacity of 118 million gallons of water per day, and

WHEREAS, due to the severity of the drought and the reduction of surface water deliveries from MID, the City has been required to bring wells back into service that have previously been off-line, and

WHEREAS, the expense to bring these wells back on-line, along with increased running times of other wells in the system, has created additional pump replacements and more well rehabilitation than in previous years, and

WHEREAS, 73% of allocated funds on January 10, 2012, per City Council Resolution 2012-07, have been spent on rehabilitating wells, and

WHEREAS, Water Services Division currently has four wells that require rehabilitation at a cost of approximately $35,000 each, which will use up all existing funds authorized under the current vendor agreements, and

WHEREAS, additionally, six to eight wells will require rehabilitation per year throughout the remainder of the contract term through January 9, 2017, for an approximate total cost of $560,000.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the increase of funds allocated for Annual Agreement
#19078 issued to Amerine Systems, Oakdale, CA, and Annual Agreement #19079 issued to Don Pedro Pumps, Hughson, CA for pump station rejuvenation services for the total amount of $560,000.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue change orders to the agreements.

The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2014, 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 LINDGREN, City Attorney
RESOLUTION APPROVING A LEASE AGREEMENT WITH ACCURATE COLLISION SERVICES, INC., A CALIFORNIA CORPORATION, FOR A 0.30-ACRE PORTION OF CITY-OWNED PROPERTY LOCATED AT 402 NINTH STREET, APN: 106-045-003, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LEASE AGREEMENT, MEMORANDUM OF LEASE, AND ALL RELATED DOCUMENTS

WHEREAS, the City of Modesto owns a parcel of undeveloped real property containing approximately 1.24 acres on 9th Street, between D & E Streets, and

WHEREAS, portion of the property was previously leased to a business, which closed a few years ago, and

WHEREAS, the previous lessee left a fenced area that was installed to secure a parking and storage area, and

WHEREAS, Accurate Collision Services, Inc., an adjacent business, wishes to lease from the City a 0.30-acre portion of the property to provide a parking and storage area for its automobile body repair business, and

WHEREAS, the lease is short term, which will allow the City to evaluate the property at the end of the lease for further development in this area, and

WHEREAS, Accurate Collision Services, Inc. will pay the City of Modesto a one-time administration fee of $600, and $300 per month for the term of two years ($7,200), with the option to extend the lease for an additional one-year renewal term ($3,600), and

WHEREAS, the lease revenue will be deposited in General Fund account number: 0100-90001-46002,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Lease Agreement with Accurate Collision Services, Inc., a California corporation, for a 0.30-acre portion of City-owned property located at 402 Ninth Street, APN:106-045-003.

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

The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2014, 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 LINDGREN, City Attorney
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE STRENGTHEN & REPLACE WATER SYSTEM - SOUTH MODESTO PHASE 2 PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, OF STOCKTON, CALIFORNIA IN THE AMOUNT OF $1,825,105, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Strengthen and Replace Water System South Modesto Phase 2 project, and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Strengthen and Replace Water System South Modesto Phase 2 project were opened at 11:00 a.m. on September 16, 2014, and later tabulated by the Director of Utilities for the consideration of the Council, and

WHEREAS, the Director of Utilities has recommended that the bid of $1,825,105 received from DSS Company dba Knife River Construction, of Stockton, California be accepted as the lowest responsible and responsive bid and the contract be awarded to DSS Company dba Knife River Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Strengthen and Replace Water System South Modesto Phase 2 project, accepting the bid, and approving a contract with DSS Company dba Knife River Construction, of Stockton, California in the amount of $1,825,105.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2014, 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

(Seal)

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney
RESOLUTION APPROVING AN AMENDMENT TO THE MODESTO URBAN AREA GENERAL PLAN FROM REDEVELOPMENT PLANNING DISTRICT (RPD), MIXED-USE (MU), AND RESIDENTIAL (R) TO COMMERCIAL (C) FOR APPROXIMATELY 4.7 ACRES LOCATED ON THE NORTH SIDE OF SCENIC DRIVE AND EAST OF COFFEE ROAD (SOLAR COOL PROPERTIES III, L. P.)

WHEREAS, a General Plan for the City of Modesto Urban Area General Plan”, as recommended by the Modesto City Planning Commission, was adopted by the Council of the City of Modesto by Resolution No. 95-409 on August 15, 1995, and

WHEREAS, on August 15, 1995, by Resolution No. 95-408, the City Council certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 92052017) for the Modesto Urban Area General Plan, and


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 that was amended by Modesto City Council Resolution No. 2008-583, and
WHEREAS, Government Code Section 65358 permits the amendment of General Plans by the legislative body, and

WHEREAS, Solar Cool Properties III, L. P. has applied for an amendment to the General Plan to re-designate from Redevelopment Planning District (RPD), Mixed-Use (MU), and Residential (R) to Commercial (C) for approximately 4.7 acres located on the north side of Scenic Drive and east of Coffee Road, and

