RESOLUTION APPROVING THE RE-APPOINTMENT OF TED BRANDVOLD AS THE 2012 PLANNING COMMISSION REPRESENTATIVE TO THE BOARD OF ZONING ADJUSTMENT

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

WHEREAS, the Planning Commission met on November 7, 2011, and recommended the re-appointment of Ted Brandvold as its representative to the Board of Zoning Adjustment,

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

SECTION 1. Ted Brandvold is hereby re-appointed as the 2012 Planning Commission representative to the Board of Zoning Adjustment, with a term expiration of January 1, 2013.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Board of Zoning Adjustment, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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 Ridenour

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. 2012-02

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF AMY NEUMANN FROM THE PLANNING COMMISSION

WHEREAS, Amy Neumann was appointed a member of the Planning Commission on May 3, 2011, and

WHEREAS, Amy Neumann has tendered her resignation from the Planning Commission, and

NOW, THEREFORE, BE IT RESOLVED that the resignation of Amy Neumann from the Planning Commission be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the City Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to Amy Neumann for her service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

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. 2012-03

A RESOLUTION REAPPOINTING CHRIS TYLER TO THE CITY OF MODESTO PLANNING COMMISSION

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

WHEREAS, the Economic Development Committee met on December 15, 2011, and recommended reappointment of Chris Tyler to the Modesto Planning Commission.

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

SECTION 1. Chris Tyler is hereby reappointed to the Planning Commission with a term expiration of January 1, 2016.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Modesto Planning Commission, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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 Ridenour

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. 2012-04

A RESOLUTION APPOINTING SANDRA LUCAS TO THE CITY OF
MODESTO PLANNING COMMISSION

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

WHEREAS, the Economic Development Committee met on December 15, 2011,
and recommended appointment of Sandra Lucas to the Modesto Planning Commission.

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

SECTION 1. Sandra Lucas is hereby appointed to the Modesto Planning
Commission with a term expiration of January 1, 2016.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this
resolution to the appointed member of the Modesto Planning Commission, and the
Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALJALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-05

A RESOLUTION APPOINTING DENNIS SMITH TO THE CITY OF MODESTO PLANNING COMMISSION

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

WHEREAS, the Economic Development Committee met on December 15, 2011, and recommended appointment of Dennis Smith to the Modesto Planning Commission.

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

SECTION 1. Dennis Smith is hereby appointed to the Modesto Planning Commission with a term expiration of January 1, 2014 (Partial Term).

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Modesto Planning Commission, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(SIGNATURE)

APPROVED AS TO FORM:

By:  

(SIGNATURE)

(SIGNATURE)

(SIGNATURE)
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-06

RESOLUTION APPROVING AN AMENDMENT TO AN AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO IRRIGATION DISTRICT RELATED TO THE RELOCATION OF ELECTRIC UTILITY POLES IN THE AMOUNT OF $18,403.41 FOR THE ADDITIONAL EXPENSES WHICH OCCURRED DURING THE RELOCATION OF MODESTO IRRIGATION DISTRICT FACILITIES AT THE SOUTHEAST CORNER OF MCHENRY AVENUE AND BRIGGSMORE AVENUE; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (168) - Construct Right Turn Lane Northbound (NB) McHenry Avenue to Eastbound (EB) Briggsmore Avenue Project involves the expansion of Briggsmore Avenue and McHenry Avenue to include a northbound right turn lane at the southeast corner of Briggsmore Avenue and McHenry Avenue, and

WHEREAS, the City of Modesto requested Modesto Irrigation District to relocate its facilities prior to the construction of the street improvements, and

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

WHEREAS, on March 25, 2010, Caltrans approved Categorical Exemption/Categorical Exclusion Document, and

WHEREAS, the project is consistent, and is in conformance to the General Plan Master E.I.R. and no additional California Environmental Quality Act clearance is needed, and
WHEREAS, the City of Modesto required an Agreement Related to the Relocation of Electric Utility Poles for the relocation of Modesto Irrigation District facilities, and

WHEREAS, the Agreement between the City of Modesto and Modesto Irrigation District related to the relocation of electric utility poles indicated the cost for relocation of facilities as an estimated amount, and

WHEREAS, the Right Turn Lane Northbound (NB) McHenry Avenue to Eastbound (EB) Brigsgmore Avenue Project is eligible for CMAQ funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Agreement between the City of Modesto and Modesto Irrigation District related to the relocation of electric utility poles.

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 10th day of January, 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(SIGNATURE)

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSAN ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF BIDS FOR THE
FURNISHING OF PUMP STATION REJUVENATION SERVICES FOR THE
PUBLIC WORKS DEPARTMENT, WATER DIVISION AND WASTEWATER
DIVISION, TO AMERINE SYSTEMS, INC. OAKDALE, CA AS “PRIMARY”
CONTRACTOR, DON PEDRO PUMP, HUGHSON, CA AS “SECONDARY”
CONTRACTOR AND GSE CONSTRUCTION CO., INC., LIVERMORE, CA AS
“THIRD” CONTRACTOR, FOR A TWO (2) YEAR AGREEMENT WITH
THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION
OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS
DESIGNEE, TO ISSUE PURCHASE AGREEMENTS FOR AN ESTIMATED
ANNUAL COST OF $185,000

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal

Request for Bids (RFB) for the furnishing of pump station rejuvenation services, and

WHEREAS, the Purchasing Division issued RFB No. 1112-03 Pump Station
Rejuvenation Services, to eight (8) prospective bidders, five (5) 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, none of which were local vendors. All three (3) companies
provided responsive and responsible bids, and

WHEREAS, in order to ensure continued services to the City, contracts shall be
awarded to more than one contractor to provide for backup in case the primary contractor
is unable to meet the City’s needs. A secondary position contractor may be awarded a
specific job only if the primary contractor is unable to perform the service, or if the
primary contractor is unable to complete the specific job within the time frame required
by the City, and finally, if the primary contractor is unable to maintain acceptable quality
standards required by the City, and
WHEREAS, based on providing responsive and responsible bids, City staff recommends the award of bids for the furnishing of pump station rejuvenation services for the Public Works Department, Water Division and Wastewater Division, to Amerine Systems, Inc. Oakdale, CA as “primary” contractor, Don Pedro Pump, Hughson, CA as “secondary” contractor and GSE Construction Co., Inc., Livermore, CA as “third” contractor, 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 furnishing of pump station rejuvenation services for the Public Works Department, Water Division and Wastewater Division, to Amerine Systems, Inc. Oakdale, CA as “primary” contractor, Don Pedro Pump, Hughson, CA as “secondary” contractor and GSE Construction Co., Inc., Livermore, CA as “third” contractor, conforms to the Modesto Municipal Code, and

