RESOLUTION REAPPOINTING ANNETTE RECLUSADO AND RICHARD GAYTAN TO THE EQUAL OPPORTUNITY/DISABILITY COMMISSION AND HUMAN RELATIONS COMMISSION

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

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

SECTION 1. ANNETTE RECLUSADO is hereby appointed to the Equal Opportunity/Disability Commission with a term expiration of January 1, 2016.

SECTION 2. RICHARD GAYTAN is hereby appointed to the Human Relations Commission with a term expiration of January 1, 2016.

SECTION 3. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed members of the Commissions and the Secretary thereof.
The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-176

A RESOLUTION APPROVING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE CALIFORNIA STATE DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR CONSTRUCTION OF STATE ROUTE 99 AND PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT

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

WHEREAS, the City of Modesto is the lead agency for preparation of Plans, Specifications and Estimates (PS&E), and PS&E is ninety six (96%) completed, and

WHEREAS, this Cooperative Agreement is required by Caltrans prior to final approval of Plans, Specifications and Estimates

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Cooperative Agreement between the City of Modesto and the California State Department of Transportation (Caltrans) for construction of 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 Agreement.

BE IT FURTHER RESOLVED the City Manager, or his designee, is hereby authorized to negotiate with Caltrans and execute all construction documents on behalf of the City for all authority required therefore.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22\textsuperscript{nd} day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

**AYES:** Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: Cogdill

**ATTEST:** 

( SEAL )

**APPROVED AS TO FORM:**

By: 

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF BIDS FOR THE PURCHASE OF WATER VALVES AND FIRE HYDRANTS FOR THE DEPARTMENT OF PUBLIC WORKS, WATER DIVISION, TO GROENIGER CO., MODESTO, CA AND AMERICAN AVK CO., MINDEN, NV, FOR A ONE-YEAR AGREEMENT WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE PURCHASE AGREEMENTS FOR AN ESTIMATED ANNUAL COST OF $275,000

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of water valves and fire hydrants, and

WHEREAS, the Purchasing Division issued RFB No. 1112-20 Water Valves and Fire Hydrants to seventeen (17) prospective bidders, eight (8) of which were local vendors, posted the bid on the City’s website and formally advertised as required by law, and

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

WHEREAS, Modesto Municipal Code 8-3.206 Support of Local Vendors (SLV) allows the lowest bid or quote submitted by a local business that is within five (5) percent of the lowest bid, the opportunity to match the lowest bid price. Groeniger Co., Modesto, CA qualified for SLV on a list of inventory items and agreed to match lowest bid price for those items, which represents an additional $121,000 of product purchased annually through the local vendor, and
WHEREAS, based on providing lowest responsive and responsible bids, City staff recommends the award of bids for the purchase of water valves and fire hydrants to Grongier Co., Modesto, CA and AVK Co., Minden, NV, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bids for the purchase of water valves and fire hydrants to Grongier Co., CA and AVK Co., Minden, NV, conforms to the Modesto Municipal Code, and

WHEREAS, funds shall be budgeted for the purchase of water valves and fire hydrants in Appropriation Units: 4100-55050-53150 and 4100-55080-53150.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bids for the purchase of water valves and fire hydrants for the Department of Public Works, Water Division, to Grongier Co., Modesto, CA and AVK Co., Minden, NV.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue purchase agreements for an estimated annual cost of $275,000.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

05/22/2012/Finance/KMasasso/Item 6
RESOLUTION AUTHORIZING SUBMISSION OF THE CITY’S TRANSPORTATION DEVELOPMENT ACT TRANSIT CLAIM FOR FISCAL YEAR 2012-2013 TO THE STANISLAUS COUNCIL OF GOVERNMENTS IN THE AMOUNT OF $9,063,045

WHEREAS, the greatest portion of the City’s funding for the Transit Service Program is made available under the Transportation Development Act (TDA), which includes Local Transportation Fund (LTF) funds and State Transit Assistance (STA) funds, and

WHEREAS, the Stanislaus Council of Governments (StanCOG) has informed the Finance Department that LTF funds have been apportioned by the State to StanCOG for allocation to public transit agencies pursuant to Articles 4 and 8 of Chapter 4 of the California Public Utilities Code (PUC), and

WHEREAS, the City has prepared its TDA claim for Fiscal Year 2012-2013 pursuant to these sections of the California PUC, and

WHEREAS, the City’s Transit TDA Claim for Fiscal Year 2012-2013 is $9,063,045 and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2012-2013 is $15,854,412 and

WHEREAS, Council action authorizing submission of the Claim is required by StanCOG pursuant to Section 99261 of the California PUC before any TDA funding can be released to the City

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submission of the TDA transit claim for Fiscal Year 2012-2013 to StanCOG in the amount of $9,063,045.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(Seal)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE CALIFORNIA DEPARTMENT OF WATER RESOURCES FOR A LOCAL GROUNDWATER ASSISTANCE GRANT FOR A GROUNDWATER CHARACTERIZATION AND RECHARGE STUDY IN AN AMOUNT UP TO $250,000; AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT-RELATED DOCUMENTS AND ENTER INTO AN AGREEMENT TO RECEIVE GRANT FUNDS (IF AWARDED); AND AUTHORIZING THE DIRECTOR OF UTILITY PLANNING AND PROJECTS TO BE THE SIGNATORY OF GRANT INVOICES FORMS DURING REQUESTS FOR REIMBURSEMENTS

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

WHEREAS, through prior applications, the STRGBA has cumulatively secured $500,000 of Proposition 84 funding under the Local Groundwater Assistance Program for groundwater-related studies.

WHEREAS, the STRGBA developed an Integrated Regional Groundwater Management Plan (IRGMP), which was approved by the City Council, by Resolution No. 2005-340, on June 29, 2005, and

WHEREAS, the proposed Groundwater Characterization and Recharge Study incorporates the following IRGMP Basin Management Objectives:

1. Identifies and maps the basin’s natural recharge areas;
2. Supports programs that relieve aquifer overdraft;
3. Evaluates feasibility of groundwater recharge and conjunctive use projects including the development of artificial recharge areas;
4. Seeks funding for projects and programs that will contribute to water recharge of the groundwater basin;
5. Provides and expands existing forum for coordination and cooperation between all water entities to manage the Modesto Groundwater Subbasin; and
6. Formulates and implements a geologic assessment to better understand the basin’s aquifer characteristics and water movement, and to evaluate and understand the sources of contaminants.

WHEREAS, the California Department of Water Resources (DWR) will execute an agreement with only one agency from the STRGBA, and the City of Modesto has been selected on behalf of the STRGBA to submit the grant application and enter into an agreement, and

WHEREAS, while no matching funds are required for this grant, the City must pay the project and consultant costs in advance, and

WHEREAS, should the City be awarded this grant, staff will return to Council for acceptance and appropriation of funds through Water Fund Reserves in the amount of $250,000 to fund the upfront costs of the Study, and

WHEREAS, DWR will then reimburse the City within 60 to 90 days following the City’s request for reimbursement, and

WHEREAS, DWR requires that the applicant provide a resolution adopted by the City Council that designates and authorizes a representative to file the application and enter into an agreement, and

WHEREAS, the proposed Groundwater Characterization and Recharge Study will be managed by City staff, on behalf of the STRGBA,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the submittal of a grant application to the California Department of Water Resources for a Local Groundwater Assistance Grant for a Groundwater Characterization and Recharge Study in an amount up to $250,000.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all grant-related documents and enter into an agreement to receive the grant funds (if awarded).

BE IT FURTHER RESOLVED that the Director of Utility Planning and Projects is hereby authorized to be the signatory of grant invoice forms during requests for reimbursements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING A COST-SHARING AGREEMENT FOR ASSOCIATED TASK ITEMS OF WORK TO SHARE CERTAIN COSTS BETWEEN THE DEL PUERTO WATER DISTRICT, THE CITY OF TURLOCK, AND THE CITY OF MODESTO FOR THE DEVELOPMENT OF A REGIONAL RECYCLED WATER DELIVERY SYSTEM PHASE 2 FEASIBILITY STUDY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

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) in a Cost-sharing Agreement in the amount of $25,000 each, and

WHEREAS, they would then seek a reimbursement from the Bureau of Reclamation (BOR) or other sources, and

WHEREAS, based on the BOR’s review of the request for proposals for the Phase 1 Feasibility Study, the estimate was revised to $150,000, and

WHEREAS, on April 27, 2010, the City Council, by Resolution No. 2010-149, approved an Amendment to the Cost-sharing Agreement with DPWD allowing the City of Modesto to fund the remainder of the Phase 1 Feasibility Study in the amount of $100,000, and

WHEREAS, DPWD hired RMC Water and Environment (RMC) to perform the Phase 1 Feasibility Study, and was responsible for managing the contract, and

WHEREAS, the final contract amount for RMC was $149,615.37, with the BOR reimbursing $75,149.30 to the agencies for the cost of the Phase 1 Feasibility Study, with Modesto paying $49,466.97, and DPWD paying the balance of $25,000, and
WHEREAS, subsequently, the proposed project expanded to include the Cities of Turlock and Ceres, and Stanislaus County as partners and is now truly regional in scope, and now referred to as the North Valley Regional Recycled Water Program, and

WHEREAS, the City of Ceres and Stanislaus County will participate in the project as stakeholders but will not participate in the Cost-sharing Agreement, and

WHEREAS, as the Phase 1 Feasibility Study work was drawing to a close, the Cities of Modesto, Turlock and the DPWD (parties) recognized that the project was feasible and that it was necessary to refine the program alternatives identified in the study, and

WHEREAS, therefore, the parties agreed that it was in their best interest for DPWD to employ RMC for further refinement of the program alternatives and subsequent tasks associated with the NVRRWP as shown in the Phase 2 Feasibility Study Scope of Work, and

WHEREAS, since DPWD is a BOR contractor, the parties agreed that DPWD should also act as lead for the Phase 2 Feasibility Study, and

WHEREAS, some objectives for the Phase 2 Feasibility Study include:
  - river flow modeling
  - pipeline assessments
  - reservoir modeling
  - identification of agreements and agreement schedules needed for the project
  - confirmation of project design criteria
  - preparation of an environmental assessment and initial study

WHEREAS, the goal for the Phase 2 Feasibility Study effort is to develop the NVRRWP project alternatives so that the project meets the requirements for federal authorization and subsequent funding, and
WHEREAS, the parties also agreed to enter into this Cost-sharing Agreement for those expenses related to the further refinement and development of the program alternatives and subsequent related tasks, which focus specifically on further development of the two near-term alternatives (river conveyance and direct pipeline identified in the Phase 1 Feasibility Study, and

WHEREAS, the parties will jointly seek a 50% cost share, or $380,640, from BOR or other sources, and

WHEREAS, this agreement provides for revisions to make use of other federal, state, or local funding opportunities that might become available, and

WHEREAS, also included in the Cost-sharing Agreement is clarification related to the cost-share reimbursement percentage associated with the Administrative Agency’s costs for the NVRRWP Collaborative Partnership Memorandum of Understanding, as the City of Modesto is the Administrative Agency for the Partnership, and

WHEREAS, the sharing of costs related to the Administrative Agency’s duties for the Partnership will be based on each party’s estimated flow contribution to the Program, and the reimbursement percentages are shown in Exhibit A of the Cost-sharing Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Cost-sharing Agreement for associated task items of work to share certain costs between the Del Puerto Water District, the City of Turlock, and the City of Modesto for the development of a Regional Recycled Water Delivery System Phase 2 Feasibility Study.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Cost-sharing Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2012-181  

RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF $175,349 TO FULLY FUND THE CITY’S PORTION OF THE RECYCLED WATER DELIVERY SYSTEM PHASE 2 FEASIBILITY STUDY, AND INCREASED STAFFING COSTS ASSOCIATED WITH THE PHASE 2 FEASIBILITY STUDY REVIEW AND OVERALL PROGRAM SUPPORT

WHEREAS, certain budgetary transactions are necessary in the amount of $175,349 in order to fully fund the City’s share of the cost-sharing agreement with Del Puerto Water District and the City of Turlock for the Regional Recycled Water Delivery System Phase 2 Feasibility Study and increased staffing costs associated with the Phase 2 Feasibility Study review and overall program costs, and

WHEREAS, the Fiscal Year 2011-2012 Capital Improvement 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 2011-2012 Capital Improvement 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 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

Due to the City’s portion of the Regional Recycled Delivery System Phase 2 Feasibility Study, project account #100521, is being increased to refine the program alternatives and subsequent tasks associated with the North Valley Regional Recycled Water Program, the total project costs needs to be increased by $155,349.

Additionally, funds are necessary to cover increased staffing costs associated with Phase 2 Feasibility Study review and overall program support in the amount of $20,000.

This would be done by transferring from $175,349 from Wastewater Reserves Account.
RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT WITH CARMEL M. CAETANO AND HOPE CARIVIO, AS ADMINISTRATORS OF THE ESTATE OF JOHN ROCHA MARTINS, FOR A 57,885 SQUARE FEET (1.33 ACRES) FEE ACQUISITION, A 15,852 SQUARE FEET (0.36 ACRES) TEMPORARY ACCESS EASEMENT, A 48,352 SQUARE FEET (1.11 ACRES) GRANT OF EASEMENT, AND QUITCLAIM DEED OF A PARCEL LOCATED AT 4016 LITT ROAD (APN 084-003-004), IN THE AMOUNT OF $143,610, FOR THE SYLVAN AND LITT IMPROVEMENT PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the Sylvan and Litt Improvement Project is included in the Village One Facilities Master Plan and is a Priority 3 project on the Village One Project Prioritization List, and

WHEREAS, the project includes roadway improvements on Sylvan Avenue from west of Litt Road to Claus Road and on Litt Road from Sylvan Avenue to the north end of the future Grogan Park site, and

WHEREAS, the proposed street widening project also includes land acquisition for the needed right-of-way and abandonment of the south portion of Litt Road that will no longer be used for road purposes due to the realignment, and

WHEREAS, staff has identified a portion of a parcel located at 4016 Litt Road (APN 084-003-004), to place improvements as a part of the capital improvements identified for the Sylvan and Litt Improvement Project, and

WHEREAS, an Agreement is needed for the acquisition of the property and staff has investigated the subject property to ensure it is suitable for this purpose, and therefore recommends approving the Purchase and Sale Agreement for acquisition of the property.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Purchase and Sale Agreement with Carmel M. Caetano and Hope Carmo, as Administrators of the Estate of John Rocha Martins, for (a) a 57,885 square feet (1.33 acres) fee acquisition, (b) a 15,852 square feet (0.36 acres) Temporary Access Easement, and a 48,352 square feet (1.11 acres), (c) a Grant of Easement, and (d) Quitclaim Deed of a parcel located at 4016 Litt Road (APN 084-003-004), in the amount of $143,610, for the Sylvan and Litt Improvement Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: ____________________________

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ________________________________

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN CERTIFICATES OF ACCEPTANCE FOR THE (1) GRANT DEED AND TEMPORARY CONSTRUCTION AND (2) QUITCLAIM DEED EASEMENT AND TRANSFER AND CONVEYANCE DOCUMENTS FOR THE ACQUISITION OF PROPERTY INTERESTS LOCATED AT 4016 LITT ROAD, OWNED BY CARMEL M. CAETANO AND HOPE CARMO, AS ADMINISTRATORS OF THE ESTATE OF JOHN ROCHA MARTINS, (APN 084-003-004) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE SYLVAN AND LITT IMPROVEMENT PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire the following real property interests: a 57,885 square feet (1.33 acres) fee acquisition, a 15,852 square feet (0.36 acres) Temporary Access Easement, and a 48,352 square feet (1.11 acres) Grant of Easement of a parcel owned by Carmel M. Caetano and Hope Carmo, as Administrators of the Estate of John Rocha Martins, (APN 084-003-004), to be purchased by the City of Modesto for the Sylvan and Litt Improvement Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign Certificates of Acceptance for (1) the Grant Deed and Temporary Construction Easement and (2) Quitclaim Deed for the acquisition of property interests located at 4016 Litt Road (APN 084-003-004), in the County of Stanislaus, owned by Carmel M. Caetano and Hope Carmo, as Administrators of the Estate of John Rocha Martins, and the Quitclaim Deed from Joe Scoto, to be purchased by the City of Modesto for the Sylvan and Litt Improvement Project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22\textsuperscript{nd} day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

\textbf{AYES:} Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

\textbf{NOES:} Councilmembers: None

\textbf{ABSENT:} Councilmembers: Cogdill

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

(SEAL)

\textbf{APPROVED AS TO FORM:} \hspace{1cm} \textit{SUSANA ALCALA WOOD, City Attorney}
RESOLUTION MAKING FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 51292 REGARDING WILLIAMSON ACT CONTRACT 74-1606 FOR THE ACQUISITION OF RIGHT-OF-WAY FROM A PARCEL LOCATED AT 4016 LITT ROAD (APN 084-003-004), FOR THE SYLVAN AND LITT IMPROVEMENT PROJECT

WHEREAS, the Sylvan and Litt Improvement Project is included in the Village One Facilities Master Plan, and

WHEREAS, the project includes roadway improvements on Sylvan Avenue from west of Litt Road to Claus Road and on Litt Road from Sylvan Avenue to the north end of the future Grogan Park site, and

WHEREAS, the proposed street widening project also includes land acquisition for the needed right-of-way and abandonment of the south portion of Litt Road that will no longer be used for road purposes due to the realignment, and

WHEREAS, staff has identified a portion of a parcel located at 4016 Litt Road (APN 084-003-004), to place improvements as a part of the capital improvements identified for the Sylvan and Litt Improvement Project, and

WHEREAS, the parcel is encumbered by Williamson Act Contract 72-1606 and the following findings pursuant to Government Code Section 51292 can be made.

(a) The location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve.

(b) If the land is agricultural land covered under a contract pursuant to this chapter of any public improvement, that there is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it makes the following findings:

(a) In response to finding (a) provided above, the right-of-way that is needed for this street improvement project was not based on acquiring lower cost land of an agricultural preserve. The alignment and width of Sylvan Avenue and Litt Road were determined by Village One Specific Plan approved in 1990. Sylvan Avenue is one of the important east-west Principal Arterials for the City of Modesto traveling approximately seven miles from Freeway 99 to Claus Road.

(b) In response to finding (b) provided above, the proposed street improvements along with the needed right-of-way would implement the required improvements for the Village One Specific Plan. The south side of Sylvan Avenue roadway next to the subject parcel is already fully improved establishing the required width needed on the north side. There is no reasonable possibility of shifting the Sylvan Avenue south to avoid the subject parcel. Single family lots are developed on the south side of Sylvan Avenue next to the subject parcel. There is no other land within or outside of the subject parcel on which it is reasonably feasible to locate this public improvement project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:
AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

[Signed]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE
PHASE 2 BNR/TERTIARY WASTEWATER TREATMENT PROJECT,
ACCEPTING THE BID, AND APPROVING A CONTRACT WITH G S E
CONSTRUCTION COMPANY, INC. OF LIVERMORE, CALIFORNIA IN THE
AMOUNT OF $100,554,396.91, AND AUTHORIZING THE CITY MANAGER,
OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Phase 2
BNR/Tertiary Wastewater Treatment Project, and City staff recommends approval by the
City Council, and

WHEREAS, the bids received for the Phase 2 BNR/Tertiary Wastewater
Treatment Project were opened at 11:00 a.m. on January 25, 2012, and later tabulated by
the Director of Utility Planning and Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning and Projects has recommended that
the bid of $100,554,396.91 received from G S E Construction Company, Inc. of
Livermore, California be accepted as the lowest responsible bid and the contract be
awarded to G S E Construction Company, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the plans and specifications for the Phase 2 BNR/Tertiary
Wastewater Treatment Project, accepts the bid of G S E Construction Company, Inc. of
Livermore, California, in the amount of $100,554,396.91, and awards G S E Construction
Company, Inc. the contract for the Phase 2 BNR/Tertiary Wastewater Treatment Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby
authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF $5,329,775 IN ORDER TO FULLY FUND CONSTRUCTION ADMINISTRATION AND ENGINEERING DESIGN SUPPORT SERVICES DURING CONSTRUCTION PLUS ENGINEERING CONSTRUCTION SUPPORT BY CITY STAFF FOR THE PHASE 2 BNR/TERTIARY WASTEWATER TREATMENT PROJECT

WHEREAS, certain budgetary transactions are necessary in the amount of $5,329,775, in order to fully fund construction administration and engineering design support services during construction plus engineering construction support by City staff for the Phase 2 BNR/Tertiary Wastewater Treatment project, and

WHEREAS, the Fiscal Year 2011-2012 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 2011-2012 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 22nd day of May, 2012, 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

Due to the award of the Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility project and in order to fully fund construction administration and engineering design support services during construction plus engineering construction support by City staff, project task costs need to be increased by $5,329,775. This would be done by adjusting tasks within CIP Account 100520 “WW Treatment Phase 2 Tertiary” as follows: Construction by <$5,329,775>, Construction Administration by $5,175,361, and Engineering/Design/Administration by $154,414.
RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, INC. FOR DESIGN SUPPORT DURING CONSTRUCTION FOR PHASE 2 BNR/TERTIARY TREATMENT FACILITY PROJECT IN AN AMOUNT NOT TO EXCEED $5,469,731 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $273,487 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $5,743,218, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in April 2008, the Central Valley Regional Water Quality Control Board (RWQCB) adopted a new National Pollutant Discharge Elimination System (NPDES) permit for the City of Modesto with stricter limits to the City’s treated wastewater discharge into the San Joaquin River, and

WHEREAS, the new permit requires the City to meet these discharge requirements by February 2016, and has resulted in the need for the Phase 2 BNR/Tertiary Treatment Facility Project (Phase 2 Tertiary Project), and

WHEREAS, bids for the Phase 2 Tertiary Project were opened January 25, 2012 and construction is expected to begin early summer, and

WHEREAS, due to the size and complexity of the project, construction support services are needed to facilitate construction activities, and

WHEREAS, these support services will promote timely and successful construction of the facilities, while also reducing risk to the City, and

WHEREAS, therefore, Engineering Services During Construction (ESDC) work is being recommended by City staff, and will cover the nearly four years estimated for construction and the start-up of Phase 2 Tertiary Project, and
WHEREAS, Carollo Engineers, Inc. (Carollo) is the consulting design engineer for the Phase 2 Tertiary Project, and was selected for preliminary design services utilizing the City's Administrative Directive 3.1 in 2008 and final design services in 2009, and

WHEREAS, upon successful completion of the design of the project, City staff requested and received a proposal from Carollo for ESDC services, and

WHEREAS, the scope for ESDC includes General technical oversight of project activity, including review of submittals and shop drawings, review and response to Requests for Information (RFIs) and change order requests, as-needed technical observation of construction activities, project start-up and close-out assistance, and As-built preparation, and

WHEREAS, Carollo's scope also includes necessary services which will extend beyond the construction period of Phase 2 Tertiary Project, and

WHEREAS, the City will be responsible for permitting the new tertiary facility as well as complying with Title 22 as required by the RWQCB, and

WHEREAS, Carollo will be responsible for coordinating permit requirements with the various governmental agencies and/or utilities that have jurisdiction over the project, as well as for preparing an Engineering Compliance Report required by the RWQCB and California Department of Public Health (CDPH) Title 22 Compliance, and

WHEREAS, Carollo will also provide assistance concerning potential warranty issues associated with the project and prepare an electronic Operations and Maintenance Manual, and

WHEREAS, the total cost of ESDC, including the optional 5% Additional Services, is $5,743,218, which is 5.7% of the total construction costs, and
WHEREAS, staff has negotiated the scope and fees with Carollo and believes the costs are reasonable for a project of this size and complexity, and

WHEREAS, furthermore, staff has collected cost data from several other wastewater treatment facility and water treatment facility projects of similar scope, and

WHEREAS, the ESDC costs as a percentage of total construction costs for the projects collected range from 2.9% to 8.6% with an average cost of 6.0%, and

WHEREAS, the collected cost data further reflects that the proposed costs for ESDC and CM services for the Phase 2 Tertiary Project are in line with industry standards, and

WHEREAS, based on the City’s need for these services and analysis of the proposed costs, staff is recommending approval of the agreement with Carollo for construction support services of the Phase 2 Tertiary Project, and

WHEREAS, staff recommends an agreement with Carollo, as the City does not have the staffing level or subject matter expertise to perform design support during construction for the Phase 2 Tertiary Project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Carollo Engineers, Inc. for Design Support During Construction for Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility for an amount not to exceed $5,469,731 for the identified scope of services, plus $273,487 for additional services (if needed), for a maximum total amount of $5,743,218.