WHEREAS, the Community & Economic Development Department has analyzed the proposed amendment compared to the adopted General Plan, and

WHEREAS, a Final Master Environmental Impact Report was prepared for the Urban Area General Plan Update (SCH No. 2007072023) which analyzed the potential environmental effects of the proposed Project, and

WHEREAS, on September 8, 2014, the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, relating to this proposed amendment to the Modesto Urban Area General Plan to re-designate from Redevelopment Planning District (RPD), Mixed-Use (MU), and Residential (R) to Commercial (C) for approximately 4.7 acres located on the north side of Scenic Drive and east of Coffee Road, and

WHEREAS, after said public hearing, the Planning Commission adopted Resolution No. 2014-15, recommending to the City Council an amendment to the Modesto Urban Area General Plan to re-designate from Redevelopment Planning District (RPD), Mixed-Use (MU), and Residential (R) to Commercial (C) for approximately 4.7 acres located on the north side of Scenic Drive and east of Coffee Road, and
WHEREAS, said matter was set for a public hearing of the City Council to be held on October 14, 2014, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed amendment to the Modesto Urban Area General Plan to re-designate from Redevelopment Planning District (RPD), Mixed-Use (MU), and Residential (R) to Commercial (C) for approximately 4.7 acres located on the north side of Scenic Drive and east of Coffee Road,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

1. The proposed General Plan Amendment will provide for development that is compatible with surrounding land uses which include predominantly commercial uses, medical and professional offices, and multiple family residential uses.

2. The proposed General Plan Amendment meets the criteria for locating commercial uses at the intersection of arterial streets in accordance with General Plan Section III-B (3) (b), and there was a commercial nursery at this intersection in accordance with this policy.

3. An Initial Study, Environmental Assessment No. EA/C&ED 2014-21, was prepared by the City of Modesto that analyzed the proposed project and determined that, on the basis of the whole record before it there is no substantial evidence that the project will have a significant effect on the environment, and that a Negative Declaration be adopted.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the proposed amendment to the Urban Area General Plan as described in Exhibit “A”, attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and
employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning a general plan amendment for the Project and related files (File No. GPA-14-002, RNZ-14-003 DPR-14-005). The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community and Economic Development Department Director is hereby authorized and directed to forward certified copies of this resolution and said amendment to the Urban Area General Plan to the Board of Supervisors, and file a Notice of Determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 14th day of October 2014, 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: 

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREEN, City Attorney

10/14/2014/C&ED/Pliu/Item 17
PROPOSED GENERAL PLAN AMENDMENT GPA-14-002
A RESOLUTION ADOPTING A NEGATIVE DECLARATION FOR A
GENERAL PLAN AMENDMENT TO RE-DESIGNATE FROM
REDEVELOPMENT PLANNING DISTRICT (RPD), MIXED-USE (MU), AND
RESIDENTIAL (R) TO COMMERCIAL (C) AND TO REZONE FROM MEDIUM
DENSITY RESIDENTIAL (R-2), NEIGHBORHOOD COMMERCIAL (C-1), AND
PLANNED DEVELOPMENT ZONE P-D (300) TO GENERAL COMMERCIAL
(C-2) ZONE FOR APPROXIMATELY 4.7 ACRES LOCATED ON THE NORTH
SIDE OF SCENIC DRIVE AND EAST OF COFFEE ROAD (SOLAR COOL
PROPERTIES, III, L.P.)

WHEREAS, Solar Cool Properties, III, L. P., have applied for a General Plan
Amendment to re-designate from Redevelopment Planning District (RPD), Mixed-Use
(MU), and Residential (R) to Commercial (C) and to rezone from Medium Density
Residential (R-2), Neighborhood Commercial (C-1), and Planned Development Zone P-
D (300) to General Commercial (C-2) Zone for approximately 4.7 acres located on the
north side of Scenic Drive and east of Coffee Road, and

WHEREAS, the applicant has also applied for a Development Plan Review for
the development of a 28,160 square feet building for a glass business on 2.7 acres, and

WHEREAS, the remaining 2 acres are developed with commercial and multiple
family uses and there is no proposal for new development with this project, and

WHEREAS, Section 15070 of the CEQA Guidelines relating to Initial Study/
Negative Declaration provides for a lead agency to prepare an Initial Study on any
proposed project to analyze whether the project may cause any significant effect on the
environment, and

WHEREAS, the City of Modesto Department of Community and Economic
Development has prepared an Initial Study/ Negative Declaration (EA/C&ED No. 2014-
21) as provided for by CEQA, and
WHEREAS, a 20-day public review period for the proposed Initial Study/Negative Declaration began on August 15, 2014, and ended on September 4, 2010, and

WHEREAS, the City did not receive public comments on the draft Initial Study/Negative Declaration that warranted any response and no changes to the document were necessary as a result, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 14, 2014, 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, Environmental Assessment No. EA/C&ED 2014-21, a copy of which is attached hereto as Exhibit "A", and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The Initial Study/Negative Declaration prepared for the proposed project shows there is no substantial evidence, in light of the whole record before the City, that the project may have significant environmental effects;

2. The Initial Study/Negative Declaration reflects the independent judgment of the lead agency;

3. The Initial Study, Environmental Assessment No. EA/C&ED 2014-21, provides the substantial evidence to support findings 1-2, noted above.