WHEREAS, funds shall be budgeted for the furnishing of pump station rejuvenation services in Appropriation Unit: 4100-55090-53100 and 4210-54313-53100.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the furnishing of pump station rejuvenation services for the Public Works Department, Water Division and Wastewater Division, to Amerine Systems, Inc. Oakdale, CA as “primary” contractor, Don Pedro Pump, Hughson, CA as “secondary” contractor and GSE Construction Co., Inc., Livermore, CA as “third” contractor.
BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of $185,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10\textsuperscript{th} day of January, 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: \[Signature\]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: \[Signature\]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF ONE TRANSFER TRUCK WITH TRAILER, FOR THE PUBLIC WORKS DEPARTMENT, STREETS DIVISION, THROUGH THE FLEET SERVICES DIVISION, TO DELTA TRUCK CENTER, FRENCH CAMP, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $164,144

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 11/12 through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The transfer truck and trailer were included in the FY 11/12 new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the transfer truck with trailer is a replacement for the Streets Division and has been subjected to a thorough evaluation and has met or exceeded the replacement criteria before being placed on the replacement list. The transfer truck with trailer falls under the City’s compliance program, approved by the California Air Resources Board, requiring a progressive program to remove older diesel trucks from service, and

WHEREAS, on October 25, 2011, the City Council, by Resolution No. 2011-407, rejected all bids for the purchase of the transfer truck with trailer based on a letter received from one of the bidders. The information received suggested the motor being proposed by the lowest responsive and responsible bidder would not provide the performance and warranty required for the application, and

WHEREAS, the lowest responsive and responsible bidder retracted their proposed bid for the medium size engine and requested to price a heavy duty engine, and
WHEREAS, in the best interest of the City and to provide all vendors a fair and competitive process, staff recommended rejection of all bids and to re-issue a formal Request for Bid with revised specifications, and

WHEREAS, the Fleet Division discussed the engine requirements with the manufacturers and revised the specification to provide more specific details regarding the engine requirements and the use of this equipment, and

WHEREAS, the Purchasing Division issued RFB No. 1112-16 for the purchase of one transfer truck with trailer to fourteen (14) prospective bidders, posted the bid on the City’s website and formally advertised as required by law. Three (3) of the fourteen (14) prospective bidders are located within Stanislaus County, one of which is a local vendor, and

WHEREAS, RFB’s were formally opened in the City Clerk’s office. Of the fourteen (14) prospective bidders, four (4) companies chose to respond, two (2) bidders are located in Stanislaus County. The one local vendor could not provide this type of equipment and did not submit a bid. All four (4) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of one transfer truck with trailer to Delta Truck Center, French Camp, CA, for a total estimated cost of $164,144, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2011-12 in appropriation unit 5410-53241-57003, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services
to be formally bid. The award of bid for the purchase of one transfer truck with trailer to Delta Truck Center, French Camp, CA, for the Public Works Department, Fleet Services Division, conforms to the Modesto Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the purchase of one transfer truck with trailer for the Public Works Department, Streets Division, through the Fleet Services Division, to Delta Truck Center, French Camp, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for a total estimated cost of $164,144.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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: Burnside, Cogdill, Geer, Hawn, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: \(\text{Signature}\)

STEVANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: \(\text{Signature}\)

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 AND 2011-2012 ANNUAL OPERATING BUDGETS

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual Budgets of the City of Modesto for Fiscal Years 2010-2011 and 2011-2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2010-2011 and 2011-2012 annual operating budgets as shown in Exhibit A, which is attached hereto and incorporated by reference herein.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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 votes:

**AYES:** Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

ATTEST:  

(Seal)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

CITY MANAGER'S OFFICE
An adjustment is necessary to City Manager's Office budget in the General Fund (0100) to recognize $6,211 in previously unbudgeted Miscellaneous Donations/Contributions revenue from Stanislaus Foundation and appropriate it to Professional Services expense for Branding Modesto website development.

COMMUNITY AND ECONOMIC DEVELOPMENT
An adjustment is necessary to recognize $2,060 of previously unbudgeted Miscellaneous Revenue in the Traffic Engineering Division of CEDD in the Surface Transportation Fund (1700) for rental of additional office space on the 4th floor of Tenth Street Place to the Parks, Recreation and Neighborhoods (PR&N) Solid Waste Management Division. The expense will be paid from existing budget in PR&N's Solid Waste Fund (4890).

An adjustment is necessary to close Project 100047-Coffee/Claratina Intersection Improvements and re-appropriate the project's $1,054,936 existing expense budget to Project 100051-Claratina/McHenry/Coffee 4 Lanes in the Streets CFF Fund (3410). The two projects due to their similarity in scope and location are being combined into Project 100051 which will be renamed Claratina/McHenry to Coffee (4 Lanes & Intersection Improvements).

FINANCE
On October 21, 1997 the Modesto Public Financing Authority, by Resolution 97-1 approved the award of the 1997 Water Bonds. The 1997 Water Bonds were paid off in Fiscal Year 2010-11 and an adjustment is necessary to write off the remaining Deferred Amount on Refunding -- Amortization expense in the amount $1,000,428 in the Water COP 97 Fund (4120) in Fiscal Year 2010-11. The expense would have been amortized at $74,736 annually until Fiscal Year 2022/23 had the bonds not been refunded. This action is a bookkeeping correction to reflect the refunding of the bonds and does not impact cash flow. This transaction is for fiscal year 2010/11.

Due to implementation of the City's new Oracle financial system spanning two fiscal years, $81,270 budgeted but unspent for ERP temporary labor backfill expense fell to General Fund (0100) reserves at the end of Fiscal Year 2010-11. An adjustment is necessary in Fiscal Year 2011-12 to re-appropriate the $81,270 to the Accounting Division in the Finance Department in the General Fund (0100) for Temporary Employee Services expense to backfill for key staff members who are vital in the success of the conversion.

An adjustment is necessary to increase the budgeted transfer from the General Fund (0100) to the Public Financing Authority 98 & 07 Bonds Fund (2150) in the amount of $662,728 from General Fund reserves. As described in the agenda report for Resolution 2011-358, the execution and delivery of a reimbursement agreement fee letter for the 2008 Leave Revenue bonds included previously unbudgeted expense for legal and advisory services ($157,728) and additional LOC costs ($505,000), and, increase the expense budget in the Public Financing Authority 98 & 07 Bonds Fund (2150) to allow for the unbudgeted professional services and LOC costs.
POLICE
An adjustment is necessary to recognize $2,500 of previously unbudgeted Miscellaneous Donation/Contribution revenue received from Target Corporation and appropriate the same City Council, January 10, 2012 Monthly Budget Adjustment Report – November & December 2011 amount in Patrol Field Operations in the Police budget in the General Fund (0100) for Tools, Shop and Field Supplies expense to purchase McGruff kits for the Safe Kids Program.

PARKS, RECREATION AND NEIGHBORHOODS
An adjustment is necessary to appropriate $50,000 from the Parks Fund (3130) reserves to the Thurman Field Improvements Project 100301 – Construction for two previously unbudgeted additional parking lots at John Thurman Field.

An adjustment is necessary to recognize $89,343 in previously unbudgeted revenue in the Grants-RLF Housing Loan Program Fund (1150) and appropriate it to expense for the Housing Rehabilitation Programs in that fund.

PUBLIC WORKS
On November 10, 2009 on Resolution 2009-543 the City Council approved ARRA Grant funded Capital Improvement Project #100453 - ARRA Wells 283 & 236 Blending. Per the terms of the Grant Debt Service Repayment Agreement, once reimbursements are received for work completed, payments of principal and interest are payable to the Federal Government.