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 22nd day of May, 2012, 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

SEAL  

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, INC. FOR CONSTRUCTION MANAGEMENT SERVICES FOR PHASE 2 BNR/TERTIARY TREATMENT FACILITY PROJECT IN AN AMOUNT NOT TO EXCEED $8,029,699 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $240,891 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $8,270,590, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in April 2008, the Central Valley Regional Water Quality Control Board (RWQCB) adopted a new National Pollutant Discharge Elimination System (NPDES) permit for the City of Modesto with stricter limits to the City’s treated wastewater discharge into the San Joaquin River, and

WHEREAS, the new permit requires the City to meet these discharge requirements by February 2016, and has resulted in the need for the Phase 2 BNR/Tertiary Treatment Facility Project (Phase 2 Tertiary Project), and

WHEREAS, bids for the Phase 2 Tertiary Project were opened January 25, 2012 and construction is expected to begin early summer, and

WHEREAS, due to the size and complexity of the project, construction management services are needed to facilitate construction activities, and

WHEREAS, these support services will promote timely and successful construction of the facilities, while also reducing risk to the City, and

WHEREAS, therefore, Construction Management & Inspection (CM) work is being recommended by City staff, and will cover the nearly four years estimated for construction and the start-up of Phase 2 Tertiary Project, and

WHEREAS, in preparation for construction of the Phase 2 Tertiary Project, consultant services were sought in 2010 for CM services, and
WHEREAS, following Administrative Directive 3.1, City staff selected West Yost Associates, Inc. (West Yost) as the most qualified firm to provide these services, and

WHEREAS, as the CM, West Yost will act as the City’s advisor relating to the contract and provide coordination between all parties as it relates to the construction activities, and

WHEREAS, the scope for CM services includes management of the project schedule, review and management of submittals and shop drawings, review and management of all Requests for Information (RFIs) and change orders, full-time construction observation and inspection, management of all project costs and progress payments, operational start-up and training assistance, project close-out assistance, and claims management, and

WHEREAS, the total cost of CM services, including the optional 3% Additional Services, is $8,270,590, which is 8.3% of the total construction costs, and

WHEREAS, staff has negotiated the scope and fees with West Yost and believes the costs are reasonable for a project of this size and complexity, and

WHEREAS, furthermore, staff has collected cost data from several other wastewater treatment facility and water treatment facility projects of similar scope, and

WHEREAS, the CM costs as a percentage of total construction costs for the projects collected range from 5.5% to 11.8% with an average cost of 8.6%, and

WHEREAS, the collected cost data further reflects that the proposed costs for CM services for the Phase 2 Tertiary Project are in line with industry standards, and
WHEREAS, based on the City's need for these services and analysis of the proposed costs, staff is recommending approval of the agreement with West Yost for CM services of the Phase 2 Tertiary Project, and

WHEREAS, staff recommends an agreement with West Yost, as the City does not have the staffing level or subject matter expertise to perform CM services for the Phase 2 Tertiary Project, and current workload levels do not provide for timely in-house solutions/responses,

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 Construction Management Services for Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility for an amount not to exceed $8,029,699 for the identified scope of services, plus $240,891 for additional services (if needed), for a maximum total amount of $8,270,590.

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 22nd day of May, 2012, 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:
By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 CAPITAL IMPROVEMENT PROGRAM BUDGET TO APPROPRIATE $3,121,345 FROM STREETS CAPITAL FACILITY FEES FUND BALANCE TO CIP PROJECT NO 100046 FOR THE PURPOSE OF TOTAL ACQUISITION OF FOUR PARCELS AND A TEMPORARY CONSTRUCTION EASEMENT FOR FOUR ADDITIONAL PARCELS OF THE REAL PROPERTY AND REAL PROPERTY INTERESTS

WHEREAS, certain budgetary transactions are necessary in the amount of $3,121,345, in order to acquire four parcels and temporary construction easement for four additional parcels of the real property and real property interests,

WHEREAS, the Fiscal Year 2011-2012 Capital Improvement Program budget should be amended as follows by appropriating $3,121,345 from Streets Capital Facility Fees fund balance

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2011-2012 Capital Improvement Program budget by appropriating $3,121,345 from Streets Capital Facility fund balance to COSMO Project No. 100046 and increasing the expense budget by that amount in order to acquire four parcels and temporary construction easement for four additional parcels of the real property and real property interests.

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 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING THE PURCHASE AGREEMENT FOR A TEMPORARY CONSTRUCTION EASEMENT BETWEEN THE CITY OF MODESTO AND JOGA S. MINHAS & SURINDER K. MINHAS, FOR A 1,615 SQ. FT. (0.037 ACRES) PARCEL OF LAND (APN 135-029-036), IN THE AMOUNT OF $4,800.00, FOR THE PELANDALE AVENUE/SR 99 INTERCHANGE RECONSTRUCTION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW.

WHEREAS, the City of Modesto is planning a project to reconstruct the Pelandale Avenue/SR 99 Interchange, and

WHEREAS, the project will alleviate congestion and improve operations of the Pelandale Avenue & SR 99 Interchange, and

WHEREAS, the City of Modesto has obtained lead agency status from the California Department of Transportation for the project, and

WHEREAS, staff has identified a 1,615 sq. ft. (0.037 acres) portion of a parcel of APN 135-029-036 for a Temporary Construction Easement to improve the roadway on Salida Blvd. as a part of the capital improvements identified for the Pelandale Avenue/SR 99 Interchange Reconstruction Project, and

WHEREAS, staff has completed the required environmental review for the project, and

WHEREAS, an Agreement is needed for the acquisition interests of the property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement between the City of Modesto and Joga S. Minhas & Surinder K. Minhas, for a 1,615 sq. ft. (0.037 acres) Temporary Construction
Easement, located at 4224 Salida Blvd. (APN 135-029-036), in the amount of $4,800 for the Pelandale Avenue/SR 99 Interchange Reconstruction Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-190

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE CERTIFICATE OF ACCEPTANCE FOR THE TEMPORARY CONSTRUCTION EASEMENT, FOR THE ACQUISITION OF PROPERTY INTERESTS LOCATED AT 4224 SALIDA BLVD, OWNED BY JOGA S. MINHAS & SURINDER K. MINHAS, (APN 135-029-036) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PELANDALE AVENUE/SR 99 INTERCHANGE RECONSTRUCTION PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 1,615 sq. ft. (0.037 acres) portion of land for a Temporary Construction Easement located on Salida Blvd., owned by Joga S. Minhas & Surinder K. Minhas., (APN 135-029-036), to be purchased by the City of Modesto for the Pelandale Avenue/SR 99 Interchange Reconstruction Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign the Certificate of Acceptance for the Temporary Construction Easement for the acquisition of property interests located at 4224 Salida Blvd., owned by Joga S. Minhas & Surinder K. Minhas, (APN 135-029-036) to be purchased by the City of Modesto for the Pelandale Avenue/SR 99 Interchange Reconstruction Project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: SUSANNA ALCALA WOOD, City Attorney

(SEAL)

APPROVED AS TO FORM:

By: SUSANNA ALCALA WOOD, City Attorney
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE
THE ACQUISITION OF CERTAIN REAL PROPERTY AND DIRECTING THE
FILING OF EMINENT DOMAIN PROCEEDINGS: STATE ROUTE 99 /
PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT –
ASSESSOR’S PARCEL NUMBER: 135-029-049. PROPERTY OWNERS: 
MOHAMMED S. HUSSAIN AND KHAIRUL N. HUSSAIN – 4324 SALIDA 
BOULEVARD, SALIDA, STANISLAUS COUNTY, CALIFORNIA

WHEREAS, the purpose of the State Route 99/Pelandale Avenue Interchange
Construction Project (“Project”) is to replace and expand the Pelandale Avenue
Interchange on State Route (“SR”) 99 in order to mitigate existing interchange
operational and safety deficiencies, including without limitation: (1) widening,
reconstructing, and relocating an existing operationally inadequate bridge structure across
SR 99; (2) ramp modifications to lessen congestion and improve operational efficiency of
SR 99 and surrounding local roads, including Pelandale Avenue, Sisk Road and Salida
Avenue; (3) pedestrian crossings and upgrades to meet standards of the Americans with
Disabilities Act, as well as, improving traffic conditions, levels of service and
accommodate projected increases in regional and local traffic; and

WHEREAS, the Project is consistent with the adopted General Plan of the City of
Modesto and the State Route 99 Transportation Concept Plan; and

WHEREAS, improvement of said interchange will require acquisition of right-of-
way for State Highway and related local road purposes, and

WHEREAS, California Streets and Highway Code Section 130 authorizes Caltrans
and the City of Modesto to enter into a contract regarding the acquisition, construction,
improvement and/or maintenance of any State Route; and
WHEREAS, on February 22, 2011, the City Council of City of Modesto adopted Resolution 2011-64 authorizing the City Manager to execute a co-operative agreement between City of Modesto and California Department of Transportation ("Caltrans") for acquisition of right-of-way for construction of the Project improvements and for the City of Modesto to hear Resolutions of Necessity; and

WHEREAS, on June 9, 2011, the City of Modesto and Caltrans entered into a Co-operative Agreement ("District Agreement 10-322"); and

WHEREAS, after extensive public scoping of nineteen (19) interchange alternatives, in addition to a "No Build" alternative, Caltrans approved the Initial Study with Mitigated Negative Declaration on September 28, 2009 selecting the preferred alternative for the Project; and

WHEREAS, the selection of the preferred alternative set the Right-of-Way requirements for implementation of the Project; and

WHEREAS, the real property described herein and to be acquired is within the Project area; and

WHEREAS, it is desirable and necessary for the City of Modesto’s SR 99/Pelandale Avenue Interchange Reconstruction Project to acquire a twelve month temporary construction easement to Assessor’s Parcel Number 135-029-049, also known as 4324 Salida Boulevard in the County of Stanislaus, California, as more particularly described in Exhibit “A” and depicted in Exhibit “B” attached hereto and made part of this Resolution and referred to as the “Subject Property”; and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution.
of the State of California; California Code of Civil Procedure sections 1240.010 -
1240.050, 1240.110, 1240.120, 1240.150, 1240.350, 1240.510, 1250.610; California
Government Code sections 37350.5, 37353, 39792, 38900, 40401 and 40404; Pelandale
Avenue Joint Powers Agreement dated December 6, 2005 between the City of Modesto
and the County of Stanislaus; Approval of the Consent by Stanislaus County to Allow
Right-of-Way Acquisition by the City of Modesto, Item No. 2011-568, dated October 4,
2011; Consent signed by the County to Allow Right-of-Way Acquisition by the City of
Modesto (in the County for the Project) dated October 5, 2011 and February 28, 2012;
Modesto City Council Resolution No. 2011-064, dated February 22, 2011; the
Cooperative Agreement between the California State Department of Transportation and
the City of Modesto dated June 9, 2011 (District Agreement 10-322); and, California
Streets and Highways Code section 10102; and

WHEREAS, pursuant to Code of Civil Procedure Section 1245.235, the City of
Modesto provided the owners of the Subject Property, a copy of the “Notice of Intent to
Adopt resolution of Necessity” informing them of the date and time any interested person
could be heard before the City Council, on the following matters, and to have the City
Council give consideration to testimony prior to deciding whether or not to adopt the
proposed Resolution of Necessity to commence eminent domain proceedings:

(a) Whether the public interest and necessity require the Project;

(b) Whether the Project is planned or located in the manner that will be most
compatible with the greatest public good and the least private injury;

(c) Whether the property sought to be acquired is necessary for the Project;

(d) Whether the property is being acquired for a compatible use under Code of
Civil Procedure section 1240.510 in that the City’s use of the property will
not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future;

(e) Whether the property is being acquired for a more necessary public use under Code of Civil Procedure 1240.610 in that the City’s use is a more necessary public use than the use to which the property is appropriated or could be appropriated; and

(f) Whether the offer required by Government Code Section 7267.2 has been made to the owner of record.

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto made a written offer to the property owners to acquire the Subject Property for just compensation and provided same with an appraisal summary statement; and

WHEREAS, Caltrans and the City of Modesto have satisfied the provisions and complied with all requirements of the California Environmental Quality Act (“CEQA”) for the Project; and

WHEREAS, Caltrans authorized and approved the City of Modesto to hear Resolutions of Necessity for acquisitions of right-of-way for the Project; and

WHEREAS, on February 28, 2012, the County of Stanislaus authorized and approved the City of Modesto to acquire right-of-way in the County; and

WHEREAS, a hearing was held on May 22, 2012, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which the City Council considered this matter as an item placed on its agenda at its regular meeting; and

WHEREAS, all the findings and conclusions made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information in this Resolution; and
WHEREAS, prior to taking action, the City Council has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including each of the Project-related documents relevant to the adoption of this Resolution, including but not limited to, the General Plans of the City of Modesto and the County of Stanislaus, the Environmental Documents including without limitation, the Initial Study with Mitigated Negative Declaration, the Staff Report and all documents incorporated therein, and all oral and written evidence presented to it during all meetings and hearings regarding this Project; and

WHEREAS, the City Council has endeavored in good faith to consider the pros and cons of the issue before it; and

WHEREAS, all other legal prerequisites to the adoption of the Resolution have occurred.

NOW, THEREFORE, IT IS FOUND, DETERMINED, AND RESOLVED by the City of Modesto as follows:

1. The above recitals are true and correct and are matters on which these findings are based.

2. The public interest and necessity require the Project.

3. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.

4. The taking of the twelve month temporary construction easement in and to the real property as more particularly described in Exhibit “A” and depicted in Exhibit “B” is necessary for the Project.

5. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner of record of the real property.
6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure section 1240.510 in that the City's use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public uses as they now exist or may reasonably be expected to exist in the future.

7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure section 1240.610 in that the City's use of the Subject Property is a more necessary public use than the use to which the property is appropriated now or may be appropriated to in the future.

8. Special Counsel, Meyers, Nave, Riback, Silver & Wilson, is hereby authorized, empowered and directed to acquire, in the name of City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation to the State Treasurer's Condemnation Fund based on an appraisal and apply to the Court for an order of prejudgment possession and use for said public uses and purposes as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
EXHIBIT “A”

Salida Boulevard
TCE
APN 135-029-049

Legal Description:

A parcel of land lying in the southeast one-quarter of Section 3, Township 3 South, Range 8 East, Mount Diablo Meridian, in the County of Stanislaus, State of California, and being all that portion of PARCEL 2 as shown on that certain PARCEL MAP filed August 13, 1997 in Book 48 of PARCEL MAPS, Page 43, Stanislaus County Records, more particularly described by metes and bounds as follows:

Beginning at the most southerly corner of said PARCEL 2, said point being the True Point of Beginning;

Thence from said True Point of Beginning, NORTH 43°07'01” WEST 48.80 feet along the southwesterly line of said PARCEL 2;

Thence departing from said southwesterly line NORTH 46°52'59” EAST 20.00 feet;

Thence SOUTH 43°07'01” EAST 34.90 feet;

Thence SOUTH 46°52'59” WEST 5.00 feet;

Thence SOUTH 43°07'01” EAST 13.90 feet to a point on the southeasterly line of said PARCEL 2;

Thence SOUTH 46°52'59” WEST 15.00 feet along said southeasterly line to the True Point of Beginning.

Containing 907 square feet (0.0208 Acres) more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, ZONE 3, NAD83 adjusted to the 2007.00 epoch of Monuments “HPGN D CA 10 HG”, “HPGN D CA 10 JL” and “HPGN CA 10 04”. All distances are Ground distances. To convert to grid distances apply the combined factor of 0.9999311249.

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

[Signature]

Dated 2/22/12

[License Seal]
EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT

LINE TABLE

LINE  DIRECTION  LENGTH
L1  S46°52'59"W  5.00'

APN 135-029-049
PARCEL 2
48 PM 43

BASIS OF BEARINGS: CALIFORNIA STATE PLANE COORDINATE SYSTEM, ZONE 3, NAD83, adjusted to the 2007.00 epoch of Monuments "HPGN D 10 HG", "HPGN D CA JL" and "HPGN CA 10 04". All distances are Ground distances. To convert to grid distances apply the combined factor of 0.9999311249.

PELANDALE
STANISLAUS COUNTY  APN: 135-029-049
STATE OF CALIFORNIA  PARCEL NO.

CHECKED BY: TF  PREPARED BY: RJ  SHEET 1 OF 1
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE
THE ACQUISITION OF CERTAIN REAL PROPERTY AND DIRECTING THE
FILING OF EMINENT DOMAIN PROCEEDINGS: STATE ROUTE 99 /
PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT:
ASSESSOR’S PARCEL NUMBER: 135-029-051. PROPERTY OWNERS:
ROGER A. FLORES AND CAROL E. FLORES AS TRUSTEES OF THE ROGER
A. OR CAROL E. FLORES TRUST DATED 3/10/1981, JULIANNE M. POLATI –
4300 SALIDA BOULEVARD, SALIDA, STANISLAUS COUNTY, CALIFORNIA

WHEREAS, the purpose of the State Route 99/Pelandale Avenue Interchange
Construction Project ("Project") is to replace and expand the Pelandale Avenue
Interchange on State Route ("SR") 99 in order to mitigate existing interchange
operational and safety deficiencies, including without limitation: (1) widening,
reconstructing, and relocating an existing operationally inadequate bridge structure across
SR 99; (2) ramp modifications to lessen congestion and improve operational efficiency of
SR 99 and surrounding local roads, including Pelandale Avenue, Sisk Road and Salida
Avenue; (3) pedestrian crossings and upgrades to meet standards of the Americans with
Disabilities Act, as well as, improving traffic conditions, levels of service and
accommodate projected increases in regional and local traffic; and

WHEREAS, the Project is consistent with the adopted General Plan of the City of
Modesto and the State Route 99 Transportation Concept Plan; and

WHEREAS, improvement of said interchange will require acquisition of right-of-
way for State Highway and related local road purposes, and

WHEREAS, California Streets and Highway Code Section 130 authorizes Caltrans
and the City of Modesto to enter into a contract regarding the acquisition, construction,
improvement and/or maintenance of any State Route; and
WHEREAS, on February 22, 2011, the City Council of City of Modesto adopted Resolution 2011-64 authorizing the City Manager to execute a co-operative agreement between City of Modesto and California Department of Transportation ("Caltrans") for acquisition of right-of-way for construction of the Project improvements and for the City of Modesto to hear Resolutions of Necessity; and

WHEREAS, on June 9, 2011, the City of Modesto and Caltrans entered into a Co-operative Agreement ("District Agreement 10-322"); and

WHEREAS, after extensive public scoping of nineteen (19) interchange alternatives, in addition to a "No Build" alternative, Caltrans approved the Initial Study with Mitigated Negative Declaration on September 28, 2009 selecting the preferred alternative for the Project; and

WHEREAS, the selection of the preferred alternative set the Right-of-Way requirements for implementation of the Project; and

WHEREAS, the real property described herein and to be acquired is within the Project area; and

WHEREAS, it is desirable and necessary for the City of Modesto’s SR 99/Pelandale Avenue Interchange Reconstruction Project to acquire a twelve month temporary construction easement to Assessor’s Parcel Number 135-029-051, also known as 4300 Salida Boulevard in the County of Stanislaus, California, as more particularly described in Exhibit "A" and depicted in Exhibit "B" attached hereto and made part of this Resolution and referred to as the “Subject Property”; and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution
of the State of California; California Code of Civil Procedure sections 1240.010 - 1240.050, 1240.110, 1240.120, 1240.150, 1240.350, 1240.510, 1250.610; California Government Code sections 37350.5, 37353, 39792, 38900, 40401 and 40404; Pelandale Avenue Joint Powers Agreement dated December 6, 2005 between the City of Modesto and the County of Stanislaus; Approval of the Consent by Stanislaus County to Allow Right-of-Way Acquisition by the City of Modesto, Item No. 2011-568, dated October 4, 2011; Consent signed by the County to Allow Right-of-Way Acquisition by the City of Modesto (in the County for the Project) dated October 5, 2011 and February 28, 2012; Modesto City Council Resolution No. 2011-064, dated February 22, 2011; the Cooperative Agreement between the California State Department of Transportation and the City of Modesto dated June 9, 2011 (District Agreement 10-322); and, California Streets and Highways Code section 10102; and

WHEREAS, pursuant to Code of Civil Procedure Section 1245.235, the City of Modesto provided the owners of the Subject Property, a copy of the “Notice of Intent to Adopt resolution of Necessity” informing them of the date and time any interested person could be heard before the City Council, on the following matters, and to have the City Council give consideration to testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity to commence eminent domain proceedings:

(a) Whether the public interest and necessity require the Project;

(b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;

(c) Whether the property sought to be acquired is necessary for the Project;

(d) Whether the property is being acquired for a compatible use under Code of Civil Procedure section 1240.510 in that the City’s use of the property will
not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future;

(e) Whether the property is being acquired for a more necessary public use under Code of Civil Procedure 1240.610 in that the City's use is a more necessary public use than the use to which the property is appropriated or could be appropriated; and

(f) Whether the offer required by Government Code Section 7267.2 has been made to the owner of record.

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto made a written offer to the property owners to acquire the Subject Property for just compensation and provided same with an appraisal summary statement; and

WHEREAS, Caltrans and the City of Modesto have satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project; and

WHEREAS, Caltrans authorized and approved the City of Modesto to hear Resolutions of Necessity for acquisitions of right-of-way for the Project; and

WHEREAS, on February 28, 2012, the County of Stanislaus authorized and approved the City of Modesto to acquire right-of-way in the County; and

WHEREAS, a hearing was held on May 22, 2012, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which the City Council considered this matter as an item placed on its agenda at its regular meeting; and

WHEREAS, all the findings and conclusions made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information in this Resolution; and
WHEREAS, prior to taking action, the City Council has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including each of the Project-related documents relevant to the adoption of this Resolution, including but not limited to, the General Plans of the City of Modesto and the County of Stanislaus, the Environmental Documents including without limitation, the Initial Study with Mitigated Negative Declaration, the Staff Report and all documents incorporated therein, and all oral and written evidence presented to it during all meetings and hearings regarding this Project; and

WHEREAS, the City Council has endeavored in good faith to consider the pros and cons of the issue before it; and

WHEREAS, all other legal prerequisites to the adoption of the Resolution have occurred.

NOW, THEREFORE, IT IS FOUND, DETERMINED, AND RESOLVED by the City of Modesto as follows:

1. The above recitals are true and correct and are matters on which these findings are based.

2. The public interest and necessity require the Project.

3. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.

4. The taking of the twelve month temporary construction easement in and to the real property as more particularly described in Exhibit "A" and depicted in Exhibit "B" is necessary for the Project.

5. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner of record of the real property.
6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure section 1240.510 in that the City’s use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public uses as they now exist or may reasonably be expected to exist in the future.

7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure section 1240.610 in that the City’s use of the Subject Property is a more necessary public use than the use to which the property is appropriated now or may be appropriated to in the future.