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.
Negative Declaration
for the Don's Mobile Glass General Plan
Amendment, Rezone, and Development Plan
Review Project
Environmental Assessment
No. EA/C&ED 2014-21

Prepared for:

City of Modesto
P.O. Box 642
Modesto, CA 95353
Contact: Paul Liu, Senior Planner
209/577 5267

Prepared by:

City of Modesto
Community & Economic Development Department
209/577-5267

August 15, 2014
CEQA Environmental Checklist

PROJECT DESCRIPTION AND BACKGROUND

Project Title:
Don's Mobile Glass General Plan Amendment, Rezone, and Development Plan Review

Lead agency name and address:
City of Modesto, 1010 10th Street, Modesto, CA 95354

Contact person and phone number:
Paul Liu, Senior Planner, 209 577 5267

Project Location:
1313 Scenic Drive, North side of Scenic Drive and east of Coffee Road

Project applicant's name and address:
Ted Brandvold, 616 14th Street, Modesto, CA 95354

General plan description:
The project site is currently designated by the General Plan as Redevelopment Planning District, Mixed Use, and Residential.

Zoning:
The current zones of the project site are R-2, C-1, and P-D 300 approved for a nursery.

Description of project (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation.):
This project proposal includes a general plan amendment, rezone, and development plan review. The project site consists of seven parcels totaling 4.7 acres. The proposed general plan amendment would re-designate the project site from Redevelopment Planning District, Mixed-Use, and Residential to Commercial. The site is also proposed to be rezoned from R-2, C-1, and P-D 300 to C-2. The development plan review proposes the development of a 28,160 square feet building for a glass business on 2.7 acres that was formerly occupied by a nursery. The glass business would relocate from other locations in the City to this site. The remaining 2 acres are developed with commercial and multiple family uses and there is no proposal for new development with this project.

Surrounding land uses and setting (briefly describe the project's surroundings):
There are office and single family uses to the north, multiple and single family uses to the east, a park and office uses to the south, and commercial and multiple family uses to the west.

Other public agencies whose approval is required (e.g. permits, financial approval, or participation agreements):
San Joaquin Valley Air Pollution District
ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project. Please see the checklist beginning on page 5 for additional information.

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<th>☐ Aesthetics</th>
<th>☐ Agriculture and Forestry</th>
<th>☐ Air Quality</th>
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<td>☐ Biological Resources</td>
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<td>☐ Hazards and Hazardous Materials</td>
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<td>☐ Transportation/Traffic</td>
<td>☐ Utilities/Service Systems</td>
<td>☐ Mandatory Findings of Significance</td>
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DETERMINATION:

On the basis of this initial evaluation:

☑ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature: ____________________________ Date: ___________

Printed Name: ____________________________

Page 3 of 20
August 15, 2014
EVALUATION OF ENVIRONMENTAL IMPACTS:

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analyses," as described in (5) below, may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
   a. **Earlier Analysis Used.** Identify and state where they are available for review.
   b. **Impacts Adequately Addressed.** Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
   c. **Mitigation Measures.** For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measure which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) The explanation of each issue should identify:
   a. the significance criteria or threshold, if any, used to evaluate each question; and
   b. the mitigation measure identified, if any, to reduce the impact to less and significance...
The proposed project is the redevelopment of a commercial site within the Baseline Developed Area that is consistent with the 2008 Urban Area General Plan. This Negative Declaration references and uses information from the 2008 Urban Area General Plan MEIR (SCH#2007072023).

I. AESTHETICS: Would the project:

a) Have a substantial adverse effect on a scenic vista

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway

c) Substantially degrade the existing visual character or quality of the site and its surroundings?

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Discussion

a) There are no scenic vistas within the planning area.

b) There are no state scenic highways within the planning area.

c) There would be little change to the visual character of this area, which is already within a developed setting; therefore, no significant impact will occur on the visual character with the proposed project.

d) The project site was previously occupied by a nursery and the surrounding area is already developed with urban uses resulting in existing sources of light and glare. As a result, impacts related to substantial new sources of light and glare are considered less than significant.

Resource

II. AGRICULTURE AND FOREST RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and the forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

   [ ] Potentially Significant Impact
   [ ] Less Than Significant with Mitigation
   [ ] Less Than Significant Impact
   [x] No Impact

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

   [ ] Potentially Significant Impact
   [ ] Less Than Significant with Mitigation
   [ ] Less Than Significant Impact
   [x] No Impact

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?  

   [ ] Potentially Significant Impact
   [ ] Less Than Significant with Mitigation
   [ ] Less Than Significant Impact
   [x] No Impact

d) Result in the loss of forest land or conversion of forest land to non-forest use?