An adjustment is necessary to appropriate $18,634 from Water Fund (4100) Reserves to establish a debt service budget for Safe Drinking Water State Revolving Fund ARRA Financing.

An adjustment is necessary to appropriate $6,500 from the Wastewater Fund (4210) reserves to Salary and Wages in Laboratory Services for an Administrative Office Assistant II position approved by Council on June 7, 2011.

UTILITY PLANNING & PROJECTS
An adjustment is necessary to reduce the Engineering/Design/Administration expense budget by $200,000 in Capital Improvement Project #100467 - Industrial Tank 13 Transmission Mains and re-appropriate the funds to Capital Improvement Project #100672 - Codoni Transmission Mains. The Codoni Transmission project was approved by the Capital Improvement Project Task Force on October 24, 2011.

An adjustment is necessary to re-appropriate $250,000 from Capital Improvement Project #100568 - Install New Wells Primary project to Capital Improvement Project #100472 – Hickman Water Tank & Well project to provide additional budget for Engineering/Design/Administration activities in the Hickman Water Tank & Well project.

An adjustment is necessary to re-appropriate $710,000 from Capital Improvement Project #100564 – Wellhead treatment Primary to Capital Improvement Project #100628 – Kiernan Ave. Water Main Extension for costs associated with the water main extension
from the intersection of Dale Rd and Bangs to Kiernan Avenue and the replacement of
the existing water main on Kiernan Avenue from the Sisk Rd. intersection to across the
Hwy 99 bridge.
RESOLUTION AMENDING THE CITY’S ALCOHOL AND DRUG TESTING POLICY AND PROCEDURE AND RENAMING IT THE ANTI-DRUG / ALCOHOL MISUSE PROGRAM TO ENSURE CONTINUED COMPLIANCE WITH REGULATIONS OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION

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

WHEREAS, on December 13, 1994, by Resolution No. 94-695, the Council of the City of Modesto approved the original Alcohol and Drug Testing Policy and Procedure, and

WHEREAS, on December 16, 1996, by Resolution No. 96-716, the Council of the City of Modesto amended the Alcohol and Drug Testing Policy and Procedure, and

WHEREAS, on March 10, 2009, by Resolution No. 2009-104, the Council of the City of Modesto amended the Alcohol and Drug Testing Policy and Procedure, and

WHEREAS, the City of Modesto Alcohol and Drug Testing Policy and Procedure is governed by both the Federal Motor Carrier Safety Administration and the Federal Transit Administration, and

WHEREAS, as a result of a recent audit, there is a need to revise the City’s Alcohol and Drug Testing Policy and Procedure to ensure compliance with the Federal regulations of the United States Department of Transportation, and rename it the Anti-Drug/Alcohol Misuse Program,
NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION I. POLICY AMENDMENT AND TITLE. The City’s Alcohol and Drug Testing Policy and Procedure is hereby renamed the Anti-Drug/Alcohol Misuse Program. The Anti-Drug/Alcohol Misuse Program attached hereto is hereby approved.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after January 10, 2012.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
DRAFT

City of Modesto
ANTI-DRUG PROGRAM/ALCOHOL MISUSE PROGRAM
As required by the Department of Transportation

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

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

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

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

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

Please contact Human Resources for guidance and questions.
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1. Purpose of Policy

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

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

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

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

2. Statement of Philosophy

A. Drugs and Alcohol in the Workplace

In passing the Omnibus Transportation Employee Testing Act of 1991, Congress found that:

(1) Alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;
(2) Millions of the Nation’s citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, trains, trucks and buses to perform in a safe and responsible manner;
(3) The greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, trains, trucks and buses;
(4) The use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;
(5) The testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increasing testing, including random testing;
(6) Adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual’s right to privacy, ensures that no individual is harassed by being
treated differently from other individuals, and ensures that no individual’s reputation of career development is unduly threatened or harmed; and

(7) Rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

B. City Philosophy

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

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

3. Scope

A. Covered Employees

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

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

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

Under Federal Transportation Authority (FTA), you are a safety-sensitive employee if you perform any of the following:
- Operation of a revenue service vehicle, in or out of revenue service,
- Operation of a non-revenue vehicle requiring a CDL,
- Controlling movement or dispatch of a revenue service vehicle (this is optional and determined by employer),
- Security personnel who carry firearms,
- Maintenance (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment being used on revenue service, or
- Contract employees that stand in the shoes of Transit System employees who have to comply.

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

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

B. Contact

For questions regarding the City’s anti-drug use and alcohol misuse program, please contact the City’s Program Manager 209-571-5134 or Risk & Loss Control Coordinator at 209-577-5446.

4. Prohibited Substances

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

5. Prohibited Conduct

All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40 (as amended).

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

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

Each covered employee is prohibited from reporting to work or remaining on duty requiring performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.
No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

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

6. Testing Procedure

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

A. Pre-Employment Testing

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

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

A pre-employment (return to work) test is required for covered employees who are away from work for more than 90 consecutive calendar days, are removed from the random testing pool, and plan to return to a safety-sensitive function.

When a covered employee or applicant has previously failed or refused a DOT pre-employment drug and/or alcohol test, the employee must provide proof of having successfully completed a referral, evaluation and treatment plan meeting DOT requirements.

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

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

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

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

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

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

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

The City of Modesto may direct a covered employee to undergo DOT reasonable suspicion testing for alcohol only while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions. However, all City employees (BOT and non-DOT) can be tested under the City's Alcohol and Drug Abuse Policy for reasonable suspicion.

If an alcohol test is not administered within two (2) hours following the determination to conduct a reasonable suspicion test, the supervisor shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight (8) hours following the determination to test, the City shall cease attempts to administer an alcohol test and update the record with the reasons for not administering the test in a timely manner.

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

C. Post-Accident Testing

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

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

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

- An accident results in injuries requiring immediate medical treatment away from the scene, and the covered employee may have contributed to the accident,

or
One or more vehicles receive disabling damage and have to be towed from the scene, and the covered employee may have contributed to the accident.

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

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

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

If an alcohol test is not administered within two hours following the time of the accident, the supervisor shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight hours following the determination to test, the City shall cease attempts to administer an alcohol test and update the record with the reasons for not administering the test in a timely manner. The drug test should be taken as soon as possible. Cease attempts to collect the drug test after 32 hours.

If the decision not to administer a drug and/or alcohol test under this section shall be based on the City's determination, using the best available information at the time of the determination that the employee's performance could not have contributed to the accident, such a decision must be documented in detail, including the decision-making progress used to reach the decision not to test (Attachment C).

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

D. Random Testing

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

Testing rates will meet or exceed the minimal annual percentage rate set each year by the DOT Administrator. The current year testing rates can be viewed online at http://www.dot.gov/ost/dapc/rates.html. The 2011 FMCSA minimum testing requirement is to annually perform drug tests on 50% and alcohol tests on 10% of the average number of commercial driver positions. The 2011 FTA minimum testing requirement is to annually perform drug tests on 25% and alcohol tests on 10% of the average number of safety-sensitive employees. If a given agency or driver is subject to random alcohol or controlled substances testing under the random alcohol or controlled substances testing of more than one DOT agency for the same employer, the drivers shall be subject to random alcohol and/or controlled substances testing at the annual percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the driver's function.