8. Special Counsel, Meyers, Nave, Riback, Silver & Wilson, is hereby authorized, empowered and directed to acquire, in the name of City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation to the State Treasurer’s Condemnation Fund based on an appraisal and apply to the Court for an order of prejudgment possession and use for said public uses and purposes as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Muratore, 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: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
EXHIBIT “A”

Salida Boulevard
TCE
APN 135-029-051

Legal Description:

A parcel of land lying in the southeast one-quarter of Section 3, Township 3 South, Range 8 East, Mount Diablo Meridian, in the County of Stanislaus, State of California, and being all that portion of PARCEL 1 as shown on that certain PARCEL MAP filed May 6, 1997 in Book 48 of PARCEL MAPS, Page 22, Stanislaus County Records, more particularly described by metes and bounds as follows:

Beginning at the most westerly corner of said PARCEL 1, said point being the True Point of Beginning;
Thence from said True Point of Beginning, NORTH 46°52′59″ EAST 15.00 feet along the northwesterly line of said PARCEL 1;
Thence departing from said northwesterly line SOUTH 43°07′01″ EAST 120.00 feet;
Thence NORTH 46°52′59″ EAST 5.00 feet;
Thence SOUTH 43°07′01″ EAST 30.99 feet to a point on the southeasterly line of said PARCEL 1;
Thence SOUTH 46°52′59″ WEST 20.00 feet along said southeasterly line to the most southerly corner of said PARCEL 1;
Thence NORTH 43°07′01″ WEST 151.00 feet along the southwesterly line of said PARCEL 1 to the True Point of Beginning.

Containing 2,420 square feet (0.0556 Acres) more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, ZONE 3, NAD83 adjusted to the 2007.00 epoch of Monuments “HPGN D CA 10 HG”, “HPGN D CA 10 JL” and “HPGN CA 10 04”. All distances are Ground distances. To convert to grid distances apply the combined factor of 0.9999311249.

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

Dated 2/24/12
Basis of bearings: California State Plane Coordinate System, Zone 3, NAD83, adjusted to the 2007.00 epoch of Monuments "HPGN D 10 HG", "HPGN D CA JL" and "HPGN CA 10 04". All distances are ground distances. To convert to grid distances apply the combined factor of 0.9999311249.
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE
THE ACQUISITION OF CERTAIN REAL PROPERTY AND DIRECTING THE
FILING OF EMINENT DOMAIN PROCEEDINGS: STATE ROUTE
99/PELANDELE AVENUE INTERCHANGE RECONSTRUCTION PROJECT.
ASSESSOR’S PARCEL NUMBER: 135-029-037 – PROPERTY OWNER:
MCDONALD’S CORPORATION / 4230 SALIDA BOULEVARD, SALIDA,
STANISLAUS COUNTY, CALIFORNIA

WHEREAS, the purpose of the State Route 99/Pelandale Avenue Interchange
Construction Project ("Project") is to replace and expand the Pelandale Avenue
Interchange on State Route ("SR") 99 in order to mitigate existing interchange
operational and safety deficiencies, including without limitation: (1) widening,
reconstructing, and relocating an existing operationally inadequate bridge structure across
SR 99; (2) ramp modifications to lessen congestion and improve operational efficiency of
SR 99 and surrounding local roads, including Pelandale Avenue, Sisk Road and Salida
Avenue; (3) pedestrian crossings and upgrades to meet standards of the Americans with Disabilities Act, as well as, improving traffic conditions, levels of service and
accommodate projected increases in regional and local traffic; and

WHEREAS, the Project is consistent with the adopted General Plan of the City of
Modesto and the State Route 99 Transportation Concept Plan; and

WHEREAS, improvement of said interchange will require acquisition of right-of-
way for State Highway and related local road purposes, and

WHEREAS, California Streets and Highway Code Section 130 authorizes Caltrans
and the City of Modesto to enter into a contract regarding the acquisition, construction,
improvement and/or maintenance of any State Route; and
WHEREAS, on February 22, 2011, the City Council of City of Modesto adopted Resolution 2011-64 authorizing the City Manager to execute a co-operative agreement between City of Modesto and California Department of Transportation ("Caltrans") for acquisition of right-of-way for construction of the Project improvements and for the City of Modesto to hear Resolutions of Necessity; and

WHEREAS, on June 9, 2011, the City of Modesto and Caltrans entered into a Co-operative Agreement ("District Agreement 10-322"); and

WHEREAS, after extensive public scoping of nineteen (19) interchange alternatives, in addition to a "No Build" alternative, Caltrans approved the Initial Study with Mitigated Negative Declaration on September 28, 2009 selecting the preferred alternative for the Project; and

WHEREAS, the selection of the preferred alternative set the Right-of-Way requirements for implementation of the Project; and

WHEREAS, the real property described herein and to be acquired is within the Project area; and

WHEREAS, it is desirable and necessary for the City of Modesto’s SR 99/Pelandale Avenue Interchange Reconstruction Project to acquire a twelve month temporary construction easement to Assessor’s Parcel Number 135-029-037, also known as 4230 Salida Boulevard in the County of Stanislaus, California, as more particularly described in Exhibit “A” and depicted in Exhibit “B” attached hereto and made part of this Resolution and referred to as the “Subject Property”; and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution
of the State of California; California Code of Civil Procedure sections 1240.010 -
1240.050, 1240.110, 1240.120, 1240.150, 1240.350, 1240.510, 1250.610; California
Government Code sections 37350.5, 37353, 39792, 38900, 40401 and 40404; Pelandale
Avenue Joint Powers Agreement dated December 6, 2005 between the City of Modesto
and the County of Stanislaus; Approval of the Consent by Stanislaus County to Allow
Right-of-Way Acquisition by the City of Modesto, Item No. 2011-568, dated October 4,
2011; Consent signed by the County to Allow Right-of-Way Acquisition by the City of
Modesto (in the County for the Project) dated October 5, 2011 and February 28, 2012;
Modesto City Council Resolution No. 2011-064, dated February 22, 2011; the
Cooperative Agreement between the California State Department of Transportation and
the City of Modesto dated June 9, 2011 (District Agreement 10-322); and, California
Streets and Highways Code section 10102; and

WHEREAS, pursuant to Code of Civil Procedure Section 1245.235, the City of
Modesto provided the owner of the Subject Property, a copy of the “Notice of Intent to
Adopt resolution of Necessity” informing it of the date and time any interested person
could be heard before the City Council, on the following matters, and to have the City
Council give consideration to testimony prior to deciding whether or not to adopt the
proposed Resolution of Necessity to commence eminent domain proceedings:

(a) Whether the public interest and necessity require the Project;

(b) Whether the Project is planned or located in the manner that will be most
compatible with the greatest public good and the least private injury;

(c) Whether the property sought to be acquired is necessary for the Project;
(d) Whether the property is being acquired for a compatible use under Code of Civil Procedure section 1240.510 in that the City’s use of the property will not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future;

(e) Whether the property is being acquired for a more necessary public use under Code of Civil Procedure 1240.610 in that the City’s use is a more necessary public use than the use to which the property is appropriated or could be appropriated; and

(f) Whether the offer required by Government Code Section 7267.2 has been made to the owner of record.

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto made a written offer to the property owner to acquire the Subject Property for just compensation and provided same with an appraisal summary statement; and

WHEREAS, Caltrans and the City of Modesto have satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project; and

WHEREAS, Caltrans authorized and approved the City of Modesto to hear Resolutions of Necessity for acquisitions of right-of-way for the Project; and

WHEREAS, on February 28, 2012, the County of Stanislaus authorized and approved the City of Modesto to acquire right-of-way in the County; and

WHEREAS, a hearing was held on May 22, 2012, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which the City Council considered this matter as an item placed on its agenda at its regular meeting; and

WHEREAS, all the findings and conclusions made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information in this Resolution; and
WHEREAS, prior to taking action, the City Council has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including each of the Project-related documents relevant to the adoption of this Resolution, including but not limited to, the General Plans of the City of Modesto and the County of Stanislaus, the Environmental Documents including without limitation, the Initial Study with Mitigated Negative Declaration, the Staff Report and all documents incorporated therein, and all oral and written evidence presented to it during all meetings and hearings regarding this Project; and

WHEREAS, the City Council has endeavored in good faith to consider the pros and cons of the issue before it; and

WHEREAS, all other legal prerequisites to the adoption of the Resolution have occurred.

NOW, THEREFORE, IT IS FOUND, DETERMINED, AND RESOLVED by the City of Modesto as follows:

1. The above recitals are true and correct and are matters on which these findings are based.

2. The public interest and necessity require the Project.

3. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.

4. The taking of the twelve month temporary construction easement in and to the real property as more particularly described in Exhibit “A” and depicted in Exhibit “B” is necessary for the Project.

5. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner of record of the real property.

6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure section 1240.510 in that the City’s use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public uses as they now exist or may reasonably be expected to exist in the future.

7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure section 1240.610 in that the City’s use of the
Subject Property is a more necessary public use than the use to which the property is appropriated now or may be appropriated to in the future.

8. Special Counsel, Meyers, Nave, Riback, Silver & Wilson, is hereby authorized, empowered and directed to acquire, in the name of City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation to the State Treasurer’s Condemnation Fund based on an appraisal and apply to the Court for an order of prejudgment possession and use for said public uses and purposes as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Geer, 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: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
EXHIBIT “A”

Salida Boulevard
TCE
APN 135-029-037

Legal Description:

A parcel of land lying in the southeast one-quarter of Section 3, Township 3 South, Range 8 East, Mount Diablo Meridian, in the County of Stanislaus, State of California, and being all that portion of PARCEL B as shown on that certain PARCEL MAP filed June 1, 1988 in Book 40 of PARCEL MAPS, Page 96, Stanislaus County Records, more particularly described by metes and bounds as follows:

Beginning at the most westerly corner of said PARCEL B, said point being the True Point of Beginning;

Thence from said True Point of Beginning, NORTH 46°52’59” EAST 15.00 feet along the northwesterly line of said PARCEL B;

Thence departing from said northwesterly line SOUTH 43°07’01” EAST 97.50 feet;

Thence NORTH 46°52’59” EAST 5.00 feet;

Thence SOUTH 43°07’01” EAST 52.50 feet to a point on the southeasterly line of said PARCEL B;

Thence SOUTH 46°52’59” WEST 20.00 feet along said southeasterly line to the most southerly corner of said PARCEL B;

Thence NORTH 43°07’01” WEST 150.00 feet along the southwesterly line of said PARCEL B to the True Point of Beginning.

Containing 2,513 square feet (0.0577 Acres) more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, ZONE 3, NAD83 adjusted to the 2007.00 epoch of Monuments “HPGN D CA 10 HC”, “HPGN D CA 10 JL” and “HPGN CA 10 04”. All distances are Ground distances. To convert to grid distances apply the combined factor of 0.9999311249.

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

[Signature]

Dated 2/22/12
BASIS OF BEARINGS: CALIFORNIA STATE PLANE COORDINATE SYSTEM, ZONE 3, NAD83, adjusted to the 2007.00 epoch of Monuments "HPGN CA 10 04". All distances are Ground distances. To convert to grid distances apply the combined factor of 0.9999311249.

PELANDALE

STANISLAUS COUNTY
STATE OF CALIFORNIA

DATE: 2/22/12
APN: 135-029-037
PARCEL NO.----

CHECKED BY: TF
PREPARED BY: RJ
SHEET 1 OF 1
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE
THE ACQUISITION OF CERTAIN REAL PROPERTY AND DIRECTING THE
FILING OF EMINENT DOMAIN PROCEEDINGS: STATE ROUTE
99/PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT.
ASSSESSOR'S PARCEL NUMBER: 135-029-036, PROPERTY OWNERS: JOGA
S. MINHAUS AND SURINDER K. MINHAUS, 4224 SALIDA BOULEVARD,
SALIDA, STANISLAUS COUNTY, CALIFORNIA

WHEREAS, the purpose of the State Route 99/Pelandale Avenue Interchange
Construction Project ("Project") is to replace and expand the Pelandale Avenue
Interchange on State Route ("SR") 99 in order to mitigate existing interchange
operational and safety deficiencies, including without limitation: (1) widening,
reconstructing, and relocating an existing operationally inadequate bridge structure across
SR 99; (2) ramp modifications to lessen congestion and improve operational efficiency of
SR 99 and surrounding local roads, including Pelandale Avenue, Sisk Road and Salida
Avenue; (3) pedestrian crossings and upgrades to meet standards of the Americans with
Disabilities Act, as well as, improving traffic conditions, levels of service and
accommodate projected increases in regional and local traffic; and

WHEREAS, the Project is consistent with the adopted General Plan of the City of
Modesto and the State Route 99 Transportation Concept Plan; and

WHEREAS, improvement of said interchange will require acquisition of right-of-
way for State Highway and related local road purposes, and

WHEREAS, California Streets and Highway Code Section 130 authorizes Caltrans
and the City of Modesto to enter into a contract regarding the acquisition, construction,
 improvement and/or maintenance of any State Route; and
WHEREAS, on February 22, 2011, the City Council of City of Modesto adopted Resolution 2011-64 authorizing the City Manager to execute a co-operative agreement between City of Modesto and California Department of Transportation ("Caltrans") for acquisition of right-of-way for construction of the Project improvements and for the City of Modesto to hear Resolutions of Necessity; and

WHEREAS, on June 9, 2011, the City of Modesto and Caltrans entered into a Co-operative Agreement ("District Agreement 10-322"); and

WHEREAS, after extensive public scoping of nineteen (19) interchange alternatives, in addition to a "No Build" alternative, Caltrans approved the Initial Study with Mitigated Negative Declaration on September 28, 2009 selecting the preferred alternative for the Project; and

WHEREAS, the selection of the preferred alternative set the Right-of-Way requirements for implementation of the Project; and

WHEREAS, the real property described herein and to be acquired is within the Project area; and

WHEREAS, it is desirable and necessary for the City of Modesto’s SR 99/Pelandale Avenue Interchange Reconstruction Project to acquire a twelve month temporary construction easement to Assessor’s Parcel Number 135-029-036, also known as 4224 Salida Boulevard in the County of Stanislaus, California, as more particularly described in Exhibit “A” and depicted in Exhibit “B” attached hereto and made part of this Resolution and referred to as the “Subject Property”; and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution
of the State of California; California Code of Civil Procedure sections 1240.010 - 1240.050, 1240.110, 1240.120, 1240.150, 1240.350, 1240.510, 1250.610; California Government Code sections 37350.5, 37353, 39792, 38900, 40401 and 40404; Pelandale Avenue Joint Powers Agreement dated December 6, 2005 between the City of Modesto and the County of Stanislaus; Approval of the Consent by Stanislaus County to Allow Right-of-Way Acquisition by the City of Modesto, Item No. 2011-568, dated October 4, 2011; Consent signed by the County to Allow Right-of-Way Acquisition by the City of Modesto (in the County for the Project) dated October 5, 2011 and February 28, 2012; Modesto City Council Resolution No. 2011-064, dated February 22, 2011; the Cooperative Agreement between the California State Department of Transportation and the City of Modesto dated June 9, 2011 (District Agreement 10-322); and, California Streets and Highways Code section 10102; and

WHEREAS, pursuant to Code of Civil Procedure Section 1245.235, the City of Modesto provided the owners of the Subject Property, a copy of the “Notice of Intent to Adopt resolution of Necessity” informing them of the date and time any interested person could be heard before the City Council, on the following matters, and to have the City Council give consideration to testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity to commence eminent domain proceedings:

(a) Whether the public interest and necessity require the Project;

(b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;

(c) Whether the property sought to be acquired is necessary for the Project;

(d) Whether the property is being acquired for a compatible use under Code of Civil Procedure section 1240.510 in that the City’s use of the property will
not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future;

(e) Whether the property is being acquired for a more necessary public use under Code of Civil Procedure 1240.610 in that the City's use is a more necessary public use than the use to which the property is appropriated or could be appropriated; and

(f) Whether the offer required by Government Code Section 7267.2 has been made to the owner of record.

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto made a written offer to the property owners to acquire the Subject Property for just compensation and provided same with an appraisal summary statement; and

WHEREAS, Caltrans and the City of Modesto have satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project; and

WHEREAS, Caltrans authorized and approved the City of Modesto to hear Resolutions of Necessity for acquisitions of right-of-way for the Project; and

WHEREAS, on February 28, 2012, the County of Stanislaus authorized and approved the City of Modesto to acquire right-of-way in the County; and

WHEREAS, a hearing was held on May 22, 2012, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which the City Council considered this matter as an item placed on its agenda at its regular meeting; and

WHEREAS, all the findings and conclusions made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information in this Resolution; and
WHEREAS, prior to taking action, the City Council has heard, been presented
with, reviewed and considered all of the information and data in the administrative
record, including each of the Project-related documents relevant to the adoption of this
Resolution, including but not limited to, the General Plans of the City of Modesto and the
County of Stanislaus, the Environmental Documents including without limitation, the
Initial Study with Mitigated Negative Declaration, the Staff Report and all documents
incorporated therein, and all oral and written evidence presented to it during all meetings
and hearings regarding this Project; and

WHEREAS, the City Council has endeavored in good faith to consider the pros
and cons of the issue before it; and

WHEREAS, all other legal prerequisites to the adoption of the Resolution have
occurred.

NOW, THEREFORE, IT IS FOUND, DETERMINED, AND RESOLVED by the
City of Modesto as follows:

1. The above recitals are true and correct and are matters on which these findings
   are based.

2. The public interest and necessity require the Project.

3. The Project is planned and located in the manner which will be most
   compatible with the greatest public good and the least private injury.

4. The taking of the twelve month temporary construction easement in and to the
   real property as more particularly described in Exhibit “A” and depicted in
   Exhibit “B” is necessary for the Project.

5. The offer required by Section 7267.2 of the Government Code of the State of
   California has been made to the owner of record of the real property.

6. The Subject Property is being acquired for a compatible use under California
   Code of Civil Procedure section 1240.510 in that the City’s use of the Subject
   Property will not interfere with or impair the continued use of the Subject
Property for public uses as they now exist or may reasonably be expected to exist in the future.

7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure section 1240.610 in that the City’s use of the Subject Property is a more necessary public use than the use to which the property is appropriated now or may be appropriated to in the future.

8. Special Counsel, Meyers, Nave, Riback, Silver & Wilson, is hereby authorized, empowered and directed to acquire, in the name of City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation to the State Treasurer’s Condemnation Fund based on an appraisal and apply to the Court for an order of prejudgment possession and use for said public uses and purposes as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
TEMPORARY CONSTRUCTION EASEMENT

JOGA S. MINHAS AND SURINDER K. MINHAS, HUSBAND AND WIFE AS JOINT TENANTS, ("OWNER") grant(s) to the CITY OF MODESTO ("CITY"), a municipal corporation, an exclusive temporary construction easement over, upon and across all that real property in the County of Stanislaus, State of California, described in Exhibit “A” and Exhibit “B” attached hereto and made a part hereof.

This Temporary Construction Easement (TCE) shall be for the purpose of construction activities related to the Pendale Avenue / Hwy 99 Interchange Project. Under this TCE, CITY’s use of the TCE Area shall be exclusive. As a result, CITY, from time to time, may erect and maintain temporary fences and may exclude persons or other uses of all or a portion of the TCE Area if, in CITY’s sole discretion, the presence of said persons or other uses would be hazardous or would hinder CITY’s activities related to the Project.

Said easement shall be for a period of twelve (12) months from the date the contractor enters the easement and end no later than the completion of construction within the Highway Project, or twelve (12) months, whichever occurs first. Upon termination of the Easement, the CITY shall execute and deliver to Grantor a quitclaim deed reciting the fact of termination of said grant of easement. Recordation of notice of the quitclaim deed shall serve as conclusive evidence of the termination of the grant of the temporary construction easement.

OWNER:  

DATE: 3/30/12

Joga S. Minhas

Surinder K. Minhas
EXHIBIT "A"

Salida Boulevard
TCE
APN 135-029-036

Legal Description:

A parcel of land lying in the southeast one-quarter of Section 3, Township 3 South, Range 8 East, Mount Diablo Meridian, in the County of Stanislaus, State of California, and being all that portion of PARCEL C as shown on that certain PARCEL MAP filed June 1, 1988 in Book 40 of PARCEL MAPS, Page 96, Stanislaus County Records, more particularly described by metes and bounds as follows:

Beginning at the most westerly corner of said PARCEL C, said point being the True Point of Beginning;

Thence from said True Point of Beginning, NORTH 46°52'59" EAST 20.00 feet along the northwesterly line of said PARCEL C;

Thence departing from said northwesterly line SOUTH 43°07'01" EAST 111.45 feet to a point on the southwesterly line of said PARCEL C;

Thence northwesterly along said southwesterly line the following 2 (two) courses; (1) NORTH 61°08'39" WEST 64.63 feet to an angle point in said southwesterly line, and (2) NORTH 43°07'01" WEST 50.00 feet to the True Point of Beginning.

Containing 1,615 square feet (0.0371 Acres) more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, ZONE 3, NAD83 adjusted to the 2007.00 epoch of Monuments "HPGN D CA 10 HG", "HPGN D CA 10 JL" and "HPGN CA 10 04". All distances are Ground distances. To convert to grid distances apply the combined factor of 0.9999311249.

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

Dated
EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT

APN 135-029-036
PARCEL "C"
40 PM 96

STATE HIGHWAY 99

PELANDALE AVENUE

DOKKEN
ENGINEERING

DATE: 2/22/12
APN: 135-029-036
PARCEL NO.

CHECKED BY: TF
PREPARED BY: RJ
SHEET 1 OF 1
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF STANISLAUS

On 3/30/2012 before me, Deryl L. Neal, Notary Public,

personally appeared Joga S. Minhas and Surinder K. Minhas

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary

DERYL L. NEAL
COMM. #1835778
Notary Public - California
Sacramento County
My Comm. Expires Feb. 9, 2013

OPTIONAL SECTION

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

☐ INDIVIDUAL
☐ CORPORATE OFFICER(S)

Title(s)

☐ PARTNER(S) ☐ LIMITED
☐ GENERAL

☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER:

SIGNER IS REPRESENTING:
Name of Person(s) or entity(ies)

OPTIONAL SECTION

TITLE OR TYPE OF DOCUMENT:

DATA REQUESTED HERE IS NOT REQUIRED BY LAW.