   [ ] Potentially Significant Impact
   [ ] Less Than Significant with Mitigation
   [ ] Less Than Significant Impact
   [x] No Impact

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

   [ ] Potentially Significant Impact
   [ ] Less Than Significant with Mitigation
   [ ] Less Than Significant Impact
   [x] No Impact
Discussion

a) The project site was previously occupied by a nursery. There would not be any conversion of farmland.
b) The site is not used for agricultural purposes and there is no Williamson Act contract.
c) There is no forest land on project site or within the city.
d) See Item c above.
e) See Items a-c above.

Resource

See pages V-4-1 to V-4-13 in the MIER.

III. AIR QUALITY: Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

d) Expose sensitive receptors to substantial pollutant concentrations?

e) Create objectionable odors affecting a substantial number of people?

Discussion

a) The proposed project would not conflict with applicable air quality plan.
b) The San Joaquin Valley Air Pollution District determined the proposed project emissions of criteria pollutants are not expected to exceed significance thresholds of 10 tons per year NOX, 10 tons per year ROG, and 15 tons per year PM 10. The project would be required to comply with all Air Pollution District rules and requirements such as Regulation VIII and Indirect Source Review. Therefore, the project specific criteria pollutant emissions would have no significant impact on air quality.
c) See Item b above.
d) See Item b above.
e) The project would not create any objectionable odors.

Resource

See pages V-2-1 to V-2-29 in the MEIR.
IV. BIOLOGICAL RESOURCES: Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? □ □ □ ☒

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? □ □ □ ☒

c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? □ □ □ ☒

d) Interfere substantially 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? □ □ □ ☒

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? □ □ □ ☒

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? □ □ □ ☒

Discussion

a) The project site is not a biologically sensitive site as defined by Figures V-7-1 of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

b) See Item a above.

c) The site does not qualify as a federally protected wetland per Section 404 of the Clean Water Act.

d) The movement of fish or birds or other wildlife would not be affected by the project.

e) There is no conflict with any local policies or ordinances protecting biological resources.

f) There is no conflict with any adopted habitat conservation plan, natural community conservation plan, or other approved local, regional or state habitat conservation plan.

Resource

See pages V-7-1 to V-7-31 in the MEIR.
V. CULTURAL RESOURCES: Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5? □ □ □ ☒

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? □ □ □ ☒

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? □ □ □ ☒

d) Disturb any human remains, including those interred outside of formal cemeteries? □ □ □ ☒

Discussion

a) The project is consistent with the historical resource policies in the General Plan.
b) The project is consistent with the archeological resource policies in the General Plan. The project was referred to the Native American Tribes for consultation and no concern was provided.
c) The proposed project would not impact unique paleontological resource or site or unique geologic feature.
d) The proposed project would not disturb and human remains.

Resource

See pages V-8-1 to V-8-25 in the MEIR.

VI. GEOLOGY AND SOILS: Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42? □ □ □ ☒

ii) Strong seismic ground shaking? □ □ □ ☒

iii) Seismic-related ground failure, including liquefaction? □ □ □ ☒

iv) Landslides? □ □ □ ☒

b) Result in substantial soil erosion or the loss of topsoil? □ □ □ ☒
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?  

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d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?  

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e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?  

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**Discussion**

a) No faults known to be active or zoned as active by the State of California under the Alquist-Priolo Act are within the Modesto planning area. The risk of fault rupture in Modesto is considered low and related impacts are identified as less than significant.

b) The erosion hazard for soils in the Modesto planning area is generally considered slight. Activities required for construction have the potential to cause accelerated soil erosion. Standard City requirements are sufficient to avoid such erosion.

c) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

d) Information about the engineering properties of soils in Modesto is not readily available, but where soils are clay-rich, there may be some potential for expansive soils. Impacts related to the location of new development expansive soils would be assessed through the City's development review process and mitigated through conformance with the most recent UBC Standards.

e) City sewer is available for this project.

**Resource**

See pages V-17-1 to V-17-16 in the MEIR

**VII. GREENHOUSE GAS EMISSIONS:** Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?  

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b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?  

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Discussion

a) The MEIR addressed potential climate change impacts due to development and other activities associated with the Urban Area General Plan (UAGP). The MEIR determined that buildout of the UAGP would make a cumulatively considerable contribution to global climate change. The UAGP nonetheless authorizes development that will contribute to global climate change by virtue of the production of greenhouse gases. The MEIR states the projected rate of growth of vehicle miles traveled (VMT) will increase the City’s contribution to global climate change as the City develops. Development under the UAGP is expected to generate approximately 1,096,226.4 metric tons per year above 2005 emissions. The City Council adopted a Statement of Overriding Considerations in 2008, finding that the benefits of the UAGP outweighed the City’s increased contribution to global climate change.

b) The proposed project would not conflict with any applicable plan adopted for the purpose of reducing emissions of greenhouse gases.