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

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

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

E. Test Refusal

You have refused to take a test if you:

1. Fail to provide a breath or urine sample,
2. Provide an insufficient volume without valid medical explanation,
3. Adulterate or substitute a specimen,
4. Fail to appear within a reasonable time,
5. Leave the scene of an accident without just cause prior to submitting to a test,
6. Leave the collection facility prior to test completion,
7. Fail to permit an observed or monitored collection when required,
8. For an observed collection, fail to follow the observer’s instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process,
9. Possess or wear a prosthetic or other device that could be used to interfere with the collection process,
10. Admit to the collector or MRO that you adulterated or substituted the specimen. As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test,
11. Fail to take a second test when required,
12. Fail to undergo a medical examination when required,
13. Fail to cooperate with any part of the testing process,
14. Fail to sign Step 2 of alcohol test form,
15. Once test is underway, fail to remain at site and provide a specimen, or
16. The MRO verifies that you provided an adulterated/substituted sample.

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

F. Shy Bladder

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

In instances where the employee produces a dilute specimen, he or she must undergo a second test.

Dilute negative results of 2-5 mg/dl require an immediate recollection under direct observation (see §40.155(c)).

H. Split Sample

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

I. Consequences

Following a positive drug or alcohol (BAC at or above 0.02) test result or test refusal, the employee is immediately removed from safety-sensitive duties, referred to a substance abuse professional (SAP), and put on paid administrative leave pending disciplinary action.

J. Return to Duty Testing

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

K. Follow-Up Testing

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

L. Compensation

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

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

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

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

8. Prescription Drug Use

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

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

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

9. Over-The-Counter Medications

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

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

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

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

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

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

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

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

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

11. Employee and Supervisor Training

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

All-covered employees will undergo a minimum of 60 minutes of initial training on the signs and symptoms of drug use including the side effects and consequences of drug use on personal health, safety, and the work environment. Follow-up training will be done as regulations and requirements change. The initial training also includes manifestations and behavioral cues that may indicate prohibited drug use. Upon completion of the training, employees will sign and date the Employee Acknowledgement Form to confirm receiving the document ant the training. Training forms will be forwarded to Human Resources for retention.
All supervisory and management personnel who are in a position to determine employee fitness for duty will receive a minimum of 90 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. Follow-up training will be done as regulations and requirements change.

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

12. Medical Review Officer (MRO)

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

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

13. Testing Laboratory

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

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

14. Reporting of Anti-Drug/Alcohol Testing Results

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Covered Function (Safety-Sensitive Function) (1) FMCSA: operation of a commercial motor vehicle. (2) FTA: (a) Operating a revenue service vehicle, including when not in service; (b) Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver’s License; (c) Maintaining a revenue service vehicle or equipment used in revenue service; (d) Carrying a firearm for security purposes; (e) A volunteer who operates a vehicle designed to transport sixteen or more passengers, including the driver.

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

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

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

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

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

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

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

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

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

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

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

**Permanent Employee** – An employee hired for a period of more than 120 days (FTA).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Volunteer* – A permanent, temporary, or part-time worker who is not compensated for his/her service. Volunteers are included in the requirements of FTA drug and alcohol regulations if a CDL is required to operate the vehicle.
Classifications covered by the DOT Drug & Alcohol Testing Policy - FMCSA

Incumbents in the following Classifications are "covered employees" if they perform "safety sensitive functions" as described in Section C of the DRUG AND ALCOHOL TESTING POLICY and or drive any of the vehicles listed on Page 2 of this Attachment (Attachment A2).

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

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

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

Incumbents in the following Classifications are “covered employees” if they perform “safety sensitive functions” as described in Section C of the DRUG AND ALCOHOL TESTING POLICY and or drive any of the vehicles listed on Page 2 of this Attachment (Attachment A2).

Bus Fuele
Equipment Mechanic
Equipment Mechanic Crewleader
Equipment Service Technician
Equipment Operator
Fire Equipment Mechanic
Heavy Equipment Mechanic
Heavy Equipment Mechanic Crewleader
Senior Equipment Operator
Senior Fire Equipment Mechanic

Exempt Classifications
Fire Engineers
Police Transit Center Duty
Police Command Unit
ATTACHMENT C

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

Accident Information:

Date of Accident ___________ _ Time of Accident ___________ a.m./p.m.

Employee Name ___________ _ Location of Accident ___________

Covered under _____ FTA or _____ FSCMA?

Decision Questions:

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

If there was NO fatality, answer the following questions:

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

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

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

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

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

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

Yes _____ (If yes, contact the employee's supervisor to report the testing requirement) No _____

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

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

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

DOT Alcohol Testing Time: _________________________

DOT Urine Drug Testing Location: ______________________

DOT Urine Drug Testing Time: ________________________

If testing is delayed, document the reasons below:

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

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

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

Supervisor Signature: ____________________________
Reasonable Suspicion Test Memorandum

Date: __________  Time: __________

TO: __________________________________________

FROM: _________________________________________

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

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

This/these were observed by ______________________ at ________________

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

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

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

**Signs and Symptoms of Use**

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

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

**Health Effects**

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

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

**Social Issues**

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

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

Workplace Issues

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

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

Description

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

Signs and Symptoms of Use

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

Health Effects

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

Workplace Issues

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

Low-dose amphetamine use will cause a short-term improvement in mental and physical
functioning. With greater use or increasing fatigue, the effect reverses and has an impairing effect. Hangover effect is characterized by physical fatigue and depression, which may make operation of equipment or vehicles dangerous.
Cocaine Fact Sheet

Cocaine is used medically as a local anesthetic. It is abused as a powerful physical and mental stimulant. The entire central nervous system is energized. Muscles are more tense, the heart beats faster and stronger, and the body burns more energy. The brain experiences an exhilaration caused by a large release of neurohormones associated with mood elevation.

Description

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

Signs and Symptoms of Use

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

Health Effects

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

**Workplace Issues**

- Extreme mood and energy swings create instability. Sudden noises can cause a violent reaction.
- Lapses in attention and ignoring warning signals greatly increase the potential for accidents.
- The high cost of cocaine frequently leads to workplace theft and/or dealing.
- A developing paranoia and withdrawal create unpredictable and sometimes violent behavior.
- Work performance is characterized by forgetfulness, absenteeism, tardiness, and missed assignments.
Marijuana is one of the most misunderstood and underestimated drugs of abuse. People use marijuana for the mildly tranquilizing and mood- and perception-altering effects it produces.