NUMBER OF PAGES DATE

SIGNER(S) OTHER THAN NAMED ABOVE
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-195

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
determining that the public interest and necessity require
the acquisition of certain real property and directing the
filing of eminent domain proceedings: State Route 99 /
Pelandale Avenue Interchange Reconstruction Project.
Assessor’s Parcel Number: 135-029-039. Okada Bros., Inc.,
Property Owner, Property Address: 4201 Sisk Road, Modesto,
Stanislaus County, California

Whereas, the purpose of the State Route 99/Pelandale Avenue Interchange
Construction Project (“Project”) is to replace and expand the Pelandale Avenue
Interchange on State Route (“SR”) 99 in order to mitigate existing interchange
operational and safety deficiencies, including without limitation: (1) widening,
reconstructing, and relocating an existing operationally inadequate bridge structure across
SR 99; (2) ramp modifications to lessen congestion and improve operational efficiency of
SR 99 and surrounding local roads, including Pelandale Avenue, Sisk Road and Salida
Avenue; (3) pedestrian crossings and upgrades to meet standards of the Americans with
Disabilities Act, as well as, improving traffic conditions, levels of service and
accommodate projected increases in regional and local traffic; and

Whereas, the Project is consistent with the adopted General Plan of the City of
Modesto and the State Route 99 Transportation Concept Plan; and

Whereas, improvement of said interchange will require acquisition of right-of-
way for State Highway and related local road purposes, and

Whereas, California Streets and Highway Code Section 130 authorizes Caltrans
and the City of Modesto to enter into a contract regarding the acquisition, construction,
improvement and/or maintenance of any State Route; and
WHEREAS, on February 22, 2011, the City Council of City of Modesto adopted Resolution 2011-64 authorizing the City Manager to execute a co-operative agreement between City of Modesto and California Department of Transportation ("Caltrans") for acquisition of right-of-way for construction of the Project improvements and for the City of Modesto to hear Resolutions of Necessity; and

WHEREAS, on June 9, 2011, the City of Modesto and Caltrans entered into a Co-operative Agreement ("District Agreement 10-322"); and

WHEREAS, after extensive public scoping of nineteen (19) interchange alternatives, in addition to a "No Build" alternative, Caltrans approved the Initial Study with Mitigated Negative Declaration on September 28, 2009 selecting the preferred alternative for the Project; and

WHEREAS, the selection of the preferred alternative set the Right-of-Way requirements for implementation of the Project; and

WHEREAS, the real property described herein and to be acquired is within the Project area; and

WHEREAS, it is desirable and necessary for the City of Modesto’s SR 99/Pelandale Avenue Interchange Reconstruction Project to acquire fee title together with all improvements situated thereon, together with all rights appurtenant thereto, to Assessor’s Parcel Number 135-029-039, known as 4201 Sisk Road, Modesto, County of Stanislaus, California, as more particularly described in Exhibit “A” and depicted in Exhibit “B” attached hereto and made part of this Resolution and referred to as the “Subject Property”; and
WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution of the State of California; California Code of Civil Procedure sections 1240.010 - 1240.050, 1240.110, 1240.120, 1240.150, 1240.350, 1240.510, 1250.610; California Government Code sections 37350.5, 37353, 39792, 38900, 40401 and 40404; Pelandale Avenue Joint Powers Agreement dated December 6, 2005 between the City of Modesto and the County of Stanislaus; Approval of the Consent by Stanislaus County to Allow Right-of-Way Acquisition by the City of Modesto, Item No. 2011-568, dated October 4, 2011; Consent signed by the County to Allow Right-of-Way Acquisition by the City of Modesto (in the County for the Project) dated October 5, 2011 and February 28, 2012; Modesto City Council Resolution No. 2011-064, dated February 22, 2011; the Cooperative Agreement between the California State Department of Transportation and the City of Modesto dated June 9, 2011 (District Agreement 10-322); and, California Streets and Highways Code section 10102; and

WHEREAS, pursuant to Code of Civil Procedure Section 1245.235, the City of Modesto provided the owner of the Subject Property, a copy of the “Notice of Intent to Adopt resolution of Necessity” informing it of the date and time any interested person could be heard before the City Council, on the following matters, and to have the City Council give consideration to testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity to commence eminent domain proceedings:

(a) Whether the public interest and necessity require the Project;

(b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;

(c) Whether the property sought to be acquired is necessary for the Project;
(d) Whether the property is being acquired for a compatible use under Code of
Civil Procedure section 1240.510 in that the City's use of the property will
not interfere with or impair the continued public use as it now exists or
may reasonably be expected to exist in the future;

(e) Whether the property is being acquired for a more necessary public use
under Code of Civil Procedure 1240.610 in that the City's use is a more
necessary public use than the use to which the property is appropriated or
could be appropriated; and

(f) Whether the offer required by Government Code Section 7267.2 has been
made to the owner of record.

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government
Code of the State of California, the City of Modesto made a written offer to Okada Bros.
Inc., to acquire the Subject Property for just compensation and provided same with an
appraisal summary statement; and

WHEREAS, Caltrans and the City of Modesto have satisfied the provisions and
complied with all requirements of the California Environmental Quality Act ("CEQA")
for the Project; and

WHEREAS, Caltrans authorized and approved the City of Modesto to hear
Resolutions of Necessity for acquisitions of right-of-way for the Project; and

WHEREAS, a hearing was held on May 22, 2012, at 5:30 p.m. in the Tenth Street
Place Chambers located at 1010 Tenth Street, Modesto, California, at which the City
Council considered this matter as an item placed on its agenda at its regular meeting; and

WHEREAS, all the findings and conclusions made by the City Council pursuant
to this Resolution are based upon substantial evidence in the entire record before the City
Council, and are not based solely on the information in this Resolution; and

WHEREAS, prior to taking action, the City Council has heard, been presented
with, reviewed and considered all of the information and data in the administrative
record, including each of the Project-related documents relevant to the adoption of this Resolution, including but not limited to, the General Plans of the City of Modesto and the County of Stanislaus, the Environmental Documents including without limitation, the Initial Study with Mitigated Negative Declaration, the Staff Report and all documents incorporated therein, and all oral and written evidence presented to it during all meetings and hearings regarding this Project; and

WHEREAS, the City Council has endeavored in good faith to consider the pros and cons of the issue before it; and

WHEREAS, all other legal prerequisites to the adoption of the Resolution have occurred.

NOW, THEREFORE, IT IS FOUND, DETERMINED, AND RESOLVED by the City of Modesto as follows:

1. The above recitals are true and correct and are matters on which these findings are based.

2. The public interest and necessity require the Project.

3. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.

4. The taking of the fee simple title in and to the real property as more particularly described in Exhibit “A” and depicted in Exhibit “B” is necessary for the Project.

5. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner of record of the real property.

6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure section 1240.510 in that the City’s use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public uses as they now exist or may reasonably be expected to exist in the future.
7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure section 1240.610 in that the City's use of the Subject Property is a more necessary public use than the use to which the property is appropriated now or may be appropriated to in the future.

8. Special Counsel, Meyers, Nave, Riback, Silver & Wilson, is hereby authorized, empowered and directed to acquire, in the name of City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation to the State Treasurer's Condemnation Fund based on an appraisal and apply to the Court for an order of prejudgment possession and use for said public uses and purposes as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST:  

SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

All of Parcel 2 as shown on that certain parcel map filed for record January 12, 1990 in Book 42 of Parcel Maps, at Page 70, Stanislaus County Records excepting therefrom all of that certain Grant Deed to the City of Modesto described in Document 2008-0045573 Stanislaus County Records. Located in the City of Modesto, Stanislaus County, State of California more particularly described as follows:

Beginning at the most northerly corner of Parcel 2 as shown on said Parcel Map, said point also being on the westerly right of way of Sisk Road thence from the point of beginning along a non tangent curve to the right having a radius of 560.00 feet, to which a radial lines bears North 49°49'24" East; thence coincident with the right of way of Sisk Road along said curve 165.80 feet through a central angle of 16°57'51" to a point on the northerly line of that certain Grant Deed to the City of Modesto described in document 2008-0045573 Stanislaus County Records and being the beginning of a non tangent curve to the right having a radius of 47.00 feet, to which a radial lines bears North 67°42'45" East; thence coincident with the northerly line of said Grant Deed the following (6) courses (1) along said curve 46.49 feet through a central angle of 56°40'42"; thence (2) North 55°36'33" West 2.10 feet to the beginning of a non tangent curve to the left having a radius of 45.00 feet, to which a radial lines bears South 55°36'34" East; thence (3) along said curve 42.24 feet through a central angle of 53°46'47"; thence (4) South 88°10'13" West 13.17 feet; thence (5) North 59°17'47" West 51.12 feet; thence (6) South 30°40'52" West 6.40 feet to the easterly right of way of State Highway 99 as shown on said Parcel Map; thence coincident with said easterly right of way also being the westerly line of said Parcel 2 the following two (2) courses; (1) North 59°17'47" West 14.43 feet to the beginning of a non tangent curve to the left having a radius of 865.00 feet, to which a radial bearing bears North 70°11'47" East; thence (2) along said curve 54.17 feet through a central angle of 03°35'17" thence leaving said State Highway 99 right of way and coincident with the northerly line of said parcel 2 the following (3) courses (1) North 58°04'13" East 32.59 feet; thence (2) North 31°55'45" West 81.00 feet; thence (3) North 58°04'15" East 74.54 feet to the POINT OF BEGINNING.

Containing 0.42 acres, more or less.
Exhibit B attached herewith and made a part hereof.

The Basis of Bearings for this map is the California State Plane Coordinate System, zone 3, North American Datum 1983 adjusted to the 2007.00 epoch, holding monuments "HPGN D CA 10 HG", "HPGN D CA 10 JL" and "HPGN CA 10 04". To obtain ground values apply the combination factor of 1.000068880.

Prepared by: 
Jacobs
Shannon K. Conaway, PLS 7537
License Expires 12-31-2013 
Date: 4-27-2012
EXHIBIT "B"
RIGHT OF WAY ACQUISITION

PARCEL 1
42 PM 70

PARCEL 2
42 PM 70

PELEDNALE AVENUE

LINE TABLE

<table>
<thead>
<tr>
<th>LINE</th>
<th>DIRECTION</th>
<th>LENGTH</th>
</tr>
</thead>
<tbody>
<tr>
<td>L1</td>
<td>N55°36'33&quot;W</td>
<td>2.10'</td>
</tr>
<tr>
<td>L2</td>
<td>S30°40'52&quot;W</td>
<td>6.40'</td>
</tr>
</tbody>
</table>

PARCEL 1
0.42 Acres
18,421 Sq. Ft.

PARCEL 2

SHANNON CONAWAY
No. 7537
Exp. 12-31-13
LICENSED LAND SURVEYOR
STATE OF CALIFORNIA

JACOBS
180 Promenade Circle, Suite 300 Sacramento, CA 95834
Phone (916) 929-3323 Fax (916) 929-1772

RIGHT OF WAY ACQUISITION
PELEDNALE INTERCHANGE
CITY OF MODESTO

1" = 80'

Name: LOT 4

End North: 2078133.00'       East: 6396915.67'

Segment #1 : Curve

Length: 165.80'       Radius: 560.00'
Delta: 16'57'51''       Tangent: 83.51'
Chord: 165.20'       Course: S31°41'40"E
Course In: S49°49'24"W       Course Out: N66°47'15"E
RP North: 2077771.72'       East: 6396487.79'
End North: 2077992.44'       East: 6397002.46'

Segment #2 : Curve

Length: 46.49'       Radius: 47.00'
Delta: 56°40'42"       Tangent: 25.35'
Chord: 44.62'       Course: S6°03'06"W
Course In: S67°42'45"W       Course Out: S55°36'33"E
RP North: 2077974.61'       East: 6396958.97'
End North: 2077948.07'       East: 6396997.76'

Segment #3 : Line

Course: N55°36'33"W       Length: 2.10'
North: 2077949.25'       East: 6396996.02'

Segment #4 : Curve

Length: 42.24'       Radius: 45.00'
Delta:  53°46'47''
Tangent:  22.82'
Chord:  40.70'
Course:  S61°16'50''W

Course In:  N55°36'34''W
Course Out:  S1°49'47''E

RP North:  2077974.67'
East:  6396958.89'
End North:  2077929.70'
East:  6396960.33'

Segment #5 :  Line

Course:  S88°10'13''W
Length:  13.17'
North:  2077929.28'
East:  6396947.17'

Segment #6 :  Line

Course:  N59°17'47''W
Length:  51.12'
North:  2077955.38'
East:  6396903.21'

Segment #7 :  Line

Course:  S30°40'52''W
Length:  6.40'
North:  2077949.87'
East:  6396899.95'

Segment #8 :  Line

Course:  N59°17'47''W
Length:  14.43'
North:  2077957.24'
East:  6396887.54'
Segment #9 : Curve

Length: 54.17'  Radius: 865.00'
Delta: 3°35'17"  Tangent: 27.09'
Chord: 54.16'  Course: N21°35'51"W
Course In: S70°11'47"W  Course Out: N66°36'30"E
RP North: 2077664.18'  East: 6396073.70'
End North: 2078007.60'  East: 6396867.61'

Segment #10 : Line

Course: N58°04'13"E  Length: 32.59'
North: 2078024.84'  East: 6396895.26'

Segment #11 : Line

Course: N31°55'45"W  Length: 81.00'
North: 2078093.58'  East: 6396852.43'

Segment #12 : Line

Course: N58°04'15"E  Length: 74.54'
North: 2078133.00'  East: 6396915.69'

Perimeter: 584.07'  Area: 18421 Sq. Ft.
Error Closure:  0.02  Course: N87°47'52"E
Error North:  0.001  East: 0.021
Precision 1: 29001.50

WHEREAS, the purpose of the State Route 99/Pelandale Avenue Interchange Construction Project (“Project”) is to replace and expand the Pelandale Avenue Interchange on State Route (“SR”) 99 in order to mitigate existing interchange operational and safety deficiencies, including without limitation: (1) widening, reconstructing, and relocating an existing operationally inadequate bridge structure across SR 99; (2) ramp modifications to lessen congestion and improve operational efficiency of SR 99 and surrounding local roads, including Pelandale Avenue, Sisk Road and Salida Avenue; (3) pedestrian crossings and upgrades to meet standards of the Americans with Disabilities Act, as well as, improving traffic conditions, levels of service and accommodate projected increases in regional and local traffic; and

WHEREAS, the Project is consistent with the adopted General Plan of the City of Modesto and the State Route 99 Transportation Concept Plan; and
WHEREAS, improvement of said interchange will require acquisition of right-of-way for State Highway and related local road purposes, and

WHEREAS, California Streets and Highway Code Section 130 authorizes Caltrans and the City of Modesto to enter into a contract regarding the acquisition, construction, improvement and/or maintenance of any State Route; and

WHEREAS, on February 22, 2011, the City Council of City of Modesto adopted Resolution 2011-64 authorizing the City Manager to execute a co-operative agreement between City of Modesto and California Department of Transportation ("Caltrans") for acquisition of right-of-way for construction of the Project improvements and for the City of Modesto to hear Resolutions of Necessity; and

WHEREAS, on June 9, 2011, the City of Modesto and Caltrans entered into a Co-operative Agreement ("District Agreement 10-322"); and

WHEREAS, after extensive public scoping of nineteen (19) interchange alternatives, in addition to a "No Build" alternative, Caltrans approved the Initial Study with Mitigated Negative Declaration on September 28, 2009 selecting the preferred alternative for the Project; and

WHEREAS, the selection of the preferred alternative set the Right-of-Way requirements for implementation of the Project; and

WHEREAS, the real property described herein and to be acquired is within the Project area; and

WHEREAS, it is desirable and necessary for the City of Modesto's SR 99/Pelandale Avenue Interchange Reconstruction Project to acquire fee title together with
all improvements situated thereon, together with all rights appurtenant thereto, to
Assessor’s Parcel Number 135-029-038, also known as 4259 Sisk Road in Modesto,
County of Stanislaus, California, as more particularly described in Exhibit “A” and
depicted in Exhibit “B” attached hereto and made part of this Resolution and referred to
as the “Subject Property”; and

WHEREAS, the City of Modesto is vested with the power of eminent domain to
acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution
of the State of California; California Code of Civil Procedure sections 1240.010 -
1240.050, 1240.110, 1240.120, 1240.150, 1240.350, 1240.510, 1250.610; California
Government Code sections 37350.5, 37353, 39792, 38900, 40401 and 40404; Pelandale
Avenue Joint Powers Agreement dated December 6, 2005 between the City of Modesto
and the County of Stanislaus; Approval of the Consent by Stanislaus County to Allow
Right-of-Way Acquisition by the City of Modesto, Item No. 2011-568, dated October 4,
2011; Consent signed by the County to Allow Right-of-Way Acquisition by the City of
Modesto (in the County for the Project) dated October 5, 2011 and February 28, 2012;
Modesto City Council Resolution No. 2011-064, dated February 22, 2011; the
Cooperative Agreement between the California State Department of Transportation and
the City of Modesto dated June 9, 2011 (District Agreement 10-322); and, California
Streets and Highways Code section 10102; and

WHEREAS, pursuant to Code of Civil Procedure Section 1245.235, the City of
Modesto provided the owners of the Subject Property, a copy of the “Notice of Intent to
Adopt resolution of Necessity” informing them of the date and time any interested person
could be heard before the City Council, on the following matters, and to have the City
Council give consideration to testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity to commence eminent domain proceedings:

(a) Whether the public interest and necessity require the Project;

(b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;

(c) Whether the property sought to be acquired is necessary for the Project;

(d) Whether the property is being acquired for a compatible use under Code of Civil Procedure section 1240.510 in that the City's use of the property will not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future;

(e) Whether the property is being acquired for a more necessary public use under Code of Civil Procedure 1240.610 in that the City's use is a more necessary public use than the use to which the property is appropriated or could be appropriated; and

(f) Whether the offer required by Government Code Section 7267.2 has been made to the owner of record.

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto made a written offer to the property owners to acquire the Subject Property for just compensation and provided same with an appraisal summary statement; and

WHEREAS, Caltrans and the City of Modesto have satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project; and

WHEREAS, Caltrans authorized and approved the City of Modesto to hear Resolutions of Necessity for acquisitions of right-of-way for the Project; and
WHEREAS, a hearing was held on May 22, 2012, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which the City Council considered this matter as an item placed on its agenda at its regular meeting; and

WHEREAS, all the findings and conclusions made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information in this Resolution; and

WHEREAS, prior to taking action, the City Council has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including each of the Project-related documents relevant to the adoption of this Resolution, including but not limited to, the General Plans of the City of Modesto and the County of Stanislaus, the Environmental Documents including without limitation, the Initial Study with Mitigated Negative Declaration, the Staff Report and all documents incorporated therein, and all oral and written evidence presented to it during all meetings and hearings regarding this Project; and

WHEREAS, the City Council has endeavored in good faith to consider the pros and cons of the issue before it; and

WHEREAS, all other legal prerequisites to the adoption of the Resolution have occurred.

NOW, THEREFORE, IT IS FOUND, DETERMINED, AND RESOLVED by the City of Modesto as follows:

1. The above recitals are true and correct and are matters on which these findings are based.

2. The public interest and necessity require the Project.
3. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.

4. The taking of the fee simple title in and to the real property as more particularly described in Exhibit “A” and depicted in Exhibit “B” is necessary for the Project.

5. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner of record of the real property.

6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure section 1240.510 in that the City’s use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public uses as they now exist or may reasonably be expected to exist in the future.

7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure section 1240.610 in that the City’s use of the Subject Property is a more necessary public use than the use to which the property is appropriated now or may be appropriated to in the future.

8. Special Counsel, Meyers, Nave, Riback, Silver & Wilson, is hereby authorized, empowered and directed to acquire, in the name of City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation to the State Treasurer’s Condemnation Fund based on an appraisal and apply to the Court for an order of prejudgment possession and use for said public uses and purposes as set forth herein.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Geer, 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: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

All of Parcel 1 as shown on that certain parcel map filed for record January 12, 1990 in Book 42 of Parcel Maps, at Page 70, Stanislaus County Records. Located in the City of Modesto, Stanislaus County, state of California more particularly described as follows:

Beginning at the most northerly corner of Parcel 1 as shown on said Parcel Map, said point also being on the westerly right of way of Sisk Road thence from the point of beginning along a non tangent curve to the right having a radius of 560.00 feet, to which a radial lines bears North 26°08'54" East; thence coincident with the right of way of Sisk Road as shown on said map along said curve 231.40 feet through a central angle of 23°40'30" to the most easterly corner of said Parcel 1; thence leaving said right of way coincident with the southerly line of said Parcel 1 also being the northerly line of Parcel 2 of said Parcel Map the following (3) courses (1) South 58°04'15" West 74.54 feet; (2) thence South 31°55'45" East 81.00 feet; (3) thence South 58°04'13" West 32.59 feet to the most southerly corner of said Parcel 1 and a point on the easterly right of way of State highway 99 as shown on said Parcel Map and the beginning of a non tangent curve to the left having a radius of 865.00 feet, to which a radial lines bears North 66°36'30" East; thence coincident with the right of way of State Highway 99 along said curve 278.36 feet through a central angle of 18°26'17" to the most westerly corner of said Parcel 1; thence coincident with the northwesterly line of said Parcel 1 North 26°08'54" East 37.14 feet to the POINT OF BEGINNING.

Containing 0.40 acres, more or less.
Exhibit B attached herewith and made a part hereof.

The Basis of Bearings for this map is the California State Plane Coordinate System, zone 3, North American Datum 1983 adjusted to the 2007.00 epoch, holding monuments "HPGN D CA 10 HG", "HPGN D CA 10 JL" and "HPGN CA 10 04". To obtain ground values apply the combination factor of 1.000068880.

Prepared by:
Jacobs
Shannon K. Conaway, PLS 7537
License Expires 12-31-2013
Date: 4-27-2012
Name: LOT 5

End North: 2078274.41'    East: 6396734.58'

Segment #1 : Curve

Length: 231.40'    Radius: 560.00'
Delta: 23'40'30''    Tangent: 117.37'
Chord: 229.75'    Course: S52°00'51"E
Course In: S26°08'54"W    Course Out: N49°49'24"E
RP North: 2077771.72'    East: 6396487.79'
End North: 2078133.00'    East: 6396915.67'

Segment #2 : Line

Course: S58°04'15"W    Length: 74.54'
North: 2078093.58'    East: 6396852.40'

Segment #3 : Line

Course: S31°55'45"E    Length: 81.00'
North: 2078024.84'    East: 6396895.24'

Segment #4 : Line

Course: S58°04'13"W    Length: 32.59'
North: 2078007.60'    East: 6396867.58'

Segment #5 : Curve
Length: 278.36'   Radius: 865.00'
Delta: 18°26'17"   Tangent: 140.39'
Chord: 277.16'   Course: N32°36'38"W
Course In: S66°36'30"W   Course Out: N48°10'13"E
RP North: 2077664.18'   East: 6396073.67'
End North: 2078241.07'   East: 6396718.21'

Segment #6 : Line

Course: N26°08'54"E   Length: 37.14'
North: 2078274.41'   East: 6396734.58'

Perimeter: 735.02'   Area: 17216 Sq. Ft.
Error Closure: 0.00   Course: S74°57'14"W
Error North: -0.001   East: -0.004

Precision 1: 732180000.00
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-197


WHEREAS, the purpose of the State Route 99/Pelandale Avenue Interchange Construction Project ("Project") is to replace and expand the Pelandale Avenue Interchange on State Route ("SR") 99 in order to mitigate existing interchange operational and safety deficiencies, including without limitation: (1) widening, reconstructing, and relocating an existing operationally inadequate bridge structure across SR 99; (2) ramp modifications to lessen congestion and improve operational efficiency of SR 99 and surrounding local roads, including Pelandale Avenue, Sisk Road and Salida Avenue; (3) pedestrian crossings and upgrades to meet standards of the Americans with Disabilities Act, as well as, improving traffic conditions, levels of service and accommodate projected increases in regional and local traffic; and

WHEREAS, the Project is consistent with the adopted General Plan of the City of Modesto and the State Route 99 Transportation Concept Plan; and

WHEREAS, improvement of said interchange will require acquisition of right-of-way for State Highway and related local road purposes, and
WHEREAS, California Streets and Highway Code Section 130 authorizes Caltrans and the City of Modesto to enter into a contract regarding the acquisition, construction, improvement and/or maintenance of any State Route; and

WHEREAS, on February 22, 2011, the City Council of City of Modesto adopted Resolution 2011-64 authorizing the City Manager to execute a co-operative agreement between City of Modesto and California Department of Transportation (“Caltrans”) for acquisition of right-of-way for construction of the Project improvements and for the City of Modesto to hear Resolutions of Necessity; and

WHEREAS, on June 9, 2011, the City of Modesto and Caltrans entered into a Co-operative Agreement (“District Agreement 10-322”); and

WHEREAS, after extensive public scoping of nineteen (19) interchange alternatives, in addition to a “No Build” alternative, Caltrans approved the Initial Study with Mitigated Negative Declaration on September 28, 2009 selecting the preferred alternative for the Project; and

WHEREAS, the selection of the preferred alternative set the Right-of-Way requirements for implementation of the Project; and

WHEREAS, the real property described herein and to be acquired is within the Project area; and

WHEREAS, it is desirable and necessary for the City of Modesto’s SR 99/Pelandale Avenue Interchange Reconstruction Project to acquire fee title together with all improvements situated thereon, together with all rights appurtenant thereto, to Assessor’s Parcel Numbers 135-029-040 and 135-029-041, along Salida Boulevard in Modesto, County of Stanislaus, California, as more particularly described in Exhibit “A”
and depicted in Exhibit “B” attached hereto and made part of this Resolution and referred to as the “Subject Property”; and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution of the State of California; California Code of Civil Procedure sections 1240.010 - 1240.050, 1240.110, 1240.120, 1240.150, 1240.350, 1240.510, 1250.610; California Government Code sections 37350.5, 37353, 39792, 38900, 40401 and 40404; Pelandale Avenue Joint Powers Agreement dated December 6, 2005 between the City of Modesto and the County of Stanislaus; Approval of the Consent by Stanislaus County to Allow Right-of-Way Acquisition by the City of Modesto, Item No. 2011-568, dated October 4, 2011; Consent signed by the County to Allow Right-of-Way Acquisition by the City of Modesto (in the County for the Project) dated October 5, 2011 and February 28, 2012; Modesto City Council Resolution No. 2011-064, dated February 22, 2011; the Cooperative Agreement between the California State Department of Transportation and the City of Modesto dated June 9, 2011 (District Agreement 10-322); and, California Streets and Highways Code section 10102; and

WHEREAS, pursuant to Code of Civil Procedure Section 1245.235, the City of Modesto provided the owners of the Subject Property, a copy of the “Notice of intent to Adopt resolution of Necessity” informing them of the date and time any interested person could be heard before the City Council, on the following matters, and to have the City Council give consideration to testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity to commence eminent domain proceedings:

(a) Whether the public interest and necessity require the Project;
(b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;

(c) Whether the property sought to be acquired is necessary for the Project;

(d) Whether the property is being acquired for a compatible use under Code of Civil Procedure section 1240.510 in that the City’s use of the property will not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future;

(e) Whether the property is being acquired for a more necessary public use under Code of Civil Procedure 1240.610 in that the City’s use is a more necessary public use than the use to which the property is appropriated or could be appropriated; and

(f) Whether the offer required by Government Code Section 7267.2 has been made to the owner of record.