Resource

See pages V-21-1 to V-21-17 in the MEIR

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VIII. HAZARDS AND HAZARDOUS MATERIALS: Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

d) 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 it create a significant hazard to the public or the environment?

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? □ □ □ ☒

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? □ □ □ ☒

Discussion

a) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. The proposed project will not produce hazardous materials.

b) See Item a above.

c) See Item a above.

d) The proposed site is not on the list of hazardous materials site.

e) The site is within the Traffic Pattern Zone that is not a significant safety hazard zone.

f) The site is not within the vicinity of a private airstrip.

g) The proposed project would not interfere with any emergency response plan or evacuation plan.

h) No wild land is within the vicinity of the project site.

Resource

See pages V-21-1 to V-21-19 in the MEIR

<table>
<thead>
<tr>
<th>IX. HYDROLOGY AND WATER QUALITY: Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Impact</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Violate any water quality standards or waste discharge requirements?</td>
<td>☐ ☐ ☐ ☒</td>
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<tr>
<td>b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?</td>
<td>☐ ☐ ☒ ☐</td>
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<tr>
<td>c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?</td>
<td>☐ ☐ ☒ ☐</td>
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<tr>
<td>d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?</td>
<td>☐ ☐ ☒ ☐</td>
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</tbody>
</table>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

f) Otherwise substantially degrade water quality?


g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?

i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

j) Inundation by seiche, tsunami, or mudflow

Discussion

a) The project would not violate water quality standards or waste discharge requirements.
b) The project would not demand significant water needs. New development in the city would be required to comply with applicable water quality standards and waste discharge requirements and therefore would not significantly affect groundwater supplies or recharge, or water quality.
c) The project would not substantially alter the existing drainage pattern of the site, area or a watercourse in a manner that would result in erosion or siltation.
d) The proposed on-site drainage plan would be required to meet drainage standards and requirements and would not result in significant surface runoff that would result in on-site flooding.
e) The project drainage and runoff would be required to meet storm water drainage standards and requirements and would not result in substantial polluted runoff.
f) See Item b above.
g) The project is not located within a 100-year flood plain.
h) See Item g above.
i) See Item g above.
j) The City of Modesto is not subject to risks related to seiche or tsunami. Modesto is inland about 80 mile from the Pacific Ocean. The project site and the surround area is relatively flat is not subject to mudslides.

Resource

See pages V-9-1 to V-9-13 and V-10-1 to V-10-15 in the MEIR

X. LAND USE AND PLANNING: Would the project:

a) Physically divide an established community?
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

  □ □ □ ✗

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

  □ □ □ ✗

Discussion

a) The project would not physically divide an established community.
b) The project does not conflict with the land use plan, policies and regulations of the City of Modesto designed to mitigate environmental impacts.
c) The project does not conflict with applicable habitat conservation plans or natural community conservation plans.

Resource

See pages V-20-1 to V-20-21 in the MEIR

<table>
<thead>
<tr>
<th>XI. MINERAL RESOURCES: Would the project:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?</td>
</tr>
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<td>□</td>
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</table>

b) 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?

  □ □ □ ✗

Discussion

a) The site is in an urban area and there is no known mineral resource.
b) The site is not identified on any plan as a location with mineral resources.

<table>
<thead>
<tr>
<th>XII. NOISE: Would the project result in:</th>
</tr>
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<tbody>
<tr>
<td>a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?</td>
</tr>
<tr>
<td>□</td>
</tr>
</tbody>
</table>

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

  □ □ ✗ □
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

[ ] Potentially Significant Impact [ ] Less Than Significant with Mitigation [ ] Less Than Significant Impact [ ] No Impact

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

[ ] Potentially Significant Impact [ ] Less Than Significant with Mitigation [ ] Less Than Significant Impact [ ] No Impact

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

[ ] Potentially Significant Impact [ ] Less Than Significant with Mitigation [ ] Less Than Significant Impact [ ] No Impact

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

[ ] Potentially Significant Impact [ ] Less Than Significant with Mitigation [ ] Less Than Significant Impact [ ] No Impact

Discussion

a) The proposed glass business does not use a lot of power tools and is not anticipated to generate noise levels in excess of noise standards. An eight-foot high wall is required along the east side property lines adjacent to residential zones, which is intended to assist with noise attenuation.

b) See item a above.

c) See item a above.

d) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measure N-3 in the General Plan for projects within the baseline developed area, has been incorporated.

e) The Modesto County Airport would not expose the project site to excessive noise levels.

f) The project is not within the vicinity of a private airstrip.