**Description**

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

**Signs and Symptoms of Use**

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

**Health Effects**

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

**Pregnancy Problems and Birth Defects**

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

**Mental Function**

Regular use can cause the following effects:

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

**Acute Effects**

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

**Workplace Issues**

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

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

**Description**

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

**Signs and Symptoms of Use**

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

**Health Effects**

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

**Social Issues**

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

**Workplace Issues**

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

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

Description

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

Signs and Symptoms of Use

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

Health Effects

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

Workplace Issues

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

List of Department Directors and Their Designees  
*As Defined by the City of Modesto Alcohol and Drug Abuse Policy*

<table>
<thead>
<tr>
<th>JOB TITLE</th>
<th>DEPARTMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Attorney</td>
<td>City Attorney</td>
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<tr>
<td>Assistant City Attorney</td>
<td>City Attorney</td>
</tr>
<tr>
<td>Legal Services Administrator</td>
<td>City Attorney</td>
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<tr>
<td>City Clerk/Auditor</td>
<td>City Clerk/Auditor</td>
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<tr>
<td>Assistant City Clerk</td>
<td>City Clerk/Auditor</td>
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<td>City Manager</td>
<td>City Manager</td>
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<tr>
<td>Deputy City Manager</td>
<td>City Manager</td>
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<tr>
<td>Director</td>
<td>C&amp;ED</td>
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<tr>
<td>Chief Building Official</td>
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<tr>
<td>Deputy Chief Building Official</td>
<td>C&amp;ED</td>
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<tr>
<td>Business Dev Division Mgr</td>
<td>C&amp;ED</td>
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<tr>
<td>Planning Division Mgr</td>
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<td>Admin Services Officer</td>
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<td>Director</td>
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<td>Finance</td>
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<td>Budget &amp; Financial Analysis Mgr</td>
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<td>Accounting Division Manager</td>
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<tr>
<td>Purchasing Manager</td>
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<td>Fire Chief</td>
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<td>Director</td>
<td>Human Resources</td>
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<td>Risk Loss &amp; Control Coordinator</td>
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<td>DOT Program Manager</td>
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<td>Director</td>
<td>PR&amp;N</td>
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<tr>
<td>Deputy Director</td>
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<tr>
<td>Parks Planning &amp; Develop Mgr.</td>
<td>PR&amp;N</td>
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<tr>
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<td>Department</td>
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<tr>
<td>Solid Waste Program Manager</td>
<td>PR &amp; N</td>
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<td>HUD Manager</td>
<td>PR &amp; N</td>
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<tr>
<td>Police Chief</td>
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<tr>
<td>Police Captain</td>
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<td>Police Lieutenant</td>
<td>Police</td>
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<tr>
<td>Director</td>
<td>Public Works</td>
</tr>
<tr>
<td>Deputy Director – Water Services</td>
<td>Public Works</td>
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<tr>
<td>Deputy Director – Wastewater Services</td>
<td>Public Works</td>
</tr>
<tr>
<td>Streets Manager</td>
<td>Public Works</td>
</tr>
<tr>
<td>Administrative Services Officer</td>
<td>Public Works</td>
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<tr>
<td>Airport Manager</td>
<td>Public Works</td>
</tr>
<tr>
<td>Environmental &amp; Regulatory Compliance</td>
<td>Public Works</td>
</tr>
<tr>
<td>Administrator</td>
<td>Public Works</td>
</tr>
<tr>
<td>Fleet Manager</td>
<td>Public Works</td>
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<tr>
<td>Wastewater Collections Manager</td>
<td>Public Works</td>
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<tr>
<td>Water Superintendent</td>
<td>Public Works</td>
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<tr>
<td>Water Quality Control Plant Manager</td>
<td>Public Works</td>
</tr>
<tr>
<td>Transit Manager</td>
<td>Public Works</td>
</tr>
</tbody>
</table>
ATTACHMENT G

City of Modesto Employee Acknowledgement Form

Name: ____________________________  Date: ________________________________

Social Security #: ________________  Job Title: ____________________________

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

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

Lynda Adams
Program Manager

__________________________________________
Signature of Employee
RESOLUTION APPROVING A $70,600 HOME REPAIR PROGRAM/DISABLED ACCESS PROGRAM (HPR/DAP) LOAN FOR CHRISTI MARIE WHITE AND SHERRY M WHITE OF 3833 HONEY CREEK ROAD, MODESTO, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE RELATED DOCUMENTS

WHEREAS, the City Council, on May 3, 2011, by Resolution No. 2011-154, approved the Fiscal Year 2011-12 U.S Department of Housing and Urban Development Annual Action Plan, and

WHEREAS, funding was approved to provide low interest loans to low/moderate income households to repair or eliminate dangerous conditions in homes, including critical health and safety hazards, and

WHEREAS, funding was approved to provide low interest loans to assist disabled persons to make homes more accessible and safe, and

WHEREAS, this 1,582 square foot home, located at 3833 Honey Creek Road, Modesto owned by Christi Marie White and Sherry M. White, needs a large number of improvements, and

WHEREAS, the household income is less than 50% of Median Area Income for a household of four, and therefore, is eligible for a deferred payment loan, and

WHEREAS, eight bids were received for this project, and

WHEREAS, Scott Redenbaugh Construction, Modesto was the lowest responsible bid at $61,325, and

WHEREAS, the $70,600 loan amount includes additional funds for contingency, permit fees, title insurance, and the 2% loan fee, and
WHEREAS, the Housing Rehabilitation Loan Committee considered the proposed request at its November 3, 2011 meeting, and recommends that the City Council approve the relocation costs and recommends Council approval of the proposed loan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a $70,600 HPR/DAP loan for Christi Marie White and Sherry M White of 3833 Honey Creek Road, Modesto.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(Seal)

APPROVED AS TO FORM:

By: [Signature]
SUSANA ALCALA WOOD, City Attorney
RESOLUTION ACCEPTING THE WORK BY ELITE LANDSCAPING, INC., FOR THE HIGHWAY PLANTING AND IRRIGATION STATE ROUTE 99 AT BRIGGSMORE AVENUE PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $944,947.39

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Highway Planting and Irrigation State Route 99 at Briggsmore Avenue project has been completed by Elite Landscaping, Inc., in accordance with the contract agreement dated January 22, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Highway Planting and Irrigation State Route 99 at Briggsmore Avenue project is hereby accepted as complete from said contractor Elite Landscaping, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and that payment of amounts totaling $944,947.39 is authorized as provided in the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-13

RESOLUTION ACCEPTING THE WORK BY AMERINE SYSTEMS, INC., FOR THE AIRPORT IRRIGATION WELL PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $123,882

WHEREAS, a report has been filed by the Interim Director of Utility Planning and Projects that the Airport Irrigation Wells project has been completed by Amerine Systems, Inc., in accordance with the contract agreement dated June 9, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Airport Irrigation Well project is hereby accepted as complete from said contractor Amerine Systems, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling $123,882 is authorized as provided in the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  \underline{Stephanie Lopez}, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  \underline{SUSANA ALCALA WOOD}, City Attorney
RESOLUTION FINDING THAT THE FOLLOWING SUBSEQUENT PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): AMENDMENT TO PLANNED DEVELOPMENT ZONE, P-D(347), PROPERTY LOCATED ON THE SOUTH SIDE OF SYLVAN MEADOWS DRIVE BETWEEN HAIG WAY AND FOREST GLENN DRIVE, 3621 FOREST GLENN DRIVE (GIRL SCOUTS HEART OF CENTRAL CALIFORNIA)