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto made a written offer to the property owners to acquire the Subject Property for just compensation and provided same with an appraisal summary statement; and

WHEREAS, Caltrans and the City of Modesto have satisfied the provisions and complied with all requirements of the California Environmental Quality Act (“CEQA”) for the Project; and

WHEREAS, Caltrans authorized and approved the City of Modesto to hear Resolutions of Necessity for acquisitions of right-of-way for the Project; and

WHEREAS, a hearing was held on May 22, 2012, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which the City Council considered this matter as an item placed on its agenda at its regular meeting; and
WHEREAS, all the findings and conclusions made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information in this Resolution; and

WHEREAS, prior to taking action, the City Council has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including each of the Project-related documents relevant to the adoption of this Resolution, including but not limited to, the General Plans of the City of Modesto and the County of Stanislaus, the Environmental Documents including without limitation, the Initial Study with Mitigated Negative Declaration, the Staff Report and all documents incorporated therein, and all oral and written evidence presented to it during all meetings and hearings regarding this Project; and

WHEREAS, the City Council has endeavored in good faith to consider the pros and cons of the issue before it; and

WHEREAS, all other legal prerequisites to the adoption of the Resolution have occurred.

NOW, THEREFORE, IT IS FOUND, DETERMINED, AND RESOLVED by the City of Modesto as follows:

1. The above recitals are true and correct and are matters on which these findings are based.

2. The public interest and necessity require the Project.

3. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.

4. The taking of the fee simple title in and to the real property as more particularly described in Exhibit “A” and depicted in Exhibit “B” is necessary for the Project.
5. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner of record of the real property.

6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure section 1240.510 in that the City’s use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public uses as they now exist or may reasonably be expected to exist in the future.

7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure section 1240.610 in that the City’s use of the Subject Property is a more necessary public use than the use to which the property is appropriated now or may be appropriated to in the future.

8. Special Counsel, Meyers, Nave, Riback, Silver & Wilson, is hereby authorized, empowered and directed to acquire, in the name of City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation to the State Treasurer’s Condemnation Fund based on an appraisal and apply to the Court for an order of prejudgment possession and use for said public uses and purposes as set forth herein.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, 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: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

All of Parcel 1 as shown upon that certain parcel map filed for record March 1, 1993 in Book 45 of Parcel Maps, at Page 78, Stanislaus county records. Located in the City of Modesto, Stanislaus County, State of California more particularly described as follows:

Beginning at the most easterly corner of said Parcel 1; thence from the Point of Beginning and coincident with the southeasterly line of said Parcel 1 also being the northwesterly line Parcel 2 as shown on said Parcel Map South 46°52'59" West 129.41 feet to the most southerly corner of said Parcel 1 and the northeasterly right of way of Salida Boulevard as shown on said Parcel Map also being the beginning of a non tangent curve to the right having a radius of 6970 feet, to which a radial lines bears South 48°13'41" West; thence coincident with said northeasterly right of way along said curve 184.59 feet through a central angle of 01°31'03"; thence continuing along said right of way North 40°15'12 West 157.39 feet to the most westerly corner of said Parcel 1; thence North 49°44'44 East 33.48 feet to the most northerly corner of said Parcel 1 also being on the westerly right of way line of State Highway 99 and the beginning of a non tangent curve to the left having a radius of 860.00 feet to which a radial lines bears South 37°15'37" West; thence coincident with westerly line of said Parcel 1 also being the westerly right of way of State Highway 99 the following (2) courses (1) along said curve 63.23 feet through a central angle of 04°12'45"; thence (2) South 56°57'08" east 286.39 feet to the POINT OF BEGINNING.

Containing 0.63 acres, more or less.

Exhibit B attached herewith and made a part hereof.

The Basis of Bearings for this map is the California State Plane Coordinate System, zone 3, North American Datum 1983 adjusted to the 2007.00 epoch, holding monuments "HPGN D CA 10 HG", "HPGN D CA 10 JL" and "HPGN CA 10 04". To obtain ground values apply the combination factor of 1.000068880.

Prepared by:

Jacobs
Shannon K. Conaway, PLS 7537
License Expires 12-31-2013
Date: 4-27-2012
Name: LOT 1
Description: 135-029-040

North: 2077212.78'   East: 6396446.31'

Segment #1 : Line

Course: S46°52'59"W   Length: 129.41'
North: 2077124.33'   East: 6396351.84'

Segment #2 : Curve

Length: 184.59'   Radius: 6970.00'
Delta: 1°31'03"   Tangent: 92.30'
Chord: 184.58'   Course: N41°00'47"W
Course In: N48°13'41"E   Course Out: S49°44'44"W
RP North: 2081767.51'   East: 6401550.08'
End North: 2077263.60'   East: 6396230.72'

Segment #3 : Line

Course: N40°15'12"W   Length: 157.39'
North: 2077383.72'   East: 6396129.02'

Segment #4 : Line

Course: N49°44'44"E   Length: 33.48'
North: 2077405.36'   East: 6396154.57'
Segment #5 : Curve

Length: 63.23'    Radius: 860.00'
Delta: 4'12'45"   Tangent: 31.63'
Chord: 63.21'    Course: S54'50'45"E
Course In: N37'15'37"E    Course Out: S33'02'52"W
RP North: 2078089.82'    East: 6396675.24'
End North: 2077368.96'    East: 6396296.25'

Segment #6 : Line

Course: S56'57'08"E    Length: 286.39'
North: 2077212.78'    East: 6396446.30'

Perimeter: 854.50'    Area: 27634 Sq. Ft.
Error Closure: 0.01    Course: N27'19'38"W
Error North: 0.005    East: -0.003

Precision 1: 85446.00
EXHIBIT A

All of Parcel 2 as shown upon that certain Parcel Map filed for record March 1, 1993 in Book 45 of Parcel Maps, at Page 78, Stanislaus county records. Located in the City of Modesto, Stanislaus County, State of California more particularly described as follows:

Beginning at the most northerly corner of said Parcel 2; thence from the Point of Beginning and coincident with the westerly right of way line of State Highway 99 South 56°57'08" East 161.69 feet; thence coincident with the southeasterly line of said Parcel 2 also being the northwesterly line of Parcel 3 of said Parcel Map South 46°53'00" 170.00 feet to the most southerly corner of said Parcel 2 and the northeasterly right of way of Salida Boulevard as shown on said Parcel Map also being the beginning of a non tangent curve to the right having a radius of 6970 feet to which a radial lines bears South 46°56'15" West; thence coincident with said right of way along said curve 157.00 feet through a central angle of 01°17'26" to the most westerly corner of said Parcel 2; thence coincident with the northwesterly line of said Parcel 2 North 46°52'59" East 129.41 feet to the POINT OF BEGINNING.

Containing 0.54 acres, more or less.

Exhibit B attached herewith and made a part hereof.

The Basis of Bearings for this map is the California State Plane Coordinate System, zone 3, North American Datum 1983 adjusted to the 2007.00 epoch, holding monuments "HPGN D CA 10 HG", "HPGN D CA 10 JL" and "HPGN CA 10 04". To obtain ground values apply the combination factor of 1.000068880.

Prepared by:
Jacobs
Shannon K. Conaway, PLS 7537
License Expires 12-31-2013
Date: 4-27-2012
EXHIBIT "B"
RIGHT OF WAY ACQUISITION

PARCEL 1
45 PM 78

PARCEL 2
45 PM 78
0.54 Acres
23,550 Sq.Ft.

PARCEL 3
45 PM 78

STATE HIGHWAY 99

LEGEND
(R) RADIAL
○ DIMENSION POINT
P.O.B. POINT OF BEGINNING

JACOBS
180 Promenade Circle, Suite 300 Sacramento, CA 95834
Phone (916) 929-3323 Fax (916) 929-1772

RIGHT OF WAY ACQUISITION
PELENDALE INTERCHANGE
CITY OF MODESTO

1" = 60'
Name: LOT 2
Description: 135-029-041

North: 2077212.78' East: 6396446.31'

Segment #1 : Line

Course: S56°57'08"E Length: 161.69'
North: 2077124.60' East: 6396581.84'

Segment #2 : Line

Course: S46°53'00"W Length: 170.00'
North: 2077008.41' East: 6396457.74'

Segment #3 : Curve

Length: 157.00' Radius: 6970.00'
Delta: 1°17'26" Tangent: 78.51'
Chord: 157.01' Course: N42°25'02"W
Course In: N46°56'15"E Course Out: S48°13'41"W
RP North: 2081767.49' East: 6401550.09'
End North: 2077124.32' East: 6396351.84'

Segment #4 : Line

Course: N46°52'59"E Length: 129.41'
North: 2077212.77' East: 6396446.30'
Perimeter: 618.11'  Area: 23550 Sq. Ft.
Error Closure:  0.01  Course: S48°21'25"W
Error North:  -0.005  East: -0.006

Precision 1: 61811.00
RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(594). (SATELLITE HOUSING/AMERICAN BAPTIST HOMES OF THE WEST)

WHEREAS, a verified application for an amendment to Section 28-3-9 of the Zoning Map was filed by Satellite Housing/American Baptist Homes of the West on January 5, 2012, to reclassify from Medium High Density Residential Zone, R-3, to Planned Development Zone, P-D(594) to allow for a three-story senior housing apartment building, property located at the west corner of 17th and G Streets, described as follows:

R-3 to P-D(594)

All those portions of Lots 7 through 16 in Block 127 as per Map thereof filed December 21, 1942 in Volume 15 of Maps, Stanislaus County Records lying in the southwest quarter of Section 28, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

BEGINNING at the north corner of said Lot 7, said point being on the southwesterly right-of-way line of 80.00 feet wide 17th Street; thence South 43° 12' 09" East 250.05 feet on said right-of-way line to the east corner of aforementioned Lot 16 and the northwesterly right-of-way line of 80.00 feet wide G Street; thence South 46° 49' 09" West 139.94 feet on said northwesterly right-of-way line to the south corner of said Lot 16 and the northeasterly line of the 20.00 feet wide alley through Block 127; thence North 43° 11' 11" West 250.05 feet on said northeasterly alley line; thence leaving said northeasterly alley line, North 46° 49' 12" East 140.00 feet on the northwesterly line of said Lot 7 to the point of beginning.

Also including the southwesterly 40.00 feet of 17th Street, the northwesterly 40.00 feet of G Street, and the northeasterly 10.00 feet of the alley, all being immediately adjacent to the above described property.

APNs: 106-006-012 and 106-006-013
WHEREAS, after a public hearing held on April 2, 2012, 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. 2012-03, 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 Planned Development is consistent with the Modesto Urban Area General Plan. The General Plan designates this area as “RPD” (Redevelopment Planning District), which allows for and encourages a mixture of commercial, professional office and residential uses. Rezoning to allow a senior housing development will be consistent with the Redevelopment Master Plan and the General Plan in land use and intensity.

2. The proposed project will provide much needed affordable housing in Modesto and contribute towards meeting the City’s share of the Regional Housing Needs Allocation.

3. The conditions of approval will ensure that the proposed project is compatible with the adjacent residential and commercial uses.

WHEREAS, said matter was set for a public hearing of the City Council to be held on May 22, 2012, 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 Satellite Housing/American Baptist Homes of the West 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. 2012-03 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3564-C.S. on the 22nd day of May, 2012, reclassifying the above-described property from Medium High Density Residential Zone, R-3, to Planned Development Zone, P-D(594),
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(594), is hereby approved subject to the following conditions:

1. Prior to the issuance of a building permit, all development shall conform to the development plan and building elevations titled "Tower Park Senior Apartments" 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.


4. Parking lot shade trees shall be provided in all new parking areas to meet current parking lot shading requirements (1 tree per 8 stalls, 50% coverage within 10 years).

5. 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. The design of light fixtures and their structural supports should be architecturally compatible with the building, and should be architecturally integrated into the design of the building to the satisfaction of the Director of Community and Economic Development.

6. Along pedestrian corridors, the use of low mounted bollard light standards, which reinforce pedestrian scale, shall be used. Steps and ramps should be illuminated wherever possible, with built-in light fixtures to the satisfaction of the Director of Community and Economic Development.

7. 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. Any additional equipment required by the utility companies shall be placed underground or adequately screened though the use of landscaping or masonry walls.

8. Signage shall be as shown on the 17th and G Street first-floor entrance elevation, and as allowed in the R-3 Zone.
9. Exterior building walls shall be provided with a graffiti-resistant coating or paint, to a height of 12-feet, at the following locations: (a) 17th Street frontage and (b) G Street frontage.

10. Exterior building elevations showing building wall materials, roof types, exterior colors and appropriate vertical dimensions shall be included in the development construction drawings.

11. 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.

12. 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.

13. Prior to the issuance of a building permit, improvement plans for any required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans. Improvement plans shall include but not be limited to the following:
   a. The existing 6-inch sewer main in the alley is undersized and shall be upgraded to a minimum of 8-inch main according to current City standards.
   b. All domestic, landscape and fire water connections shall be made from the water main lines located under 17th Street and G Street. No connections shall be made from the smaller line under the alley.
   c. A horizontal drain shall be designed and utilized to store and percolate all storm water runoff generated from the impervious area of the proposed development. The capacity of the horizontal drains shall be designed to Storm Drainage Design Interim Policy for Infill development that is less than 3 acres in size.
   d. Curb ramps on 17th Street and G Street shall be installed, per City Standards.
   e. A fire hydrant shall be installed at the northeast corner of the site on 17th Street.
   f. Driveway entrances into the alley shall demonstrate a fire apparatus turning radii of 25-feet inside and 45-feet outside.
14. Prior to the issuance of a Grading or Building Permit, Developer shall prepare and submit a Water Pollution Control Plan (WPCP) or local SWPPP to Land Development Engineering, Stormwater for review. The submittal shall include a description of all stormwater, erosion, sediment, and pollution control BMPs to be used to prevent sediment and other sources of pollution from entering the City storm drain system as well as a site plan showing their placement.

15. Prior to the issuance of a Grading or Building Permit, Developer shall provide plans for a linear drain at the trash pick-up area to collect and route stormwater runoff into adjacent landscape area(s).

16. Prior to the issuance of a Grading 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 ½” of stormwater run-off from site.

17. Prior to the issuance of a Grading 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.

18. All public improvements shall be designed and constructed according to City of Modesto Standard Specifications or as required for the public health and safety by the City Engineer or designee.

19. All existing underground and aboveground utilities and electrical lines shall be protected, relocated, or removed as required by the City Engineer or designee. Easements for utilities and electrical lines to remain shall be reserved as required.

20. The driveway leading from the gates to the trash pick-up area shall be strong enough to withstand the weight of a garbage truck providing regular service to the site. The garbage collection company cannot be faulted for damaging the concrete.

21. The 20-foot width of the alley shall be kept free of any obstructions, including parked cars. Both sides of the alley shall be posted with no parking signs.

22. KNOX brand keypads shall be installed for electronic gates.

23. All aspects of this project to comply with current City of Modesto Standards and also current California Building, Electrical, Mechanical, Plumbing, Energy codes adopted by the City of Modesto.

24. All department Conditions of Approval for the project shall be included with building plans and shall be continuously maintained on-site during project construction to the satisfaction of the Chief Building Official.
25. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

26. 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.

27. Prior to Certificate of Occupancy for any structure, cable television service shall be stubbed into all units.

28. 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.

29. The property owner and developer shall, at their sole expense, defend, 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 attorneys’ 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.

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:

30. 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. (General Plan Policy VII-H.2[kk])

31. AQ-43: All onsite unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant. (General Plan Policy VII-H.2[ll])

32. 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. (General Plan Policy VII-H.2[mm])
33. AQ-45: With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition. (General Plan Policy VII-H.2[nn])

34. 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. (General Plan Policy VII-H.2[oo])

35. 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.) (General Plan Policy VII-H.2[pp])

36. 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. (General Plan Policy VII-H.2[qq])

37. AQ-49: Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday. (General Plan Policy VII-H.2[rr])

38. AQ-50: Any site with 150 or more vehicle trips per day shall prevent carryout and trackout. (General Plan Policy VII-H.2[ss])

39. N-1: The City has also established a noise ordinance to control noise within the City. 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."

40. N-2: Additionally, 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.

42. N-3: The City of Modesto shall require construction activities to comply with the City’s noise ordinance (Title 4, Chapter 9), and noise-reducing construction practices to be implemented as conditions of approval for development projects where substantial construction-related noise impacts would be likely to occur (e.g., where construction would include extended periods of pile driving, where construction would occur over an unusually long period, or where noise-sensitive uses like homes and schools would be in the immediate vicinity, etc.). The city should consider potential mitigation measures, including, but not limited to, the following: 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. (UAGP VII.G.3[a])

43. SD-7: New development shall comply with City requirements for conveyance, retention and detention. New development shall include onsite storage of stormwater as necessary. Rockwells shall not be allowed
for new development except at infill areas smaller than three acres where no other feasible alternative is available. (UAGP Policy V-E.3[f])

44. FWQ-12: New development shall comply with City requirements for conveyance, retention and detention. New development shall include onsite storage of stormwater as necessary. Rockwells shall not be allowed for new development except at infill areas smaller than three acres where no other feasible alternative is available. (UAGP Policy V-E.3[f])

45. FWQ-13: 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. (UAGP Policy V-E.3[h])

46. FWQ-15: New developments shall be required to implement an appropriate selection of permanent pollution control measures in accordance with the City’s implementation policies for the municipal NPDES stormwater permit. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants. (UAGP Policy V-E.4[f])

47. HM-15: New development shall comply with City requirements for conveyance, retention and detention. New development shall include onsite storage of stormwater as necessary. Rockwells shall not be allowed for new development except at infill areas smaller than three acres where no other feasible alternative is available. (UAGP Policy V-E.3[f])

48. HM-17: 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. (UAGP Policy V-E.3[h])

49. GSM-2: The City shall require all new buildings in the City to be built to the seismic requirements of the 2007 California Building Code (or subsequent editions). (UAGP Policy VI-B.2[b])

50. GSM-9: All building permits shall be reviewed to ensure compliance with the current adopted edition of the California Fire Code, California Building Code, California Mechanical Code, California Electrical Code, California Plumbing Code, Title 19, Title 24, and the City of Modesto Municipal Code. (UAGP Policy VI-E.1[d])
SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(594):

The entire construction program be accomplished in one phase, construction to begin on or before May 22, 2014, and completion to be not later than May 22, 2016.

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 Chapter 7, Article 1 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(594), 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 May 22, 2012, 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 22nd day of May, 2012, 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(Seal)

APPROVED AS TO LEGAL DESCRIPTION

By: 

SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By: 

Community & Economic Development Department Planning Division
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-199

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 28-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM HIGH DENSITY RESIDENTIAL ZONE, R-3, TO PLANNED DEVELOPMENT ZONE, P-D(594), PROPERTY LOCATED AT THE WEST CORNER OF 17TH STREET AND G STREET (SATELLITE HOUSING/AMERICAN BAPTIST HOMES OF THE WEST)

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, Satellite Housing/American Baptist Homes of the West has proposed that the zoning designation for property located at the west corner of 17th Street and G Street be amended to rezone from Medium High Density Residential Zone, R-3, to Planned Development Zone, P-D(594), in the City of Modesto ("Project") to allow for a three-story senior housing apartment building, 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 2012-08 ("Initial Study") which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report, and

WHEREAS, in accordance with CEQA guidelines beginning on May 2, 2012, the City caused to be published a 20-day notice of the City’s intent to make a finding that the subsequent project conforms with the Master EIR, and
WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on May 22, 2012, 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, P-D(594), 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.

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 22nd day of May, 2012, 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
EXHIBIT A

Initial Study

EA/C&ED 2012-08
Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2012-08

For the proposed:
Rezone from Medium-High Density Residential Zone, R-3, to Planned Development Zone for a three-story 50-Unit senior affordable-housing apartment building on 0.75 acres at the west corner of 17\textsuperscript{th} and G St.

PDZ-11-001

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division
February 14, 2012

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APPENDIX

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City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City’s Master Environmental Impact Report (“Master EIR” or “MEIR”). This Initial Study Environmental Checklist (“Initial Study”) is used in determining whether the rezone from Medium-High Density Residential Zone (R-3) to Planned Development for a 50-unit three-story senior-living apartment building 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: PDZ-11-001 – Rezone from Medium-High Density (R-3) Zone to Planned Development Zone for a three-story 50-unit senior-living apartment building on 0.75 acres at the west corner of 17th and G St

B. Address or Location: West corner of 17th and G Streets, Modesto, CA 95354 (APN 106-006-012, 013)

C. Applicant: Satellite Housing, Inc./ABHOW 1521 University Ave., Berkeley, CA 94703

D. City Contact Person: Katharine Martin, Associate Planner

Project Manager: Katharine Martin
Department: City of Modesto Community and Economic Development
Phone Number: 209-577-5465
E-mail address: kamartin@modestogov.com

E. Current General Plan Designation(s): Redevelopment Planning District (RPD)
F. Current Zoning Classification(s): Medium-High Density Residential (R-3)

G. Surrounding Land Uses:
   - North: Commercial shopping center and Medical Office uses
   - South: Church buildings and Professional Office uses
   - East: Medical Office uses and Parking Lots
   - West: Church buildings and Commercial retail shops

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):

   Rezone of a 0.75-acre site located at 17th and G Streets within the Baseline Urbanized Area from Medium-High Density Residential (R-3) Zone to Planned Development Zone, to allow for the development of a three-story apartment building comprised of 49 affordable-housing single-bedroom dwelling units for senior tenants who are at or below 50% of the area median income, and one two-bedroom manager's residence. The site contains a 130-foot high steel water storage tank that was decommissioned in 1995 and is to be removed. The site was formerly the Water Tower Park (17th & G St Park) which was declared as surplus property by City Council Resolution 2005-243 on May 10, 2005. The property was purchased by the Modesto Redevelopment Agency in 2006 with the intent to utilize it as an affordable housing project site. The site has been maintained as a green space to avoid blight since purchase by the Redevelopment Agency, but has no playground equipment or formal gathering areas.

I. Other Public Agencies Whose Approval is Required: None

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

   A. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.

   B. No new or additional mitigation measures or alternatives are required.

   C. The subsequent project is within the scope of the project covered by the Master EIR.

   D. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

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.