Resource

See pages V-3-1 to V-3-23 in the MEIR

XIII. POPULATION AND HOUSING: Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

[ ] Potentially Significant Impact [ ] Less Than Significant with Mitigation [ ] Less Than Significant Impact [ ] No Impact

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

[ ] Potentially Significant Impact [ ] Less Than Significant with Mitigation [ ] Less Than Significant Impact [ ] No Impact

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

[ ] Potentially Significant Impact [ ] Less Than Significant with Mitigation [ ] Less Than Significant Impact [ ] No Impact
Discussion

a) The project site is in an urban area that is developed. No additional residential development is anticipated as a result of this project.

b) The project includes a general plan amendment and rezone of approximately 1.5 acres changing the site from residential to commercial. There are currently an estimated 13 units on the 1.5 acres. While the proposed project does not include the removal of any residential units, there is the potential that these units could be removed if the site is redeveloped as commercial use. Modesto has 75,711 units based on Department of Finance 2014 estimates and any loss residential units from this project would be considered insignificant.

c) See Item b above.

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<th>Less Than Significant Impact</th>
<th>No Impact</th>
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</table>

XIV. PUBLIC SERVICES:

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

- Fire protection?
- Police protection?
- Schools?
- Parks?
- Other public facilities?

Discussion

a) The project would not result in the need for construction of new or significantly altered police and fire facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access. The project is proposing commercial development, which will have minimal impact on school and park facilities. The project was referred to the Modesto City School District, and their response indicated there would be no potentially significant impact and that new commercial development would be assessed appropriate school fees. The project would not impact park facilities.

Resource

See pages V-11-1 to V-11-12, V-12-1 to V-12-11, V-13-1 to V-13-8, and V-14-1 to V-14-11 in the MEIR.
XV. RECREATION:

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

Discussion

a) The project is proposing commercial development and would not impact recreation facilities.

b) See Item a above.

Resource

See pages V-11-1 to V-11-12 in the MEIR

XVI. TRANSPORTATION/TRAFFIC: Would the project:

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?

b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

e) Result in inadequate emergency access?
f) Conflict with adopted policies, plans or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?

Discussion

a) The proposed project is consistent with applicable plans and policies establishing measures of effectiveness for the performance of the circulation system. The project would not generate more than 100 peak hour trips, which is the General Plan's threshold for a traffic study.

b) See Item a above.

c) The project would not impact air traffic patterns. The proposed glass business is relocating to this site from other locations in the City. Any increased business would result in no or little increase in air traffic.

d) There would be no increase in traffic hazards with the project. The street alignment would not change and the existing driveway would shift slightly to the east.

e) The Fire Department reviewed the project and did not identify any problems with emergency access.

f) The project would not conflict with any alternative transportation plan. A bike lane can fit within the existing right-of-way.

Resource

See pages V-1-1 to V-1-36 in the MEIR

| XVII. UTILITIES AND SERVICE SYSTEMS: Would the project: |
|-----------------|-----------------|-----------------|
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | ☑ | ☑ | ☑ | ☑ |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | ☑ | ☑ | ☑ | ☑ |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | ☑ | ☑ | ☑ | ☑ |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | ☑ | ☑ | ☑ | ☑ |
| e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | ☑ | ☑ | ☑ | ☑ |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | ☑ | ☑ | ☑ | ☑ |
g) Comply with federal, state, and local statutes and regulations related to solid waste?  

Discussion

a) The project is consistent with the wastewater policies in the General Plan, including Policy V.D.2a, which requires the City to maintain the standards for effluent and biosolids from its wastewater treatment plants as established by the Central Valley Regional Water Quality Control Board, in compliance with the Federal Clean Water Act and the State Porter-Cologne Act. Wastewater for the project will be treated at the City's primary and secondary wastewater treatment plants and discharged into the San Joaquin River. The existing wastewater plants have adequate capacity to serve the project.

b) The project would not require the expansion of any wastewater or water facility.

c) All storm water runoff generated from the proposed development would be required to kept on the site according to City standards. There is no impact to any public storm drainage facility.

d) The proposed development would not exceed water supply availability to serve the project or other entitlements and resources.

e) There is adequate wastewater capacity to accommodate the proposed development in addition to existing commitments.

f) There is sufficient landfill capacity to serve this project.

g) All regulations related to solid waste would apply to this project.

Resource

See pages V-5-1 to V-5-16, V-6-1 to V-6-12, V-9-1 to V-9-12, and V-15-1 to V-15-10 in the MEIR

<table>
<thead>
<tr>
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</table>

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?
Discussion

a) As discussed in Section IV Biological Resources, the project would not impact any wildlife habitat.
b) The project would not result in any significant cumulative impact beyond those identified in the MEIR.
c) This document identifies that the project would have some environmental impact, but because this is essentially an infill project in an urban setting that has been evaluated in the MEIR, the impacts are less than significant.
The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2014, 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

(Seal)

ATTEST: [Signature]
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: [Signature]
ADAM LINDGREN, City Attorney
EXHIBIT A

Initial Study

EA/C&ED No. 2014-21
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-424

A RESOLUTION APPROVING THE INSTALLATION OF A 160' PUBLIC SAFETY COMMUNICATION TOWER AT MODESTO FIRE STATION 6 LOCATED AT 2700 STANDIFORD, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY DOCUMENTS

WHEREAS, Fire Station 6 was built in 1983 and a 70' Communication Tower was installed at that time to meet the communication needs at that time, and