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, Girl Scouts Heart of Central California has proposed an amendment to Planned Development Zone, P-D(347) to expand the uses allowed to include permitted and conditional uses allowed in the P-O, Professional Office Zone, property located on the south side of Sylvan Meadows Drive between Haig Way and Forest Glenn Drive, 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 EA/C&ED 2011-32 ("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 November 29, 2011, 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,
WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on January 10, 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 amendment to P-D(347), 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 10th day of January, 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, Cogdill, Geer, Gunderson, Lopez,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

(Seal)

ATTEST: [Signature]
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2011-32
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2011-32

For the proposed:

Amendment to Planned Development Zone, P-D(347), to Expand the Uses Allowed to Include All Permitted and Conditional Uses Allowed in the P-O, Professional Office Zone for the Existing Girl Scouts Program Service Center

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

October 21, 2011

Updated: October 2011
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 Planned Development Amendment Project P-D(347) 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: Amendment to Planned Development Zone, P-D(347), to Expand the Uses Allowed to Include All Permitted and Conditional Uses Allowed in the P-O, Professional Office Zone for the existing Girl Scouts Program Center

B. Address or Location: South west corner of Sylvan Meadows Drive and Forest Glenn Drive, located at 3621 Forest Glenn Dr. Modesto, CA 95355

C. Applicant: Bill Emmart, Girl Scouts Heart of Central California 6601 Elvas Avenue, Sacramento, CA 95819

D. City Contact Person: Rita Doscher

Project Manager: Rita Doscher
Department: Community and Economic Development Department
Phone Number: (209) 577-5267
E-mail address: rdoscher@modestogov.com

E. Current General Plan Designation(s): “C” Commercial

F. Current Zoning Classification(s): Planned Development zone, P-D(347)
G. Surrounding Land Uses:
   North: Low Density Residential, R-1
   South: Planned Development Zone, P-D (53)
   East: Medium Density Residential, R-2
   West: Planned Development Zone, P-D(418)

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

   The project site is currently zoned Planned Development Zone, P-D(347). The Girl Scouts Program Center consists of one large single-story building (totaling 9,751 square feet), with required on-site parking. The applicant is proposing to amend P-D(347) to expand the uses allowed to include permitted and conditional uses allowed in the P-O, Professional Office Zone.

I. Other Public Agencies Whose Approval is Required:
   None

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

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

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

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

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

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

2. Mitigated Negative Declaration Required - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

   A. The proposed project is of a type described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the 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 proposed project is of a type described in Chapter II of the Master EIR.

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

| (1) | The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR. | YES NO |
| (2) | City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only. | YES NO |
| (3) | Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR). | YES NO |
| (4) | No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources. | YES NO |
| (5) | The development will occur within the boundaries of the City’s planning area as established in this Urban Area General Plan. | YES NO |
| (6) | Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR. | YES NO |

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.

| (1) | Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project. | YES NO |
| (2) | This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings: | YES NO |
| (a) | No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified. | YES NO |
| (b) | No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. | YES NO |
| (c) | Policies remain in effect which require site-specific mitigation, and avoidance or other | YES NO |
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 hereby documents whether or not the project is “within the scope” of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City’s obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto’s significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG’s Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.
Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

Discussion:

The proposed expansion of uses to the Girl Scouts Program Center site is compatible with the existing surrounding residential and office development and church located in this neighborhood. The project is consistent with the surrounding uses and will not result in a change to the existing road capacities or levels of services.

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

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes none from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

<table>
<thead>
<tr>
<th>1. TRAFFIC AND CIRCULATION</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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<tbody>
<tr>
<td>1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and</td>
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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.

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<tr>
<th>Table Row</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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<tr>
<td>2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?</td>
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<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>
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<td>4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).</td>
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<td>5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.</td>
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<td>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>
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<td>7) The proposed project would result in an increase in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.</td>
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**Discussion:**

1. Engineering and Transportation Staff reviewed the proposed project and have no comments pertaining to the project:

   A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.
   B. A site access study is not required for this project.

2. The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). The City Engineering
and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards.

(3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4) The 48 parking spaces located in to the south of the existing building provided by the original P-D approval meets the parking required for medical and/or dental office uses, and exceeds office and/or services parking requirements.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM10) and 2.5 microns or less in diameter (PM2.5) (see MEIR Table 2-8, page V-2-27).

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

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NOx, PM10, and PM2.5.

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

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

Discussion:

The appropriate mitigation to be applied to this project includes: AQ-17 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:

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<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>
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<tbody>
<tr>
<td>2. DEGRADATION OF AIR QUALITY</td>
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<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 (SJVAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.</td>
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</tr>
<tr>
<td>2) The proposed project does not incorporate the best management practices established by the SJVAPCD 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 implementation of the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5) The proposed project would create objectionable odors affecting a substantial number of people.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project was not referred to the San Joaquin Valley Unified Air Pollution Control District because the project is to allow an expansion of uses not development, and it was determined that the project would not have any significant effect on the ambient air quality.

(2) This project does incorporate the best management practices for PM\textsubscript{10} reduction established by the SJVUAPD (see mitigations measures above).

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

(4) The project is not a contributor to pollution levels. PM\textsubscript{10} emissions created through any construction will be mitigated as called for by the MEIR by the measures listed above.

(5) The proposed project will not produce any 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-4, N-5 and N-6 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>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>

City of Modesto
General Plan Master EIR

Initial Study EA No. 2011-32  
November 7, 2011
3. GENERATION OF NOISE

<table>
<thead>
<tr>
<th>Impact Description</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the conditions of approval for the project.

3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.
Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

**Cumulative Impacts**

Effect: Growth within Modesto’s planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

**Discussion:**

The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project is an infill development and the surrounding properties are located within a fully developed urbanized area.

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

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

**Discussion:**

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-4.8 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></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>
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</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>x</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>x</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>x</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanized land.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts have been disclosed in the Master EIR.

Cumulative Impacts

Effect: Operational yields of the Modesto and Turlock sub-basins, 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 sub-basins. Groundwater withdrawals from both basins by the City, when combined with other users’ withdrawals, may result in overdrafting both sub-basins.
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-S-6 through V-S-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
Discussion:

1. The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

2. The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

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

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of
whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Impact Not Less Than Significant</th>
</tr>
</thead>
<tbody>
<tr>
<td>6. INCREASED DEMAND FOR SANITARY SEWER SERVICES</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
</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>
</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>
</tr>
</tbody>
</table>

Discussion:

1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

2) The project was referred to Engineering and Transportation for comment and there was no indication that there is insufficient capacity to serve the 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 appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>4) The proposed project would substantially interfere with the movement of any native resident</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
</tbody>
</table>

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or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

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.

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(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) There is no conflict with any local policies or ordinances protecting biological resources.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

**Effect:** The modification or demolition of a structure more than 50 years in age may be significant.

**Effect:** Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

**Effect:** Construction in an area of high archaeological sensitivity.

**Cumulative Impacts**
Effect: No additional cumulative impacts were disclosed in the Master EIR.

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

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:
The appropriate mitigation to be applied to this project includes: AH-8, from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the archaeological/historical resource policies in the 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 Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

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>9. INCREASED DEMAND FOR STORM DRAINAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.</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>
</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>
</tr>
</tbody>
</table>

<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>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Discussion:

1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

2) The project does not propose to increase the impervious surface, the building already exists. The project will meet the standards contained in the “Guidance Manual for New Development-Storm Water Quality Control Measures,” adopted by the City as required by the above-listed mitigation measures.