[Signatures]
Project Manager

[Signatures]
Associate Planner
Title

February 28, 2012
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>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.</td>
</tr>
<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>
</tr>
<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>
</tr>
<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>
</tr>
<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>
</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>
</tr>
</tbody>
</table>

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>YES</th>
<th>NO</th>
</tr>
</thead>
<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>
</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>
</tr>
<tr>
<td>(a)</td>
<td>No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.</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>
</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>
</tr>
</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).

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 project does not require any mitigation measures 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>
</thead>
<tbody>
<tr>
<td>1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.</td>
<td>□</td>
<td>□</td>
<td>X</td>
<td>□</td>
</tr>
<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>
<td>□</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>7) The proposed project would result in an increase</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>X</td>
</tr>
</tbody>
</table>
in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.

<table>
<thead>
<tr>
<th>Impact</th>
<th>Potentially Significant</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
</table>

Discussion:

(1) The proposed rezone and 50-unit senior housing development is consistent with the General Plan designation and the traffic volumes assumed in the MEIR. The project will not result in an increase of 100 additional trips than what was assumed in the MEIR. No mitigation is required.

(2-3) The project was evaluated by the City’s Land Development Engineering and Traffic Department, who indicated no issues with the site that would cause an increase in traffic level of service or an increase in vehicle miles.

(4) The project was evaluated by the City’s Police and Fire Departments, who indicated no issues with emergency access.

(5) There is no standard for senior housing parking requirements in the City’s Code. However, Staff has determined that as the site is within a five minute walk of existing downtown neighborhood-serving commercial and professional office uses, arts and cultural centers, and is served by three Modesto Area Express bus transit routes (Routes 25, 32 and 24/34), the proposed number of parking spaces is adequate to serve the site.

(6) The project has been reviewed by Planning, Traffic and Transit staff, and no indication was given that the project would conflict with adopted plans for alternative transportation.

(7) The project would not result in an increase in energy consumption in excess of what was considered in the MEIR.

2. **DEGRADATION OF AIR QUALITY**

a. **Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

**Direct Impacts**

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NOx) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM_{10}) and 2.5 microns or less in diameter (PM_{2.5}) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).
Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO\textsubscript{x}, PM\textsubscript{10}, and PM\textsubscript{2.5}.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes AQ-42 through AQ-50 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-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:

<table>
<thead>
<tr>
<th>2. DEGRADATION OF AIR QUALITY</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, NO\textsubscript{x}, PM\textsubscript{10}, and PM\textsubscript{2.5} by the San Joaquin Valley Air Pollution Control District (SJ\textsubscript{VUAPCD}) 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 SJ\textsubscript{VUAPCD} for CO, ROG, NO\textsubscript{x}, PM\textsubscript{10}, and PM\textsubscript{2.5}.</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</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>Implementation of the Urban Area General Plan.</td>
<td>Potentially Significant Impact</td>
<td>Less Than Significant with Mitigation Incorporated</td>
<td>Less Than Significant Impact</td>
<td>No Impact</td>
</tr>
<tr>
<td>-----------------------------------------------</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:**

1. The project was referred to the San Joaquin Valley Unified Air Pollution Control District who indicated no significant effect on the ambient air quality with the incorporation of the mitigation measures listed above.

2. The project will incorporate the best management practices for PM10 reduction established by the SJVUAPD by utilizing mitigation measures AQ-42 through AQ-50 during the construction process.

3. Applicable General Plan Policies will be applied to the project; therefore, project-specific effects will be less than significant for this impact (see mitigation measures above).

4. The project would not expose sensitive receptors to pollutant levels beyond those expected by implementation of the City's General Plan.

5. The project would not create objectionable odors.

### 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-1 through N-3 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:

<table>
<thead>
<tr>
<th>3. GENERATION OF NOISE</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:
The project is consistent with the noise policies of the General Plan. For multi-family residential, the "normally acceptable" level of noise is between 50 and 65dBA. Mitigation measure N-3 will require that construction-related noise comply with the City's Noise Ordinance.

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.

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 project does not require any mitigation measures 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-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 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:**

1-2) The project is a 0.75-acre infill site within the City's Baseline Urbanized Area. The site is currently vacant and no agricultural land would be converted for the development of the site.

3) The site is not zoned for agricultural use nor is under a Williamson Act contract.

4) The project will not involve changes to the existing environment that could result in the conversion of farmland into non-agricultural uses. The General Plan designates this site as being within the Redevelopment Planning District. The site is within the Downtown North area of the City’s Redevelopment Master Plan, which encourages mixed uses for the site and surrounding area.

**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 project does not require any mitigation measures 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-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</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td></td>
<td>Potentially Significant Impact</td>
<td>Less Than Significant with Mitigation Incorporated</td>
<td>Less Than Significant Impact</td>
<td>No Impact</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>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 that the project could be adequately served by water supplies.
3. The project is consistent with the land uses and water demands assumed in the General Plan and would not have a significant effect on groundwater 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 caused 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 project does not require any mitigation measures 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-6.8 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>6. INCREASED DEMAND FOR SANITARY SEWER 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 wastewater policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:

(1-2) The General Plan designation for the site is “RPD” as part of the Redevelopment Planning District. The site is within the Downtown North area of the City’s Redevelopment Master Plan, which encourages and anticipates a mixture of commercial, office and residential uses. The project is consistent with the General Plan in both land use and intensity, and will not generate any sewer flows greater than what is anticipated in the General Plan.
There are down-stream surcharge conditions under peak wet weather demands that have been identified in the City's 2007 Wastewater Master Plan; however, the shortage of this capacity has been compensated with the City's removal of the H Street direct storm drainage inlet from the 10th and H Street Mixed Use Development project that has since been abandoned. The proposed Tower Park Senior Apartment project's impact on the downstream sewer system would be negligible compared to the calculated benefit provided by the removal of the storm drain inlet, as well as compared to the impact estimated for the now abandoned 10th and H Street project.  

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plant habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The project does not require any mitigation measures 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-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.

---

1 Jim Alves, Associate Engineer, Utility Planning and Projects Dept, February 7, 2012 Memo to C&ED

PDZ-11-001 Tower Park Senior Housing
City of Modesto General Plan Master EIR 19

Initial Study EA No. 2012-08
February 14, 2012
Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.</td>
</tr>
<tr>
<td>Potentially Significant Impact</td>
</tr>
<tr>
<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>
</tr>
<tr>
<td>Potentially Significant Impact</td>
</tr>
<tr>
<td>☐</td>
</tr>
<tr>
<td>3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.</td>
</tr>
<tr>
<td>Potentially Significant Impact</td>
</tr>
<tr>
<td>☐</td>
</tr>
<tr>
<td>4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.</td>
</tr>
<tr>
<td>Potentially Significant Impact</td>
</tr>
<tr>
<td>☐</td>
</tr>
<tr>
<td>5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
</tr>
<tr>
<td>Potentially Significant Impact</td>
</tr>
<tr>
<td>☐</td>
</tr>
<tr>
<td>6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.</td>
</tr>
<tr>
<td>Potentially Significant Impact</td>
</tr>
<tr>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:

1) The project 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) The project would not conflict with any 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 project does not require any mitigation measures 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-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 Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would modify or demolish a structure more than 50 years in age.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

1) The project is consistent with the archaeological and historical resource policies in the General Plan.

2-4) The project involves the removal of an existing 130-foot water storage tower constructed in 1915 and decommissioned in 1995. The removal of the tower was analyzed for historic significance prior to the sale of the park to the Redevelopment Agency, and was found to not have met the criteria for inclusion on California Register of Historic Resources. The tower 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>PDZ-11-001 Tower Park Senior Housing</th>
<th>Initial Study EA No. 2012-08</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Modesto General Plan Master EIR</td>
<td>February 14, 2012</td>
</tr>
</tbody>
</table>
### 9. INCREASED DEMAND FOR STORM DRAINAGE

<table>
<thead>
<tr>
<th>Impact</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**

1. 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. The project was referred to Land Development Engineering, who indicated no concerns with storm water runoff.
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-12, FWQ-13, and FWQ-15 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>10. FLOODING AND WATER QUALITY</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project would place 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</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
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.

<table>
<thead>
<tr>
<th>Substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Potential Impact: Yes</td>
</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.
3-4. 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.
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 project does not require any mitigation measures 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-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>11. INCREASED DEMAND FOR PARKS AND OPEN SPACE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation 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 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:

(1-2) By Resolution 2005-243 on May 10, 2005, the City Council declared the 0.75 acre Tower Park as surplus property to be sold. Although the site has since been maintained as a green-space to prevent blight, the Council's declaration of the park as surplus property removed it from the City's inventory. The park was sold to the Redevelopment Agency in 2006, with the intention to utilize the site as urban infill housing development for low- to moderate-income tenants. The project is consistent with the parks and open space policies of the General Plan, as there
are three parks that remain within a half-mile radius of the project (Ralston Tower Park, McClatchy Square Park and George Lucas Plaza), and the project would not eliminate parks or open space.

(3) The project was referred to the City's Parks, Recreation and Neighborhoods Department, who indicated no concerns with the project towards any potential increase in use of the existing parks in proximity to the site.

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 school policies 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 acceptable service ratios, response times, or other performance objectives.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:
(1) The project is consistent with policies in the General Plan related to police services.
(2) The project was referred to the City of Modesto Police Department, who indicated no concerns with impact to service ratios or response times.

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:

<table>
<thead>
<tr>
<th>14. INCREASED DEMAND FOR FIRE 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 the fire service policies in the Urban Area General Plan.</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[x]</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>[x]</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>[x]</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with policies in the General Plan related to fire services.
The project was referred to the City of Modesto Fire Department, who indicated no concerns with impact to service ratios, response times or erosion of fire protection services.

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-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

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>
</table>

PDZ-11-001 Tower Park Senior Housing
City of Modesto General Plan Master EIR

Initial Study EA No. 2012-08
February 14, 2012
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.

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.

Discussion:

(1) The project is consistent with policies in the General Plan related to solid waste.

(2) This project was referred to the Solid Waste 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 HM-15 and HM-17 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. No hazardous materials will be involved with this project.
3. The project is not located on a site included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.
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 GSM-2 and GSM-9 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:

<table>
<thead>
<tr>
<th>17. GEOLOGY, SOILS, AND MINERAL RESOURCES</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>
</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</td>
</tr>
</tbody>
</table>
availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.

<table>
<thead>
<tr>
<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>
</table>

Discussion:

(1) The project is consistent with the hazardous materials policies 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:

No mitigation measures from the Master EIR are required. 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 Impact</th>
<th>Less Than Significant Mitigation Incorporated</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. The project incorporates energy-saving measures in the building design and amenities, is walking distance from existing commercial and office uses, and is served by public transit.

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**

PDZ-11-001 Tower Park Senior Housing
City of Modesto General Plan Master EIR
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:
No mitigation measures from the Master EIR are required. 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>X</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>X</td>
</tr>
<tr>
<td>3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>X</td>
</tr>
</tbody>
</table>

Discussion:
(1) The project is consistent with the policies relating the visual resources in the General Plan.
(2) The project is located in an urban area that is not in near proximity to a riverside area. The project would not impact views from riverside areas and parks.
(3) The project would not impact views of riverside areas from roadways or nearby properties.

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.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
impact by an agency that has jurisdiction over the proposed project.

4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.

<table>
<thead>
<tr>
<th>Impact</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with land use and planning policies in the Urban Area General Plan.

(2) The project would not divide an established community. The site is in an urban area within the Redevelopment Planning District which assumes a mixture of office, commercial and residential uses. The proposed project would add affordable housing for senior tenants in an area surrounded by existing commercial, office and residential uses.

(3) The project is consistent with the land use plan, policies and regulations of the City of Modesto designed to mitigate project impacts.

(4) The project does not conflict with applicable habitat conservation plans or natural community conservation plans.

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:

No mitigation measures from the Master EIR are required. 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-1B.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 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.

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 will develop in accordance with climate change policies included in the UAGP and the MIER.

The project is located within the Redevelopment Planning District of the General Plan, a designation which assumes and encourages development of a mixture of office, commercial and residential uses. The proposed project incorporates energy-saving measures in the building design and amenities, adds affordable housing for senior tenants within walking distance to existing commercial and office uses, and the project location is served by existing public transit.

(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 CO$_2$ 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 CO$_2$ 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 ARB. 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).

Traffic and Circulation:

N/A

Degradation of Air Quality:

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. (General Plan Policy VII-H.2[kk])

AQ-43: All onsite unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant. (General Plan Policy VII-H.2[ll])

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. (General Plan Policy VII-H.2[mm])

AQ-45: With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition. (General Plan Policy VII-H.2[nn])

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. (General Plan Policy VII-H.2[oo])

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.) (General Plan Policy VII-H.2[pp])
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. (General Plan Policy VII-H.2[qq])

AQ-49: Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday. (General Plan Policy VII-H.2[rr])

AQ-50: Any site with 150 or more vehicle trips per day shall prevent carryout and trackout. (General Plan Policy VII-H.2[ss])

**Generation of Noise:**

N-1: The City has also established a noise ordinance to control noise within the City. 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."

N-2: Additionally, 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 hammer, or any other device or implement used to pound or strike an object.
1. An impact wrench, or other tool or equipment powered by compressed air.
3. 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.
4. 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.
5. 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.
6. 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.

In addition, the City has adopted the following policies as part of its UAGP. All development projects located within the Baseline Developed Area (and Redevelopment Area) are required to incorporate the policies listed below into the project.

N-3: The City of Modesto shall require construction activities to comply with the City’s noise ordinance (Title 4, Chapter 9), and noise-reducing construction practices to be implemented as conditions of approval for development projects where substantial construction-related noise impacts would be likely to occur (e.g., where construction would include extended periods of pile driving, where construction would occur over an unusually long period, or where noise-sensitive uses like
homes and schools would be in the immediate vicinity, etc.). The city should consider potential mitigation measures, including, but not limited to, the following: 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. (UAGP VII.G.3[a])

**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:**

N/A

**Increased Demand for Storm Drainage:**

SD-7: New development shall comply with City requirements for conveyance, retention and detention. New development shall include onsite storage of stormwater as necessary. Rockwells shall not be allowed for new development except at infill areas smaller than three acres where no other feasible alternative is available. (UAGP Policy V-E.3[f])

**Flooding and Water Quality:**

FWQ-12: New development shall comply with City requirements for conveyance, retention and detention. New development shall include onsite storage of stormwater as necessary. Rockwells shall not be allowed for new development except at infill areas smaller than three acres where no other feasible alternative is available. (UAGP Policy V-E.3[f])

FWQ-13: 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. (UAGP Policy V-E.3[h])

FWQ-15: New developments shall be required to implement an appropriate selection of permanent pollution control measures in accordance with the City's implementation policies for the municipal NPDES stormwater permit. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the
offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants. (UAGP Policy V.E.4[f])

**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:**

HM-15: New development shall comply with City requirements for conveyance, retention and detention. New development shall include onsite storage of stormwater as necessary. Rockwells shall not be allowed for new development except in infill areas smaller than three acres where no other feasible alternative is available. (UAGP Policy V.E.3[f])

HM-17: 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. (UAGP Policy V.E.3[h])

**Geology, Soils, and Mineral Resources:**

GSM-2: The City shall require all new buildings in the City to be built to the seismic requirements of the 2007 California Building Code (or subsequent editions). (UAGP Policy VI-B.2[b])

GSM-9: All building permits shall be reviewed to ensure compliance with the current adopted edition of the California Fire Code, California Building Code, California Mechanical Code, California Electrical Code, California Plumbing Code, Title 19, Title 24, and the City of Modesto Municipal Code. (UAGP Policy VI-E.1[d])

**Energy:**

N/A

**Effects on Visual Resources:**
Land Use and Planning:
N/A

Climate Change:
N/A

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: none.
APPENDIX

A.1  Memo to C&ED by Jim Alves, Associate Engineer, Utility Planning and Projects Dept, February 7, 2012

TO: Katherine Martin, C&ED
FROM: Jim Alves, UP&P
SUBJECT: Tower Park Sewer Impact Review

Katherine,

UP&P Staff conducted a brief review of the City’s sewer model in regard to the proposed Tower Park Senior Housing Project’s estimated sewer demand impact on the City’s existing sewer system, specifically the relative impact on the existing identified F Street subtrunk capacity constraint under peak wet weather flow conditions. As part of and integral to UP&P’s review, discussions and, conclusion regarding this project impact was analysis conducted by Chuck Covolo in 2009 on the benefit of the City’s removal of an H Street direct storm drainage inlet from the H Street sewer system. Chuck’s analysis was completed as part of a previously proposed 11 Street development project that has since been abandoned.

Based on the information made available by C&ED from Land Development Engineering (LDE) staff, a review of Tower Park’s estimated sewer demand and, what we can determine from our sewer model’s existing peak wet weather flow condition, UP&P concludes the following. The proposed Tower Park project’s relative impact on the downstream sewer system, specifically for 9th & F Streets, would be negligible compared to the calculated benefit provided by the removal of the storm inlet as well as compared to the impact estimated for the now abandoned 10th & H Street project.

If C&ED staff desires to discuss specifics and details of UP&P’s review effort, please contact me, however, LDE staff should also be included to discuss their previous effort regarding the storm drain inlet removal analysis.

Regards,

Jim Alves

CC: Jack Bond, UP&P
Will Wong, UP&P
Chuck Covolo, C&ED
Eva Dankha-Kelly, C&ED
Glenn Prasad, UP&P
CULTURAL RESOURCE ASSESSMENT OF
A WATER TANK AT TOWER PARK,
CITY OF MODESTO, CALIFORNIA

Prepared by

Peak & Associates, Inc.
3941 Park Drive, Suite 20 PMB329
El Dorado Hills, California 95762
(916) 939-2405

Prepared for

Adrienne L. Graham
4724 U Street
Sacramento, California 95817

April 2006
(Job #06-021)
INTRODUCTION

The project involves the proposed demolition of an existing water tower located in Tower Park, at the northwesterly corner of Seventeenth and G Streets in the City of Modesto (Assessor's Parcel Number 106-006-002). The site has approximately 250 feet along Seventeenth Street, and 140 feet along G Street. The property also fronts a 20 foot wide paved, maintained city alley. The project area is located in the southwest quarter of section 28, Township 3 South, Range 9 East. The park area will be sold, with land to be utilized for a possible housing project (Figures 1, 2 and 3).

Melinda Peak served as principal investigator, conducting a site visit and completing the research (resumes, Appendix 1)

RESEARCH

Research on the historic background of the construction and use the site was conducted at the California Room of the California State Library, McHenry Museum, City Records and the California State University, Stanislaus Special Collections Department. Very little is available in the archival record on the site.

HISTORIC CONTEXT

The City of Modesto was founded in 1870 on the route of the Central Pacific's San Joaquin Branch. When newcomers arrived on the train, they found a village of about 25 buildings, either hastily built, or moved from other locations when the Central Pacific announced its routing through this site. It took another two years for the rail line to be extended to Merced. The town was described as "a bleak settlement on the plains without trees or vegetation, but an abundance of wind-blown sand" (Maino 1970: 14).

Modesto was voted the County seat of Stanislaus County in 1871. Public buildings were soon constructed, and the City incorporated in 1884. The Modesto City Water Works were located on Tenth Street near G, with a pumping station and a 40-foot deep concrete cistern with an artesian well placed through the floor (Bare 1999: 39).

The LaGrange Dam on the Tuolumne River was completed in 1893, but the canal system that brought irrigation water to Modesto was not completed until 1903 (Maino 1970). The introduction of irrigation brought prosperity to the City by providing the farmers of the region a reliable water supply, lessening their ears of flooding and drought. Alfalfa became an important crop, and dairying also grew in importance in the region (Bare 1999:47-48).
By 1911, the City had acquired the lots that now comprise Tower Park. At that point, the most southerly portion of the site contained City Water Works Pump Station No. 3, with a 12' water pipe extending southward in G Street, then westward (Sanborn Fire Insurance Map, Block 127, 1911).

In 1915, the existing water tower was added to the site. One expert on water towers believes that the municipal water tower was the natural offshoot of the railroad water towers, that went from wood construction to steel tanks around the time of the Civil War (http://www.texasescapes.com/Texas_architecture/Forty-Years-in-the-Water-Tower-Business).

The purpose of a water tower is to hold a supply of water at a height sufficient to pressurize a water system. Typically the water tower’s tank is sized to hold about a day’s worth of water for the community it serves. If the pumps associated fail, the water tower holds enough water to keep the system flowing for a day. A water tower provides an advantage for a community by allowing the municipality to size its pumps for average rather than peak demand. The water tower can supply the water at peak demand with the tank refilled at night or other times of low demand, with cheaper power costs for pumping.

An identical water tower was built somewhere on Eight Street. This tower is no longer standing. Plans are available in City records showing the “Steel Water Tower for 8th Street and 17th Street Pumping Stations.” The plans include the dimensions of the concrete piers and the water tank and tower.

By 1919, the Sanborn Fire Insurance Map for Modesto reflected the addition of the water tower with 100,000-gallon capacity on the alley side of what is now the park. The site had moved up to be City Water Works Pump Station No. 2. The plan shows it as a 30-foot deep concrete pit with pumps on the southern lots of the park area, with a connection to a water line running both directions on G Street. Another water line had been added along the alley with a connection extending westward from the water tower. The surrounding neighborhood was primarily residential.

The City’s population was growing rapidly at this time. The 1900 population of 2,204 had grown to 4,034 in 1910, and 9,231 by 1920. By 1930, the population had expanded to 13,842 (Bare 1999: 146).

In 1935, the City had an appraisal done of the pumping plant associated with the water tower. Its replacement value was $4,358.00, with one-third of the value being the pump. The insurable value was estimated at $2,568.20 (Barry 1935).

By 1950, the site had become City Water works Station No. 1, presumably from the replacement of the other sites. In the 1950, the facility was little changed from 1919. A few additional details on the site were published, with the site being served by a Byron-Jennings centrifugal pump, with a capacity of 1,200 gallons per minute from four 12 inch bored wells. The wells had depths of 70’, 160’, 170’, and 300’. The surrounding neighborhood was unchanged and residential for the most
part, although the Seventh Day Adventist Church had been constructed on the lots to the north of the water facilities (Sanborn Fire Insurance Map 1950).

At some point, the City created a park over its water facility. It does not show on the 1950 map as a park, suggesting that its conversion may have occurred somewhat later in time. Park improvements are minimal, with some landscaping and picnic tables.

According to a newspaper report, the water tower was decommissioned in 1995 amid concerns that it could not withstand the impact of a major earthquake (The Modesto Bee June 3, 2005).

FIELD SURVEY AND RESULTS

The project area was field checked in March 2005 by Melinda Peak. The water tower was photographed from all sides. A site form will be prepared and filed with the Central California Information Center of the California Historical Resources Information System.

SITE DESCRIPTION

The four piers of the tower are concrete, measuring ten feet across at the base and four feet across at the top. The piers are eight feet high, and top 6” portion of the pier is exposed above the ground line.

The total height is 130 feet from the ground to the top of the water tank. The tank itself is 23’2” high, and 28’8” in diameter. The water line in the center of the structure is a 12’ flanged pipe, with an automatic check valve near the ground.

There is a guard railing around the narrow deck at the base of the water tank. A ladder is affixed to the side of the water tank for access to the roof of the tank. This has been vandalized over the years, with the City repainting the tank over the graffiti. The tank appears to be in fair condition, the tower has been maintained and in fair to good condition.

To the north of the tower along the alley, a pump station facility has been installed. This appears to have been built in conjunction with the decommissioning of the water tower.
SITE EVALUATION

For the purposes of CEQA, an historical resource is a resource listed in, or determined eligible for listing in the California Register of Historical Resources. When a project will impact an archeological site, it needs to be determined whether the site is an historical resource, which is defined as any site which:

(A.) Is historically or archeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political or cultural annals of California; and

(B) Meets any of the following criteria:

1. Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;

2. Is associated with the lives of persons important in our past;

3. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or

4. Has yielded, or may be likely to yield, information important in prehistory or history.

The water tower is not associated with events important in our past, or with individuals important in our past. It is simply a former part of the water supply infrastructure of the City of Modesto, and is no longer functional. It is not recorded in any early photographs, and the local museum was unaware of its existence (Robert Gillette, personal communication, 2006).