WHEREAS, in 2008, Stanislaus County contracted with MACRO to conduct a county-wide communication needs assessment study and to provide a plan for the future, and

WHEREAS, on October 27, 2009, Council approved by Resolution No. 2009-507, 508 and 509, acceptance of the COP Technology grant to provide partial funding for the City/County Regional Radio Interoperability Project (also known as P-25 Linear Simulcast Trunking Radio System, and

WHEREAS, on December 13, 2011, Council authorized by Resolution No. 2011-473, Stanislaus County to enter into the competitive bid process for the P-25 Linear Simulcast Trunking Radio System and subsequently award the proposal, and

WHEREAS, on April 3, 2012, the Stanislaus County Board of Supervisors, by Resolution 2012-134, approved the award of contract to Tait Radio Communications for the purchase of components of a P-25 Linear Simulcast Trunking Radio System to improve the interoperable communications for Stanislaus County First Responders, and

WHEREAS, Modesto Fire Station 6 was identified as one of five sites providing a communications "backbone" along the Highway 99 corridor, linking Turlock, Ceres and Modesto,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the installation of a 160’ Public Safety Communication Tower at Modesto Fire Station 6 located at 2700 Standiford.

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

The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2014, 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: 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 Lindgren, City Attorney
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
AUTHORIZING THE ISSUANCE OF CITY OF MODESTO COMMUNITY
FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE) 2014 SPECIAL TAX
REFUNDING BONDS, IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO
EXCEED $5,000,000, AUTHORIZING THE EXECUTION AND DELIVERY OF
AN INDENTURE AND AN ESCROW AGREEMENT, AND AUTHORIZING THE
EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES AND
RELATED ACTIONS

WHEREAS, the City Council (the “City Council”) of the City of Modesto (the
“City”) has formed the City of Modesto Community Facilities District No. 2003-1
(Fairview Village) (the “Community Facilities District”) under the provisions of the
Mello-Roos Community Facilities Act of 1982 (the “Act”); and

WHEREAS, the Community Facilities District is authorized under the Act to levy
special taxes (the “Special Taxes”) to pay for the costs of certain public facilities (the
“Facilities”) and to issue bonds payable from the Special Taxes; and

WHEREAS, in order to provide funds to finance certain of the Facilities, the
Community Facilities District previously issued its City of Modesto Community
Facilities District No. 2003-1 (Fairview Village) Special Tax Bonds, Series 2005 (the
“Prior Bonds”), in the aggregate principal amount of $4,960,000; and

WHEREAS, the Community Facilities District is authorized under the Act to
issue bonds payable from the Special Taxes in order to refund the Prior Bonds; and

WHEREAS, the Community Facilities District desires to refund the Prior Bonds; and

WHEREAS, the City’s Policies & Procedures for the Formation, Annexation, and
Administration of Community Facilities Districts, as amended (the “Policies and
Procedures”) state that bonds issued by a City-formed community facilities district will
be refunded if (1) the refunding will generate at least 5% net present value savings, or (2) there is another reason the City determines is compelling enough to complete a refunding; and

WHEREAS, the City expects the refunding to generate over 4% net present value savings, but less than 5% net present value savings; and

WHEREAS, the Community Facilities District is fully built out with single family residential homes with occupants with lower incomes which will benefit from the special tax savings that will be achieved through the refunding of the Prior Bonds; and

WHEREAS, interest rates with respect to land secured bonds such as the Series 2014 Bonds are low by historic standards; and

WHEREAS, in order to provide a portion of the moneys required to refund the Prior Bonds, the Community Facilities District proposes to issue its City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding Bonds (the “Series 2014 Bonds”), in the aggregate principal amount of not to exceed $5,000,000; and

WHEREAS, in order to provide for the authentication and delivery of the Series 2014 Bonds, to establish and declare the terms and conditions upon which the Series 2014 Bonds are to be issued and secured and to secure the payment of the principal thereof, premium, if any, and interest thereon, the Community Facilities District proposes to enter into an Indenture with U.S. Bank National Association, as trustee (the “Trustee”) (such Indenture, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the “Indenture”); and
WHEREAS, the City Council, acting as the legislative body of the Community Facilities District, has determined in accordance with Section 53360.4 of the Act that a private placement of the Series 2014 Bonds to City National Bank (the “Original Purchaser”) will result in a lower overall cost to the District than a public sale or a negotiated sale to an underwriter publicly offering the Series 2014 Bonds; and

WHEREAS, the Series 2014 Bonds shall be sold to the Original Purchaser with the assistance of Piper Jaffray & Co. (the “Placement Agent”); and

WHEREAS, in order to provide for the redemption of the Prior Bonds, the Community Facilities District desires to enter into an Escrow Agreement, by and between the Community Facilities District and The Bank of New York Mellon Trust Company, N.A., as Escrow Bank (the “Escrow Agreement”); and

WHEREAS, there have been prepared and submitted to this meeting forms of the Indenture and the Escrow Agreement; and