3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.
Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

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

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:
The appropriate mitigation to be applied to this project includes: FWQ-14, from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

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

<table>
<thead>
<tr>
<th>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</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>Storm Water Quality Control Measures.</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>6) The proposed project would violate water quality standards or waste discharge requirements.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. It is not near any of the riparian areas identified by Figures V-7-1a thorough V-11-19 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. The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
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:
12. INCREASED DEMAND FOR SCHOOLS

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>✗</td>
</tr>
<tr>
<td>2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>✗</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(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>Impact Incorporation</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>

13. **INCREASED DEMAND FOR POLICE SERVICES**

1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.

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.

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. **INCREASED DEMAND FOR FIRE SERVICES**

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

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

**Direct Impacts**

*Effect:* No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

*Effect:* No residual significant cumulative impacts were disclosed in the Master EIR.

b. **Master EIR and/or New Mitigation Measures Applied to the Project**
Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

**Discussion:**

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. **Project-Specific Effects**

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>14. INCREASED DEMAND FOR FIRE SERVICES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant Impact with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.
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>Significance Criteria</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

City of Modesto
General Plan Master EIR
29

Initial Study EA No. 2011-32
November 7, 2011
Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan "C" (Commercial) designations in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

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

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>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>

City of Modesto
General Plan Master EIR

Initial Study EA No. 2011-32
November 7, 2011
16. GENERATION OF HAZARDOUS MATERIALS

1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.

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.

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.

4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.

Discussion:

(1) The project is consistent with the Modesto Urban Area General "C" (Commercial) designations in both land use and intensity.

(2) This is an infill project, which involves an expansion of uses to an existing Girl Scouts Program Center. No hazardous materials will be involved with this project.

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.
Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

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

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
The appropriate mitigation to be applied to this project includes none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<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 availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.</td>
</tr>
</tbody>
</table>
Discussion:

(1) The proposed project is consistent with the Urban Area General Plan and the site’s General Plan Land Use designation of C “Commercial”. The Commercial land use designation allows for uses as permitted within the P-O Zone, subject to Planned Development Amendment approval by the Planning Commission.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project. The project site is already developed with one building used as the Girl Scouts Program Center.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

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

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>Impact Description</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with 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 Modesto Urban Area General Plan “C” (Commercial) designations in both land use and intensity.

### 19. EFFECTS ON VISUAL RESOURCES

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

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

**Direct Impacts**

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

**Cumulative Impacts**

Effect: No additional cumulative impacts were disclosed in the Master EIR.

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

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**
Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>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>
| 19. EFFECTS ON VISUAL RESOURCES
1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan. | ☐                                      | ☐                        | ☒        |
| 2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan. | ☐                                      | ☐                        | ☒        |
| 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. | ☐                                      | ☐                        | ☒        |

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area. The development already exists.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.
Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

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

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>20. LAND USE AND PLANNING</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan “C” (Commercial) designations in both land use and intensity.

(2) No amendment to the General Plan is required by this project.

(3) The project is an infill project that will not result in division of a community.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

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

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.</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>

| 2) The proposed project would result in average automobile trip lengths or CO₂ emissions higher than those assumed in the Master EIR. | Potentially Significant Impact | Less Than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |

| 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. | Potentially Significant Impact | Less Than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |

Discussion:

(1-3) The proposed project is consistent with the Urban Area General Plan and the site’s General Plan Land Use designation of “C” (Commercial). The Commercial land use designation allows for uses as permitted within the Planned Development Zone, P-D(347)/P-O Zone, subject to approval by the Planning Commission. Any future development would be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project’s effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the...
project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation:
N/A

Degradation of Air Quality:

1. When materials are transported off-site, all materials 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.

Generation of Noise:

1. The City’s noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the “loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine.”

The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

A. A hammer, or any other device or implement used to pound or strike an object.

B. An impact wrench, or other tool or equipment powered by compressed air.

C. A hand-powered saw.

D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, backhoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or
permitted action, depending upon the nature of the emergency and the type of action requested.

H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

**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:**

N/A

**Flooding and Water Quality:**

N/A

**Increased Demand for Parks and Open Space:**

N/A

**Increased Demand for Schools:**

N/A

**Increased Demand for Police Services:**

N/A

**Increased Demand for Fire Services:**

N/A
Generation of Solid Waste:
N/A

Generation of Hazardous Materials:
N/A

Geology, Soils, and Mineral Resources:
N/A

Energy:
N/A

Effects on Visual Resources:
N/A

Land Use and Planning:
N/A

Climate Change:
N/A
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-15

RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) ON BEHALF OF EMPLOYEES REPRESENTED BY THE MODESTO CITY EMPLOYEES ASSOCIATION (MCEA); AND REPEALING RESOLUTION NO. 2000-396

WHEREAS, the City Council, by Resolution No. 2000-396, adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the City amended its contract with CalPERS to provide a second tier retirement formula 2% @ 60 to local miscellaneous members entering employment with the City of Modesto for the first time in the miscellaneous classification effective January 17, 2012, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20691,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

For Miscellaneous employees hired before January 17, 2012, the City of Modesto elects to pay six and six-tenths percent (6.6%) of the normal member contributions of seven percent (7%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

For Miscellaneous employees hired on or after January 17, 2012, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of seven percent (7%). No payment shall be implemented pursuant to the provisions of Section 20636 (c)(4) of the California Government Code.

BE IT FURTHER RESOLVED that this Resolution shall become effective on January 17, 2012.

BE IT FURTHER RESOLVED that effective January 17, 2012 Resolution No. 2000-396 is hereby repealed in its entirety.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) ON BEHALF OF EMPLOYEES REPRESENTED BY THE MODESTO POLICE AND FIRE NON-SWORN ASSOCIATION (MPNSA); AND REPEALING RESOLUTION NO. 2000-396

WHEREAS, the City Council, by Resolution No 2000-396, adopted a labor policy providing for Public Employees’ Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the City amended its contract with CalPERS to provide a second tier retirement formula 2% @ 60 to local miscellaneous members entering employment with the City of Modesto for the first time in the miscellaneous classification effective January 17, 2012, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20691,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

For Miscellaneous employees hired before January 17, 2012, the City of Modesto elects to pay six and six-tenths percent (6.6%) of the normal member contributions of seven percent (7%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

For employees hired on or after January 17, 2012, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of seven percent (7%). No payment shall be implemented pursuant to the provisions of Section 20636 (c)(4) of the California Government Code.

BE IT FURTHER RESOLVED that this Resolution shall become effective on January 17, 2012.