The style of the structure is not unique, nor representational of any particular architectural style. There are numerous water towers throughout the West, and new towers continue to be constructed as others are removed. Indeed, there is even a Texas-based firm that specializes in the removal of water towers, as well as a number of companies who build new towers. The tower is not decorated, and is not in any way a symbol for the City. With the addition of multi-story buildings on the block to the east of the site, as well as the taller church building to the north, the tower no longer is distinguishable in the skyline of the City as it may have been when it was constructed.

As a result, it can be concluded that the structure is not eligible for the California Register of Historical Resources.
CONCLUSIONS AND IMPACTS

There are no known properties eligible for or listed on the California Register of Historical Resources within the project area. There will be no impact to historical resources as a result of the removal of the water tower and sale of the site.
REFERENCES

Bare, Colleen Stanley

Barry, William P.
1935 *Appraisalment, City of Modesto, Buildings and Contents*. On file, Special Collections Department, California State University, Stanislaus.

Maino, Jeanette Gould
1970 *One Hundred Years...Modesto, California 1870-1970*. Belt Printing & Lithograph Company, Modesto.

Maino, Jeanette and Dena Boer
RESOLUTION APPROVING A NEIGHBORHOOD STABILIZATION PROGRAM 3 (NSP3) AMENDMENT AND ITS SUBMISSION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO INCLUDE EXPANDING GEOGRAPHIC AREA AND AMENDING ACTIVITY ALLOCATIONS AND AUTHORIZING STAFF TO PREPARE SUB-RECIPIENT AND DEVELOPER AGREEMENTS WITH THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS, HABITAT FOR HUMANITY, STANISLAUS COUNTY, AND STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION TO BE APPROVED BY COUNCIL, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN ALL RELATED DOCUMENTS AND FUTURE TECHNICAL AMENDMENTS TO NSP3 PLAN IN COORDINATION WITH HUD

WHEREAS, City Council approved the Neighborhood Stabilization Program 3 (NSP3) grant award in the amount of $2,951,549, on February 8, 2011 (Resolution No. 2011-41), and

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) approved the City’s original NSP3 Plan on March 9, 2011 and

WHEREAS, due to extremely limited inventory of properties available for purchase and competition with highly active cash investors, the City will expand the geographic area for community development activities as described in the NSP3 Amendment attached, and

WHEREAS, the City of Modesto will complete the required Rehabilitation Environmental Review (RER) for the tiered environmental review of rehabilitation of existing single-family residential structures, per 24 CFR 58.35(a)(3)(i), with or without the acquisition and/or disposition of the existing structure per 24 CFR 58.35(a)(5), and

WHEREAS, this RER tiered review will be used for NSP3 acquisition and rehabilitation activities, and
WHEREAS, the City of Modesto will complete the required NEPA Environmental Assessment, per 24 CFR 58.36, as is required for new construction or for any activities that are not exempt or categorically excluded, and

WHEREAS, this assessment will be used for NSP3 new construction activities, and

WHEREAS, the City of Modesto will complete the appropriate level of environmental review for NSP3 demolition activities per 24 CFR Part 58, and

WHEREAS, this proposal was reviewed and approved by the Citizens’ Housing and Community Development Committee on April 18, 2012, and

WHEREAS, approval of the proposed action will help the City meet its goal of spending the NSP3 grant in a timely manner,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the NSP3 Amendment described in the attached

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign all related documents for its submission to the U.S. Department of Housing and Urban Development and approve future technical amendments to NSP3 grant per direction from HUD.

BE IT FURTHER RESOLVED, that City staff are authorized to prepare sub­recipient and developer agreements with Housing Authority of the County of Stanislaus, Habitat for Humanity, Stanislaus County, and Stanislaus County Affordable Housing Corporation to be approved by Council.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Geer, 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 

[Signature]

SEAL

APPROVED AS TO FORM:

By: 

[Signature]

SUSANA ALCALA WOOD, City Attorney
Neighborhood Stabilization Program 3 (NSP3) Amendment

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* Must house households whose incomes do not exceed 50 percent of area median income
** May have included development of land banked properties

NSP3 Grantee and Partners
- Grantee: City of Modesto
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- Developers: Habitat for Humanity, Stanislaus County Stanislaus County Affordable Housing Corporation (STANCO)

| NSP3 Grant $2,951,549 | City of Modesto $395,154 | Administration $295,154 | Demolition $100,000 | NSP3 Partners $2,556,395 | Acquisition and Rehabilitation $1,556,395 | New Construction $1,000,000 |

Definitions of NSP3 Activities
- **Acquisition and Rehabilitation**
  - To acquire and rehabilitate homes and residential properties that have been abandoned or foreclosed upon in order to sell or rent these properties.
- **Land Banking**
  - To acquire homes and residential properties (including vacant land) that have been abandoned or foreclosed upon in order to assemble these properties for more productive housing development. Similar to Acquisition and Rehabilitation, except the properties may be held in the land bank and need not be developed into housing until March 2021.
- **Demolition**
Neighborhood Stabilization Program 3 (NSP3) Amendment

- To demolish blighted structures. Also known as stand-alone demolition. Activity is separate and distinct from other NSP3 activities that involve demolition as part of the construction scope of work.

- Redevelopment
  - Similar to Acquisition and Rehabilitation, except this activity allows new construction and the acquisition of vacant land or land with vacant structures that need not be abandoned or foreclosed upon or zoned residential.

- Administration
  To administer the NSP3 grant and monitor NSP3 activities. Separate and distinct from project-specific administration, which is considered activity-delivery and is funded from NSP3 non-Administration allocations.

Project 100598 – New Budget

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RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO REFLECT THE APPROVED ALLOCATIONS IN THE NEIGHBORHOOD STABILIZATION PROGRAM 3 PLAN AMENDMENT; AND AUTHORIZING THE FINANCE DIRECTOR, OR HER DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, City Council approved the Neighborhood Stabilization Program 3 (NSP3) grant award in the amount of $2,951,549, on February 8, 2011 by Resolution No. 2011-41, and

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) approved the City's original NSP3 Plan on March 9, 2011 and

WHEREAS, due to extremely limited inventory of properties available for purchase and competition with highly active cash investors, the City will expand the geographic area for community development activities as described in the NSP3 Amendment attached, and

WHEREAS, this proposal was reviewed and approved by the Citizens’ Housing and Community Development Committee on April 18, 2012, and

WHEREAS, approval of the proposed action will help the City meet its goal of spending the NSP3 grant in a timely manner,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the NSP3 Amendment described in the attached.

BE IT FURTHER RESOLVED that the Finance Director or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Geer, 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 

(SIGNATURE)

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

(SIGNATURE)

SUSANA ALCALA WOOD, City Attorney
# Neighborhood Stabilization Program 3 (NSP3) Amendment

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- **Developers:** Habitat for Humanity, Stanislaus County
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Neighborhood Stabilization Program 3 (NSP3) Amendment

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### Project 100598 – New Budget

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|               |                                  | 2,951,549      | 2,951,549  | 0                 |
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-202

A RESOLUTION AMENDING CITY COUNCIL POLICY 5.001 REQUIRING THAT THE CITY MANAGER, UPON THE RECOMMENDATION OF THE DIRECTOR RESPONSIBLE FOR UTILITY SYSTEM PLANNING, REQUEST CITY COUNCIL APPROVAL FOR ALL EXTENSIONS OF WATER AND SEWER SERVICES INTO UNINCORPORATED AREAS

WHEREAS, the authority to grant the extension of water services into unincorporated areas is contained in Section 11-1.05 of the Modesto Municipal Code and City Council Policy 5.001, and

WHEREAS, City Council Policy 5.001 clarifies the City’s position on the extension of water service into unincorporated areas and designates specific conditions that are required before the extension of service, and

WHEREAS, this policy also authorizes the City Manager to approve water service extensions that are consistent with the policy,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending City Council Policy 5.001 requiring that the City Manager, upon the recommendation of the Director responsible for utility system planning, request City Council approval for all extensions of water and sewer services into unincorporated areas.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22\textsuperscript{nd} day of May, 2012, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

**AYES:**
- Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

**NOES:**
- None

**ABSENT:**
- None

**ATTEST:**

(Seal)

APPROVED AS TO FORM:

By:

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AMENDING CITY COUNCIL POLICY 5.002 REQUIRING
THAT THE CITY MANAGER, UPON THE RECOMMENDATION OF THE
DIRECTOR RESPONSIBLE FOR UTILITY SYSTEM PLANNING, REQUEST
CITY COUNCIL APPROVAL FOR ALL EXTENSIONS OF WATER AND
SEWER SERVICES INTO UNINCORPORATED AREAS

WHEREAS, City Council Policy 5.002 clarifies the City's position on sewer
service into unincorporated areas and specifies the implementation of the policy under
specific circumstances and conditions, and

WHEREAS, this policy is silent on the authority for granting sewer service
extensions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves amending City Council Policy 5.002 requiring that the City
Manager, upon the recommendation of the Director responsible for utility system
planning, request City Council approval for all extensions of water and sewer services
into unincorporated areas.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 22\textsuperscript{nd} day of May 2012, by Councilmember Muratore,
who moved its adoption, which motion being duly seconded by Councilmember Geer,
was upon roll call carried and the resolution adopted by the following vote:

\begin{itemize}
\item \textbf{AYES:} Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez,
        Muratore, Mayor Marsh
\item \textbf{NOES:} Councilmembers: None
\item \textbf{ABSENT:} Councilmembers: None
\end{itemize}

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

(SEAL)

\textbf{APPROVED AS TO FORM:} \hspace{1cm} \textit{SUSANA ALCALA WOOD, City Attorney}
RESOLUTION APPROVING THE AGREEMENT FOR PURCHASE OF REAL PROPERTY INTEREST OF A TEMPORARY CONSTRUCTION EASEMENT WITH ROGER A. FLORES, CAROL E. FLORES TRUSTEES OF THE ROGER A. OR CAROL E. FLORES TRUST, AND JULIANNE M. POLATI, FOR A 2,420 SQ. FT. (0.0556 ACRES) PORTION OF A PARCEL OF LAND (APN 135-029-051), IN THE AMOUNT OF $12,000.00, FOR THE PELANDALE AVENUE / SR 99 INTERCHANGE RECONSTRUCTION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO FINALIZE THE ACQUISITION

WHEREAS, the City of Modesto is planning a project to reconstruct the Pelandale Avenue/SR 99 Interchange, and

WHEREAS, the project will alleviate congestion and improve operations of the Pelandale Avenue & SR 99 Interchange, and

WHEREAS, the City of Modesto has obtained lead agency status from the California Department of Transportation for the project, and

WHEREAS, staff has identified a 2,420 sq. ft. (0.0556 acres) portion of a parcel of APN 135-029-051 for a Temporary Construction Easement to improve the roadway on Salida Blvd. as a part of the capital improvements identified for the Pelandale Avenue/SR 99 Interchange Reconstruction Project, and

WHEREAS, staff has completed the required environmental review for the project, and

WHEREAS, an Agreement is needed for the acquisition interests of the property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase agreement between the City of Modesto and Roger A. Flores, Carol E. Flores, and Julianne M. Polati, for a 2,420 sq. ft. (0.0556 acres)
Temporary Construction Easement, located at 4300 Salida Blvd. (APN 135-029-051), in the amount of $12,000.00 for the Pelandale Avenue/SR 99 Interchange Reconstruction Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE CERTIFICATE OF ACCEPTANCE FOR THE TEMPORARY CONSTRUCTION EASEMENT FOR THE ACQUISITION OF PROPERTY INTERESTS LOCATED AT 4300 SALIDA BLVD, OWNED BY ROGER A. FLORES AND CAROL E. FLORES AS TRUSTEES OF THE ROGER A. OR CAROL E. FLORES TRUST, AND JULIANNE M. POLATI, (APN 135-029-051) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PELANDALE AVENUE/SR 99 INTERCHANGE RECONSTRUCTION PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 2,420 sq. ft. (0.0556 acres) portion of land for a Temporary Construction Easement located on Salida Blvd., owned by Roger A. Flores, Carol E. Flores, and Julianne M. Polati, (APN 135-029-051), to be purchased by the City of Modesto for the Pelandale Avenue/SR 99 Interchange Reconstruction Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign the Certificate of Acceptance for the Temporary Construction Easement for the acquisition of property interests located at 4300 Salida Blvd., owned by Roger A. Flores and Carol E. Flores AS TRUSTEES OF THE ROGER A. OR CAROL E. FLORES TRUST, and Julianne M. Polati, (APN 135-029-051) to be purchased by the City of Modesto for the Pelandale Avenue/SR 99 Interchange Reconstruction Project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: Stephanie Lopez, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-206

RESOLUTION APPROVING THE AGREEMENT FOR PURCHASE OF REAL PROPERTY OF A PARCEL OF LAND IN FEE FROM PAUL ALLEN BAHN, DAVID JOHN SEIFERT AND RUTH ELLA SEIFERT, TRUSTEES AND THE SUCCESSOR TRUSTEES OF THE DAVID JOHN SEIFERT AND RUTH ELLA SEIFERT 1995 LIVING TRUST; W. BLAKE GIBBS AND ESTER M. GIBBS, TRUSTEES AND THE SUCCESSOR TRUSTEES OF THE W.B. & E.M. GIBBS TRUST; TYLER GIBBS AND KRISTINE A. GIBBS, TRUSTEES AND SUCCESSOR TRUSTEES OF THE GIBBS FAMILY TRUST; JONATHAN D. SEIFERT AND KRISTIN B. SEIFERT, DANIEL E. BLACKMAN AND PARI ANNA BLACKMAN FOR AN APPROXIMATELY 17,216 SQ. FT. (0.40 ACRES +/-) PARCEL OF LAND (APN 135-029-038), IN THE AMOUNT OF $500,000.00, FOR THE PELANDALE AVENUE / SR 99 INTERCHANGE RECONSTRUCTION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO FINALIZE THE ACQUISITION

WHEREAS, the City of Modesto is planning a project to reconstruct the Pelandale Avenue/SR 99 Interchange, and

WHEREAS, the project will alleviate congestion and improve operations of the Pelandale Avenue & SR 99 Interchange, and

WHEREAS, the City of Modesto has obtained lead agency status from the California Department of Transportation for the project, and

WHEREAS, staff has identified a 17,216 sq. ft. (0.40 acres +/-, APN 135-029-038) parcel necessary to improve the roadway on Sisk Road as a part of the capital improvements identified for the Pelandale Avenue/SR 99 Interchange Reconstruction Project, and

WHEREAS, staff has completed the required environmental review for the project, and

WHEREAS, an Agreement is needed for the acquisition interests of the property,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement between the City of Modesto and Paul Allen Bahn, David John Seifert and Ruth Ella Seifert, trustees and the successor trustees of The David John Seifert and Ruth Ella Seifert 1995 Living Trust; W. Blake Gibbs and Ester M. Gibbs, trustees and the successor trustees of The W.B. & E.M. Gibbs Trust; Tyler Gibbs and Kristine A. Gibbs, trustees and the successor trustees of The Gibbs Family Trust; Jonathan D. Seifert and Kristin B. Seifert, Daniel E. Blackman and Pari Anna Blackman, for a 17,216 sq. ft. (0.40 acres +/-) Grant Deed located at 4259 Sisk Road (APN 135-029-038), in the amount of $500,000 for the Pelandale Avenue/SR 99 Interchange Reconstruction Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh
NOES: Councilmembers: None
ABSENT: Councilmembers: Cogdill

ATTEST: ____________________

SEAL
APPROVED AS TO FORM:

By: ____________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-207


WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 17,216 sq. ft. (0.40 acres +/-) parcel of land by a Grant Deed located on Sisk Road., by Paul Allen Bahn, David John Seifert and Ruth Ella Seifert, trustees and the successor trustees of The David John Seifert and Ruth Ella Seifert 1995 Living Trust; W. Blake Gibbs and Ester M. Gibbs, trustees and the successor trustees of The W.B. & E.M. Gibbs Trust; Tyler Gibbs and Kristine A. Gibbs, trustees and the successor trustees of The Gibbs Family Trust; Jonathan D. Seifert and Kristin B. Seifert, Daniel E. Blackman and Pari Anna Blackman, (APN 135-029-038), to be purchased by the City of Modesto for the Pelandale Avenue/SR 99 Interchange Reconstruction Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign the Certificate of Acceptance for the Grant Deed for the acquisition of property located at 4259 Sisk Road,

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-208

RESOLUTION AUTHORIZING THE AWARD OF BIDS FOR THE PURCHASE OF LOW LEAD BRASS SERVICE FITTINGS FOR THE DEPARTMENT OF PUBLIC WORKS, WATER DIVISION, TO GROENIGER CO., MODESTO, CA, MODESTO WINDUSTRIAL CO., MODESTO, CA, AND PACE SUPPLY CORP., STOCKTON, CA, FOR A ONE-YEAR AGREEMENT WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE PURCHASE AGREEMENTS FOR AN ESTIMATED ANNUAL COST OF $285,000

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of low lead brass service fittings, and

WHEREAS, the Purchasing Division issued RFB No. 1112-18 Low Lead Brass Service Fittings to sixteen (16) prospective bidders, eight (8) of which were local vendors, posted the bid on the City’s website and formally advertised as required by law, and

WHEREAS, bids were formally opened in the City Clerk’s Office. Three (3) companies chose to respond, two (2) of which were local vendors. All three (3) companies provided responsive and responsible bids, and

WHEREAS, Modesto Municipal Code 8-3.206 Support of Local Vendors (SLV) allows the lowest bid or quote submitted by a local business that is within five (5) percent of the lowest bid, the opportunity to match the lowest bid price. Groeniger Co., Modesto, CA qualified for SLV on a list of inventory items and agreed to match lowest bid price for those items, which represents an additional $27,000 of product purchased annually through the local vendor, and

WHEREAS, based on providing lowest responsive and responsible bids, City staff recommends the award of bids for the purchase of low lead brass service fittings to
WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bids for the purchase of low lead brass service fittings to Groeniger Co., Modesto, CA, Modesto Windustrial Co., Modesto, CA, and Pace Supply, Corp., Stockton, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds shall be budgeted for the purchase of low lead brass service fittings in Appropriation Units: 4100-55050-53150 and 4100-55080-53150.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bids for the purchase of low lead brass service fittings for the Department of Public Works, Water Division, to Groeniger Co., Modesto, CA, Modesto Windustrial, Modesto, CA., and Pace Supply Corp., Stockton, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue purchase agreements for an estimated annual cost of $285,000.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(SIGNATURE)

APPROVED AS TO FORM:

By: STEPHANIE LOPEZ, City Clerk

(SEAL)

06/05/2012/Finance/KMasasso/Item 9  3  2012-208
RESOLUTION AUTHORIZING THE AWARD OF BIDS FOR THE PURCHASE OF CAST IRON AND DUCTILE IRON FITTINGS AND SPOOLS FOR THE DEPARTMENT OF PUBLIC WORKS, WATER DIVISION, TO GROENIGER CO., MODESTO, CA, MODESTO WINDUSTRIAL CO., MODESTO, CA, AND PACE SUPPLY CORP., STOCKTON, CA, FOR A ONE-YEAR AGREEMENT WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE PURCHASE AGREEMENTS FOR AN ESTIMATED TOTAL ANNUAL COST OF $250,000

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of cast iron and ductile iron fittings and spools, and

WHEREAS, the Purchasing Division issued RFB No. 1112-23 Cast Iron and Ductile Iron Fittings and Spools to seventeen (17) prospective bidders, nine (9) of which were local vendors, posted the bid on the City’s website and formally advertised as required by law, and

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

WHEREAS, Modesto Municipal Code Section 8-3.206 Support of Local Vendors (SLV) allows the lowest bid or quote submitted by a local business that is within five percent (5%) of the lowest bid, the opportunity to match the lowest bid price. Groeniger Co., Modesto, CA qualified for SLV on a list of inventory items and agreed to match lowest bid price for those items, which represents an additional $148,000 of product purchased annually through the local vendor, and
WHEREAS, based on providing lowest responsive and responsible bids, City staff recommends the award of bids for the purchase of cast iron and ductile iron fittings and spools to Groeniger Co., Modesto, CA, Modesto Windustrial Co., Modesto, CA, and Pace Supply Corp., Stockton, CA, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bids for the purchase of cast iron and ductile iron fittings and spools to Groeniger Co., Modesto, CA, Modesto Windustrial Co., Modesto, CA, and Pace Supply, Corp., Stockton, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds shall be budgeted for the purchase of cast iron and ductile iron fittings and spools in Appropriation Units: 4100-55050-53150 and 4100-55080-53150,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bids for the purchase of cast iron and ductile iron fittings and spools for the Department of Public Works, Water Division, to Groeniger Co., Modesto, CA, Modesto Windustrial, Modesto, CA., and Pace Supply Corp., Stockton, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue purchase agreements for an estimated total annual cost of $250,000.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

**AYES:** Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

ATTEST:  

(SIGNATURE) STEPHANIE LOPEZ, City Clerk

(Approved as to form)

By:  

(SIGNATURE) SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2012-210

A RESOLUTION ACCEPTING THE CALIFORNIA MARIJUANA ERADICATION GRANT FROM THE U.S. DEPARTMENT OF JUSTICE DRUG ENFORCEMENT ADMINISTRATION IN THE AMOUNT OF $40,000 FOR THE STANISLAUS COUNTY DRUG ENFORCEMENT AGENCY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY GRANT DOCUMENTS

WHEREAS, on April 17, 2012, the Stanislaus Drug Enforcement Agency (SDEA) was awarded the Domestic Cannabis Eradication/Suppression Program Marijuana Eradication Grant in the amount of $40,000, and

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

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

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

WHEREAS, the term of this grant will be from January 1, 2012 through December 31, 2012, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the California Marijuana Eradication Grant from the U. S. Department of Justice Drug Enforcement Administration in the amount of $40,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gundersen, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-211

A RESOLUTION AMENDING THE STANISLAUS COUNTY DRUG ENFORCEMENT AGENCY'S FISCAL YEAR 2011/12 MULTI-YEAR OPERATING BUDGET ESTIMATING REVENUE IN THE AMOUNT OF $40,000 FROM THE U.S. DEPARTMENT OF JUSTICE DRUG ENFORCEMENT ADMINISTRATION MARIJUANA ERADICATION GRANT

WHEREAS, on April 17, 2012, the Stanislaus Drug Enforcement Agency (SDEA) was awarded the Domestic Cannabis Eradication/Suppression Program Marijuana Eradication Grant in the amount of $40,000, and

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

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

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

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

WHEREAS, the term of this grant will be from January 1, 2012 through December 31, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Stanislaus County Drug Enforcement Agency's Fiscal Year 2011/12 Multi-Year Operating Budget as indicated on Attachment A, which is incorporated by reference herein.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: SUSANNA ALCALA WOOD, City Attorney
### Attachment A: Budget Adjustment

**Fund 6600: 2011/12 Multiyear**

#### Expense:

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#### Revenue:

| To:     | 6600-89999-42090-100704 | $40,000 | Interg.-Federal-Misc. |
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE
SENIOR CITIZENS CENTER ADA UPGRADES PROJECT, ACCEPTING THE
BID, AND APPROVING AN AGREEMENT WITH BARHAM, INC. DBA BC
CONSTRUCTION, OF CERES, CA IN THE AMOUNT OF $188,984.00; AND
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE
THE AGREEMENT

WHEREAS, on February 7, 2012, the City Council, by Resolution No. 2012-52,
approved the Senior Citizens Center ADA Upgrades project as part of the first
amendment to the City of Modesto’s 2011-12 Annual Action Plan, and

WHEREAS, the project includes remodeling the restrooms to ensure ADA
compliance, increasing restroom size and reconfiguring restroom fixtures, and

WHEREAS, the exterior upgrades include path of travel, parking lot signage and
striping, and

WHEREAS, the project was advertised for bid on April 6, 2012, and bids were
opened on May 8, 2012, and

WHEREAS, staff determined that the apparent lowest bid received from Barham,
Inc. dba BC Construction of Ceres was a reasonable and competitive bid for this project,
and

WHEREAS, the bidder competition was clearly evident with five (5) responsive
bidders within ten percent (10%) of the engineer’s estimate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the Plans and Specifications for the Senior Citizens Center ADA
Upgrades project, accepts the bid, and approves an Agreement with Barham, Inc. dba BC
Construction of Ceres, CA in the amount of $188,984.00,
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 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES:  Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES:  Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 CAPITAL IMPROVEMENT PROGRAM BUDGET TO ADJUST THE EXPENSE CATEGORIES WITHIN THE PROJECT ACCOUNT, AND AUTHORIZING THE FINANCE DIRECTOR, OR HER DESIGNEE, TO IMPLEMENT THE PROVISION OF THIS RESOLUTION

WHEREAS, on February 7, 2012, the City Council, by Resolution No. 2012-52, approved an additional allocation of $300,000 to the Senior Citizens Center ADA Upgrades project as part of the first amendment to the City of Modesto’s 2011-12 Annual Action Plan, and

WHEREAS, the project includes remodeling the restrooms to ensure ADA compliance, increasing restroom size and reconfiguring restroom fixtures, and

WHEREAS, the exterior upgrades include path of travel, parking lot signage and striping, and

WHEREAS, a budget adjustment will allocate the appropriate expenditure categories within the Parks CIP Account 100315.PRNCDBG Housing Rehabilitation Project - Sr. Ctr. Access Features FY 10 (Exhibit A attached),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the fiscal year 2011-2012 Capital Improvement Program Budget to adjust the expense categories within the project account.