WHEREAS, Section 4(a)(1) of the Policies and Procedures requires a debt service reserve fund with respect to the Series 2014 Bonds be funded in an amount equal to not less than 10% of the par amount of the Series 2014 Bonds, subject to federal tax regulations; and

WHEREAS, due to the low special tax delinquency rate in the Community Facilities District and other credit factors, the Community Facilities District has determined, and the Original Purchaser has agreed to accept, a reserve fund funded in amount equal to the lesser of (i) 5% of the initial principal amount of the Series 2014 Bonds, (ii) 50% of the maximum annual debt service on the Series 2014 Bonds, and (iii)
50% of 125% of average annual debt service on the Series 2014 Bonds ("50% Reserve Amount"); and

WHEREAS, the Community Facilities District desires to proceed to issue and sell the Series 2014 Bonds and to authorize the execution of such documents and the performance of such acts as may be necessary or desirable to effect the offering, sale and issuance of the Series 2014 Bonds; and

WHEREAS, the City Council is the legislative body of the Community Facilities District (the "Legislative Body");

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO, ACTING AS THE LEGISLATIVE BODY OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE), 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. Subject to the provisions of Section 3 hereof, the issuance of the Series 2014 Bonds, in an aggregate principal amount of not to exceed $5,000,000, on the terms and conditions set forth in, and subject to the limitations specified in, the Indenture, be and the same is hereby authorized and approved. The Series 2014 Bonds shall be dated, shall bear interest at the rates, shall mature on the dates, shall be subject to call and redemption, shall be issued in the form and shall be as otherwise provided in the Indenture, as the same shall be completed as provided in this Resolution. The Legislative Body hereby makes an exception to the Policies and Procedures and determines to fund the reserve fund with respect to the Series 2014 Bonds at the 50% Reserve Amount.
Section 3. The refunding of the Prior Bonds is hereby approved. Such refunding shall be accomplished by paying the interest due and payable on the Prior Bonds to and including March 1, 2015 and redeeming the Prior Bonds on March 1, 2015 by paying the redemption price thereof. In accordance with Section 53363.8 of the Act, the Legislative Body hereby designates the following costs and expenses as the “designated costs of issuing the Bonds:”

(i) all expenses incident to the calling, retiring, or paying of the Prior Bonds and incident to the issuance of the Series 2014 Bonds, including the charges of any agent, including any charges of the Original Purchaser and Placement Agent, in connection with the issuance of the Series 2014 Bonds or in connection with the redemption or retirement of the Prior Bonds;

(ii) the interest upon the Prior Bonds from the date of sale of the Series 2014 Bonds to the date upon which the Prior Bonds will be paid pursuant to call; and

(iii) any premium necessary in the calling or retiring of the Prior Bonds.

In satisfaction of the requirements contained in Section 53364.2 of the Act, the Legislative Body hereby determines that any savings achieved through the issuance of the Series 2014 Bonds shall be used to reduce special taxes of the Community Facilities District, and such reductions shall be made in accordance with the Act.

The Legislative Bonds also hereby determines that the location of the community facilities district and the desire for homeowners therein to benefit from the special tax savings that will be achieved through the refunding of the Prior Bonds as presented, combined with the historically low interest rates on bonds such as the Series 2014 Bonds,
are compelling reasons to complete the refunding of the Prior Bonds through the issuance of the Series 2014 Bonds as authorized herein.

Section 4. The Indenture, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, be and the same is 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, for and in the name of the Community Facilities District, to execute and deliver the Indenture 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 Indenture by such Authorized Officer; provided, however, that such changes, insertions and omissions shall not authorize an aggregate principal amount of Series 2014 Bonds in excess of $5,000,000, shall not result in a final maturity date of beyond the last maturity date of the Prior Bonds and shall not result in a true interest cost for the Series 2014 Bonds in excess of the true interest cost of the Prior Bonds.

Section 5. In accordance with the requirements of Section 53345.8 of the Act, the Legislative Body hereby determines that the value of the real property in the Community Facilities District subject to the special tax to pay debt service on the Series 2014 Bonds is at least three times the principal amount of the Series 2014 Bonds and the principal amount of all other bonds outstanding that are secured by a special tax levied
pursuant to the Act or a special assessment levied on property within the Community Facilities District.

Section 6. The Escrow Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth in full herein, be and the same is hereby approved. Each of the Authorized Officers is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of the Community Facilities District, to execute and deliver the Escrow Agreement in the form presented 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 Escrow Agreement by such Authorized Officer.

Section 7. The Authorized Officers and the officers and employees of the City are, and each of them is, hereby authorized and directed, for and in the name of the Community Facilities District 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.

Section 8. All actions heretofore taken by the officers and employees of the City with respect to the issuance and sale of the Series 2014 Bonds, or in connection with or related to any of the agreements or documents referred to herein, are hereby approved, confirmed and ratified.

Section 9. This Resolution shall take effect immediately upon its adoption.
The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), held on the 14th day of October, 2014, 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: Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, City Attorney