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
ANTICIPATED CONSTRUCTION EXPENDITURES:
  Construction Contract: $188,984.00
  Construction Administration – 15% $28,347.60
  Construction Contingency – 10% $18,898.40
  TOTAL ANTICIPATED CONSTRUCTION COSTS: $236,230.00

ADDITIONAL PROJECT EXPENDITURES:
  Engineering/Design/Admin (EDA): $68,522.00

TOTAL ANTICIPATED PROJECT EXPENDITURES: $304,752.00

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| Total   |      | $330,000       | $330,000        |                  |
RESOLUTION APPROVING AN AGREEMENT WITH WGR SOUTHWEST, INC., FOR WASTEWATER AND STORMWATER COMPLIANCE ASSISTANCE IN AN AMOUNT NOT TO EXCEED $58,155; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto operates a Municipal Separate Stormwater Sewer System (MS4) that requires a Stormwater National Pollutant Discharge Elimination System (NPDES), and

WHEREAS, in 2008, the Regional Water Quality Control Board (RWQCB) permitted the City’s MS4 for the discharge of stormwater (Order No. R5-2008-0092) which will expire in 2013, and

WHEREAS, as part of the permit renewal application process, prior to 2013, the City must develop and submit a Report of Waste Discharge (ROWD) and Stormwater Management Plan (SWMP) for reissuance of the City’s MS4 permit, and

WHEREAS, the City is also permitted by the RWQCB under a separate NPDES permit to collect, treat, and discharge wastewater (Order No. R5-2008-0059), and

WHEREAS, under this permit the City is required to implement a pretreatment program, and

WHEREAS, part of the pretreatment program requirements include development of a Dental Mercury Control Program, Local Limits Update, and Enforcement Response Plan & Sewer Ordinance Update, and

WHEREAS, to meet the above permit requirements City Staff has solicited proposals and costs from five consulting firms, two of which were local, and
WHEREAS, two of the three responses received were deemed responsive bids, and

WHEREAS, staff reviewed and scored the proposals and costs (based on criteria that included proximity to Modesto, resources available, previous work of a similar nature, repeat clients, costs), and identified WGR-Southwest Inc. as having the highest ranking, and

WHEREAS, WGR Southwest Inc. has previously assisted the City with its annual Stormwater report to RWQCB and the Fat Oils and Grease ordinance, and

WHEREAS, in order to maintain the continuity between Wastewater and Stormwater, staff requests retaining WGR Southwest Inc. to assist staff and perform the following tasks required under the Stormwater and Wastewater NPDES permits:

Wastewater (Pretreatment) Tasks:
- Develop Dental Mercury Control Program
- Develop Local Limits Update
- Update Enforcement Response Plan & Sewer Ordinance Update

Stormwater Tasks:
- Prepare ROWD
- Update SWMP for MS4 Renewal

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with WGR Southwest, Inc. for Wastewater and Stormwater Compliance Assistance in an amount not to exceed $58,155.

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 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH NOLTE ASSOCIATES, INC. (NOLTE), FOR WORK ON THE CITY OF MODESTO COST SHARE PROGRAM IN AN AMOUNT NOT TO EXCEED $52,350; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Nolte was retained to evaluate the current Cost Share Program (CSP) and to make recommendations to improve the program and its accessibility to the customer, and

WHEREAS, Nolte’s work included an examination of other community programs and consideration of alternative lower lateral repair policies, and

WHEREAS, Nolte found that historical participation in the CSP demonstrates that the City does provide much needed assistance to residents, and

WHEREAS, over the last five years, an average of 40 property owners per year has received approximately $1,800 in assistance from the program; however, it was not uncommon for applicants to experience a lengthy process that was both frustrating and adding unnecessary time affecting the repairs, and

WHEREAS, a review of the problems and a comparison with similar programs in other communities resulted in suggested modifications to Modesto’s CSP, and

WHEREAS, on April 24, 2012, by Resolution No. 2012-156, Council amended the FY-12 Wastewater Operating Budget in the amount of $68,000 in order to fully fund the one-time improvements to the CSP, and

WHEREAS, staff is requesting $52,350 of these funds for an agreement with Nolte to perform the following tasks:

- Update Cost Share Program Guidance Documents
- Develop Standard Operating Procedures for Administration of CSP
• Establish maximum unit prices for reimbursement

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Nolte Associates, Inc., in an amount not to exceed $52,350.

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 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(Seal)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING A FIVE-YEAR EXTENSION OF AN AIRPORT LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE CALIFORNIA CENTRAL VALLEY SQUADRON OF THE COMMEMORATIVE AIR FORCE (CAF) FOR THE CONTINUED USE OF AIRPORT HANGAR IS AT A RATE OF $1,566 PER MONTH WITH RENT REDUCTION CREDIT GIVEN FOR THE COST OF IMPROVEMENTS AND VOLUNTEER TIME AT THE RATE OF $18.16 PER HOUR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

WHEREAS, Airport Hangar 1S, one of the oldest aircraft storage hangars in California, has been leased by the Central Valley Squadron of the Commemorative Air Force (CAF) since February 28, 2006, and

WHEREAS, the CAF wishes to renew their lease for Hangar 1S for a five-year period at a rental rate of $1,566 per month, and

WHEREAS, the CAF has requested Rent Reduction Credit for the cost of improvements and volunteer time at a rate of $18.16 per hour, and

WHEREAS, improvements eligible for Rent Reduction Credit will be agreed upon in advance between Lessee (CAF) and Lessor (City), and

WHEREAS, quarterly reports will be provided by Lessee to Lessor on the status of projects eligible for Rent Reduction Credit, and

WHEREAS, prior to the anniversary date of this lease agreement a final reconciliation will be made by Lessor of the rent fees less agreed Rent Reduction Credit, and

WHEREAS, the resulting monthly minimum rent will not be less than $1,100 per month, and
WHEREAS, the CAF intends to use all of Airport Hangar 1S for use as an air museum and as a hub for their local CAF activities while preserving and maintaining the Hangar in its historic 1928 condition, and

WHEREAS, the lease agreement is expected to provide revenues of approximately $13,000 and $18,792 per year to the Airport Enterprise Fund Revenue,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year Airport Lease Agreement between the City of Modesto and the Commemorative Air Force (CAF) for the use of Hangar 1S at a rate of $1,566 per month with Rent Reduction Credit given for the cost of improvements and volunteer time at the rate of $18.16 per hour.

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 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmember: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING NEW CAPITAL IMPROVEMENT PROGRAM
PROJECT 100697-MAZE/EMERALD FLOODING SOLUTION FOR THE
PURPOSE OF FLOOD CONTROL AT INTERSECTION OF MAZE
BOULEVARD & EMERALD AVENUE, AND AMENDING THE FISCAL YEAR
2011-2012 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT
OF $292,500 TO FUND ENGINEERING/DESIGN/ADMINISTRATION,
CONSTRUCTION, CONTINGENCY, AND CONSTRUCTION
ADMINISTRATION

WHEREAS, the southeast corner of the intersection of Maze Boulevard and
Emerald Avenue has flooding issues due to the lack of a storm water runoff system, and

WHEREAS, the flooding occurs at this intersection that is a high traffic area
adjacent to Franklin Elementary School, and

WHEREAS, this project is a priority because Modesto City Schools has expressed
concerns regarding student safety when localized street flooding occurs after a storm
event, and

WHEREAS, City staff recommends approving new Capital Improvement
Project 100697-Maze/Emerald Flooding Solution for the purpose of flood
control at intersection of Maze Boulevard & Emerald Avenue, and

WHEREAS, certain budgetary transactions are necessary in the amount of
$292,500, in order to fund Engineering/Design/Administration, Construction,
Contingency, and Construction Administration for the Maze/Emerald Flooding Solution
Project, and

WHEREAS, the appropriation transfer for this project was requested, but was not
included in the monthly budget adjustment for June, and
WHEREAS, it is staff’s recommendation to fund the CIP at this time, in order to complete the project in time to alleviate the flooding issues prior to the rainy season this upcoming fall, and

WHEREAS, the Fiscal Year 2011-2012 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 2011-2012 Budget as shown in Exhibit A and the creation of Project 100697 “Maze/Emerald Flooding Solution” for the purpose of flood control at intersection of Maze Boulevard & Emerald Avenue.

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 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

In order to create Capital Improvement Program Project 100697 “Maze/Emerald Flooding Solution” and establish budget for Engineering/Design/Administration, Construction, Contingency, and Construction Administration, funds need to be transferred in the amount of $292,500. This would be done by reducing Storm Drain Reserves by <$292,500> and appropriating funds to Project 100697 as follows: Engineering/Design/Administration by $22,500, Construction by $225,000, Contingency by $22,500, and Construction Administration by $22,500 within Project 100697 “Maze/Emerald Flooding Solution”.

A RESOLUTION ACCEPTING THE CALIFORNIA GANG REDUCTION, INTERVENTION AND PREVENTION (CALGRIP) GRANT, FROM THE GOVERNOR'S OFFICE OF EMERGENCY SERVICES (OES) FOR $250,000 TO COMBAT GANG VIOLENCE; AND AUTHORIZING THE CITY MANAGER, OR HIS AUTHORIZED DESIGNEE, TO EXECUTE THE NECESSARY AWARD DOCUMENTS

WHEREAS, on May 7, 2012, the Governor's Office of Emergency Services (OES) announced the City of Modesto was awarded $250,000 for the California Gang Reduction, Intervention and Prevention (CalGRIP) Grant, and

WHEREAS, the purpose of the CalGRIP program is to assist selected cities with gang prevention, intervention, and suppression, and to promote reentry, education, job training and skills development, and family and community services, and

WHEREAS, this funding will continue allowing the Police Department to continue providing Project S.A.F.E. (Striving for Accountability and Future Employment), and

WHEREAS, the grant requires a 100% match and salaries are considered as cash match for this grant, and

WHEREAS, the existing Gang Coordinator and Criminal Intelligence Analyst are making up the City of Modesto's required match of $250,000 for this grant,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes acceptance of the California Gang Reduction, Intervention and Prevention (CalGRIP) Grant, from the Governor's Office of Emergency Services (OES) for $250,000 to combat gang violence,
BE IT FURTHER RESOLVED that the City Manager, or his authorized 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 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
Exhibit A

The CalGrip Project Safe allocation for Fiscal Year 2011/2012 will be applied to:

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A RESOLUTION AMENDING THE CITY’S MULTI-YEAR AND SINGLE YEAR OPERATING BUDGET TO RECOGNIZE ANTICIPATED REVENUES AND EXPENSES RELATED TO THE CALIFORNIA GANG REDUCTION, INTERVENTION AND PREVENTION (CALGRIP) GRANT TO COMBAT GANG VIOLENCE

WHEREAS, on May 7, 2012, the Governor’s Office of Emergency Services (OES) announced the City of Modesto was awarded $250,000 for the California Gang Reduction, Intervention and Prevention (CalGRIP) Grant, and

WHEREAS, the purpose of the CalGRIP program is to assist selected cities with gang prevention, intervention, and suppression, and to promote reentry, education, job training and skills development, and family and community services, and

WHEREAS, this funding will allow the Police Department to continue providing Project S.A.F.E. (Striving for Accountability and Future Employment), and

WHEREAS, the grant requires a 100% match and salaries are considered as cash match for this grant, and

WHEREAS, the existing Gang Coordinator and Criminal Intelligence Analyst are making up the City of Modesto’s required match of $250,000 for this grant, and

WHEREAS, pursuant to the 2011 State Budget Realignment Act, and Senate Bill (SB) 92, administration and oversight responsibilities for the 2011 Cal GRIP funds will be transferred to the Board of State and Community Corrections effective July 1, 2012,

WHEREAS, the grant’s two-year term will be from January 1, 2012 to December 31, 2013,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Multi-Year and Single Year Operating Budget is hereby amended as indicated in Attachment A, which are incorporated by reference herein.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution upon award of grant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING A THIRD AMENDMENT TO AGREEMENT WITH FINANCIAL CONSULTING SOLUTIONS GROUP, INC. (FCS GROUP) FOR ADDITIONAL SCOPE OF WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT AND AMENDMENTS FOR UPDATING THE WATER RATES AND CAPACITY CHARGE STUDY IN AN AMOUNT NOT TO EXCEED $68,490 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $6,149 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AGREEMENT AMOUNT OF $313,579, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE THIRD AMENDMENT TO AGREEMENT.

WHEREAS, in 2008 a number of issues led to initiating the process of updating the City’s water rates and capacity charges, and

WHEREAS, those issues primarily included the following:

- Increased maintenance and operating costs
- New capital improvements
- Increased costs to construct the Modesto Regional Water Treatment Plant Phase Two Expansion Project (MRWTP Expansion)
- City’s continued participation in the Regional Surface Water Supply Project (RSWSP) with Turlock Irrigation District,

and

WHEREAS, that effort was put on hold mostly due to concerns with the general state of the economy, and

WHEREAS, subsequent efforts by staff to reduce annual maintenance and operating costs, along with moving a number of water capital improvement projects out to future years (plus delays related to the RSWSP), provided some temporary relief without compromising service, and

WHEREAS, significant design and construction deficiencies on the MRWTP Expansion have been identified, and
WHEREAS, the ultimate responsibility for the additional costs associated with these deficiencies is being evaluated by engineering and legal teams for all parties involved, and

WHEREAS, both MID and the City recognize that it is in our rate payers' mutual best interest to move the project to completion as soon as practical, and

WHEREAS, in recognition that it is possible that at least initially some of the costs will be borne by the City water rate payers, staff believes it is prudent to have contractual arrangements in place to move forward with a water rate process in a timely manner, and

WHEREAS, on February 5, 2008, by Resolution No. 2008-087, City Council approved an agreement with FCS Group to complete an Updated Water Rate and Capacity Charge Study, and

WHEREAS, on August 11, 2009, by Resolution No. 2009-396, City Council approved the First Amendment for additional services related to the original agreement, and

WHEREAS, on September 7, 2010, by Resolution No. 2010-394, City Council approved the Second Amendment for additional services related to the original agreement, and

WHEREAS, this effort started and stopped a number of times and did not lead to a completed update of the water rates and capacity charges, and at this point has officially been stopped, and
WHEREAS, FCS Group’s efforts have now been redirected to a Water Rate and Capacity Charge Study Update based on the currently identified design and construction deficiencies related to the MRWTP Expansion, and

WHEREAS, staff understands that much of the work completed in the original scope and subsequent amendments will be useful in the revised scope of work in this Third Amendment to Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Third Amendment to Agreement with Financial Consulting Solutions Group, Inc. for additional scope of work not included in the original Agreement or Amendments for updating the Water Rates and Capacity Charge Study in an amount not to exceed $68,490 for the identified scope of services, plus $6,149 for additional services (if needed), for a maximum total Agreement amount of $313,579.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Third Amendment to Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: Burnside

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH HORIZON WATER AND ENVIRONMENTAL FOR PROFESSIONAL SERVICES RELATED TO PERFORMING ENVIRONMENTAL REVIEW WORK ON THE PROPOSED REPAIRS TO CORRECT THE DESIGN AND CONSTRUCTION DEFICIENCIES OF THE MODESTO REGIONAL WATER TREATMENT PLANT EXPANSION, AS RELATED TO UPDATING WATER RATES AND CAPACITY CHARGES, FOR THE IDENTIFIED SCOPE OF SERVICES FOR AN AMOUNT NOT TO EXCEED $14,951, PLUS $1,495 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM AGREEMENT AMOUNT OF $16,446, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in 2008 a number of issues led to initiating the process of updating the City’s water rates and capacity charges, and

WHEREAS, those issues primarily included the following:

- Increased maintenance and operating costs
- New capital improvements
- Increased costs to construct the Modesto Regional Water Treatment Plant Phase Two Expansion Project (MRWTP Expansion)
- City’s continued participation in the Regional Surface Water Supply Project (RSWSP) with Turlock Irrigation District

WHEREAS, that effort was put on hold mostly due to concerns with the general state of the economy, and

WHEREAS, subsequent efforts by staff to reduce annual maintenance and operating costs, along with moving a number of water capital improvement projects out to future years (plus delays related to the RSWSP), provided some temporary relief without compromising service, and

WHEREAS, significant design and construction deficiencies on the MRWTP Expansion have been identified, and
WHEREAS, the ultimate responsibility for the additional costs associated with these deficiencies is being evaluated by engineering and legal teams for all parties involved, and

WHEREAS, both MID and the City recognize that it is in our rate paying mutual best interest to move the project to completion as soon as practical, and

WHEREAS, in recognition that it is possible that at least initially some of the costs will be borne by the City water rate payers, staff believes it is prudent to have contractual arrangements in place to move forward with a water rate process in a timely manner, and

WHEREAS, even though the overall footprint of the MRWTP Expansion project site has not changed, an opinion from a consulting firm experienced in CEQA law and guidelines is needed to determine if the proposed repairs to the construction deficiencies themselves could result in any significant impacts to the environment that was not previously disclosed in the MRWTP Expansion’s original CEQA documents, and

WHEREAS, therefore, staff requested a proposal from Horizon Environmental for this effort based on its key personnel’s previous work on the MRWTP Expansion as its Project Manager oversaw completion of the Environmental Impact Review, and

WHEREAS, in order to ensure CEQA compliance for the entire required repair work, Horizon Environmental will perform the following work:

- Review all previous CEQA documents and related background materials, along with permits and approvals issued by regulatory agencies
- Evaluate list of construction deficiencies and the corresponding corrective actions
- Prepare a report of findings based on the construction deficiencies compared to CEQA compliance and permits, along with a discussion of risks to legal challenge
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Horizon Water and Environmental for professional services related to performing environmental review work on the proposed repairs to correct the design and construction deficiencies of the Modesto Regional Water Treatment Plant, as related to updating water rates and capacity charges, for the identified scope of services for an amount not to exceed $14,951, plus $1,495 for additional services (if needed), for a maximum Agreement amount of $16,446.

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 5th day of June, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: Burnside

ABSENT: Councilmembers: None

ATTEST:  

(Seal)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-222

RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH HARRIS AND ASSOCIATES FOR PROFESSIONAL SERVICES RELATED TO THE PROPOSITION 218 PROCESS FOR UPDATING WATER RATES, IN AN AMOUNT NOT TO EXCEED $13,495, PLUS $4,580 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AGREEMENT AMOUNT OF $64,065, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE THIRD AMENDMENT TO AGREEMENT

WHEREAS, in 2008 a number of issues led to initiating the process of updating the City’s water rates and capacity charges, and

WHEREAS, those issues primarily included the following:

- Increased maintenance and operating costs
- New capital improvements
- Increased costs to construct the Modesto Regional Water Treatment Plant Phase Two Expansion Project (MRWTP Expansion)
- City's continued participation in the Regional Surface Water Supply Project (RSWSP) with Turlock Irrigation District

WHEREAS, that effort was put on hold mostly due to concerns with the general state of the economy, and

WHEREAS, subsequent efforts by staff to reduce annual maintenance and operating costs, along with moving a number of water capital improvement projects out to future years (plus delays related to the RSWSP), provided some temporary relief without compromising service, and

WHEREAS, significant design and construction deficiencies on the MRWTP Expansion have been identified, and

WHEREAS, the ultimate responsibility for the additional costs associated with these deficiencies is being evaluated by engineering and legal teams for all parties involved, and
WHEREAS, both MID and the City recognize that it is in our rate payers' mutual best interest to move the project to completion as soon as practical, and

WHEREAS, in recognition that it is possible that at least initially some of the costs will be borne by the City water rate payers, staff believes it is prudent to have contractual arrangements in place to move forward with a water rate process in a timely manner, and

WHEREAS, on December 14, 2009, by Resolution No. 2009-583, City Council approved an agreement with Harris and Associates (Harris) for professional services related to the Proposition 218 process for updating water rates, and

WHEREAS, the effort was never initiated because the water rate updates was put on hold soon after execution of the Agreement; however, it was not terminated and remains in place, and

WHEREAS, a renewed interest by the City to pursue a water rate update under the provisions of Proposition 218 requires an Amendment to the original Agreement to address the following:

- An increase in the per unit costs of printing and mail preparation of ballot notices
- An increase in the number of notices for mailing
- Update changes to the Harris' project management staff
- Other minor elements of the original Agreement to bring it up to date (revised schedule and correction of typographical errors)
WHEREAS, in general, Harris’ scope of work includes developing the protest procedures and balloting package to be mailed to each property owner, database development of parcel information, printing, sorting, mailing (City to pay postage), and tabulating the results of the approximately 78,000 ballots to be sent out to the property owners, and

WHEREAS, Harris’ estimated hours to complete this effort have not changed from its original proposal, this Amendment reflects only higher printing costs of the ballot notices and the increase in the number of ballots to be printed,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement with Harris and Associates for professional services related to the Proposition 218 Process for updating water rates, in an amount not to exceed $13,495, plus $4,580 for additional services (if needed), for a maximum total Agreement amount of $64,065.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment to Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: Burnside

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCAEA WOOD, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 OPERATING BUDGET IN THE AMOUNT OF $100,191 TO FULLY FUND THE THIRD AMENDMENT TO AGREEMENT WITH FINANCIAL CONSULTING SOLUTIONS GROUP (FCS GROUP), THE AGREEMENT WITH HORIZON WATER AND ENVIRONMENTAL, AND THE AMENDMENT TO AGREEMENT WITH HARRIS AND ASSOCIATES, WHICH ARE NECESSARY TO UPDATE THE WATER RATES AND CAPACITY CHARGES

WHEREAS, certain budgetary transactions are necessary in the amount of $86,994 in order to fully fund the Third Amendment to Agreement with Financial Consulting Solutions Group, the Agreement with Horizon Water and Environment, and the Amendment to Agreement with Harris and Associates, which are necessary to update the water rates and capacity charge, and

WHEREAS, the Fiscal Year 2011-2012 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 2011-2012 Capital Improvement 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 5th day of June, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: Burnside

ABSENT: Councilmembers: None

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

Due to the discovery of significant design and construction deficiencies related to the Modesto Regional Water Treatment Plant Expansion, it is necessary to restart the process of updating the existing water rates and capacity charges in order to address these deficiencies.

Therefore, funds are necessary to cover the Amendments and Agreement, which will restart this process update.

This would be done by transferring from $100,191 from Account 43080 UPP - Sphere of Influence to Account 43070 UPP -- Water Rate Analysis