BE IT FURTHER RESOLVED that effective January 17, 2012, Resolution No. 2000-396 is hereby repealed in its entirety.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [signature]

(SEAL)

APPROVED AS TO FORM:

By: [signature]

SUSAN ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-17

RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) ON BEHALF OF EMPLOYEES REPRESENTED BY THE MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION (MCMA); AND REPEALING RESOLUTION NO. 2000-273

WHEREAS, the City Council, by Resolution No. 2000-273, adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the City amended its contract with CalPERS to provide a second tier retirement formula 2% @ 60 to local miscellaneous members entering employment with the City of Modesto for the first time in the miscellaneous classification effective January 17, 2012, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20691,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

For Miscellaneous employees hired before January 17, 2012, the City of Modesto elects to pay six and six-tenths percent (6.6%) of the normal member contributions of seven percent (7%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

For Miscellaneous employees hired on or after January 17, 2012, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of seven percent (7%). No payment shall be implemented pursuant to the provisions of Section 20636 (c)(4) of the California Government Code.

BE IT FURTHER RESOLVED that this Resolution shall become effective on January 17, 2012.

BE IT FURTHER RESOLVED that effective January 17, 2012 Resolution No. 2000-273 is hereby repealed in its entirety.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) ON BEHALF OF EMPLOYEES REPRESENTED BY THE MODESTO CITY FIRE FIGHTERS' ASSOCIATION (MCFFA); AND REPEALING RESOLUTION NO. 95-401

WHEREAS, the City Council, by Resolution No. 95-401, adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the City amended its contract with CalPERS to provide a second tier retirement formula 3% @ 55 to local fire safety members entering employment with the City of Modesto for the first time in the fire classification effective January 17, 2012, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20636.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

For Fire Safety employees hired before January 17, 2012, the City of Modesto elects to pay seven and one half percent (7.5%) of the normal member contributions of nine percent (9%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

For Fire Safety employees hired on or after January 17, 2012, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of nine percent (9%). No payment shall be implemented pursuant to the provisions of Section 20636 (c)(4) of the California Government Code.

BE IT FURTHER RESOLVED that this Resolution shall become effective on January 17, 2012.

BE IT FURTHER RESOLVED that effective January 17, 2012, Resolution No. 95-401 is hereby repealed in its entirety.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

(Seal)
RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS) ON BEHALF OF UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES; AND REPEALING RESOLUTION NO. 2000-273

WHEREAS, the City Council, by Resolution No. 2000-273, adopted a labor policy providing for Public Employees’ Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the City amended its contract with CalPERS to provide a second tier retirement formula 2% @ 60 to local miscellaneous members entering employment with the City of Modesto for the first time in the miscellaneous classification effective January 17, 2012, and

WHEREAS, the City amended its contract with CalPERS to provide a second tier retirement formula 3% @ 55 to local fire safety members entering employment with the City of Modesto for the first time in the fire classification effective January 17, 2012, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and
WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20691,

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

For Miscellaneous employees hired before January 17, 2012, the City of Modesto elects to pay six and six-tenths percent (6.6%) of the normal member contributions of seven percent (7%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

For Fire Safety employees hired before January 17, 2012, the City of Modesto elects to pay seven and one half percent (7.5%) of the normal member contributions of nine percent (9%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

For Miscellaneous employees hired on or after January 17, 2012, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of seven percent (7%).

For Fire Safety employees hired on or after January 17, 2012, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of nine percent (9%).

No payment shall be implemented pursuant to the provisions of Section 20636 (c)(4) of the California Government Code.
BE IT FURTHER RESOLVED that this Resolution shall become effective on January 17, 2012.

BE IT FURTHER RESOLVED that effective January 17, 2012 Resolution No. 2000-273 is hereby repealed in its entirety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING A REQUEST FROM THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS TO ACQUIRE AT A COST OF $61,000, THE PROPERTY LOCATED AT 505 EAST COOLIDGE AVENUE, MODESTO TO PROVIDE HOUSING UNITS FOR THE EMANCIPATED FOSTER YOUTH AND/OR HOMELESS YOUTH PROGRAM PARTICIPANTS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND RELATED DOCUMENTS

WHEREAS, on January 14, 2010, the City of Modesto (City) was granted $25 million under the Neighborhood Stabilization Program 2 of which $6 million was specifically set-aside for an innovative program under the Housing Authority of the County of Stanislaus, and

WHEREAS, this program, the Emancipated Foster Youth and/or Homeless Youth Program, is intended to acquire 40 foreclosed, abandoned or vacant units, to house foster and homeless youth between the ages of 18 to 28, and

WHEREAS, on January 11, 2011, the City and the Housing Authority of Stanislaus County entered into a Memorandum of Understanding to implement the Emancipated Foster Youth and/or Homeless Youth Program, and

WHEREAS, on November 28, 2011, the City received a request from the Housing Authority to purchase a foreclosed duplex located at 505 E. Coolidge Avenue, Modesto, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to acquire the property located at 505 E. Coolidge Avenue, Modesto for the Emancipated Foster Youth and/or Homeless Youth Program for a total cost not to exceed $61,000,
NOW, THEREFORE, BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to execute the Agreement and related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-21

A RESOLUTION APPROVING THE TERM SHEET TO BE USED IN THE DEVELOPMENT OF A NEW SERVICE AGREEMENT WITH COVANTA STANISLAUS, INC.; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO SIGN THE TERM SHEET SO A NEW SERVICE AGREEMENT CAN BE DEVELOPED; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO NEGOTIATE A NEW SERVICE AGREEMENT WITH STANISLAUS COUNTY AND COVANTA STANISLAUS, INC.; AND, AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH SIDLEY AUSTIN, LLP, FOR THE DEVELOPMENT OF THE NEW SERVICE AGREEMENT ON BEHALF OF THE CONTRACTING COMMUNITIES

WHEREAS, on December 17, 1985, the City of Modesto and County of Stanislaus (Contracting Communities) entered into an agreement for administration of the City/County Service Agreement with the Stanislaus Waste Energy Company (now Covanta Stanislaus) for supply and acceptance of solid waste, and

WHEREAS, since that time, the City has been partners with Stanislaus County and Covanta Stanislaus in the Stanislaus Resource Recovery Facility (the “Waste-to-Energy” or “WTE” Facility), and

WHEREAS, the City and County operate the project as a Joint Powers Agency under a Joint Powers Agreement, with the County acting as the Treasurer, and

WHEREAS, under the current Service Agreement, the Contracting Communities pay Covanta a service fee to operate the facility and are also responsible for all pass through costs associated with the facility such as taxes, insurance, air permit fees, ash disposal, etc., and

WHEREAS, the Contracting Communities are also responsible for any costs associated with unforeseen circumstances such as changes in law, major upgrades or any
acts, events or conditions that have a material adverse effect on the operation of the facility, and

WHEREAS, the Contracting Communities are responsible for delivering wastes to the facility under a minimum tonnage guarantee of 243,300 tons, and Covanta uses this waste to generate electricity, which it sells to PG&E under a Power Purchase Agreement (PPA), and

WHEREAS, the Contracting Communities currently retain 60% of the electric revenue generated by the facility, all of the disposal fees, 50% of metal recycling revenue and 30% of supplemental waste revenue, which revenues are used to offset costs, and

WHEREAS, the existing Service Agreement was set to expire on December 31, 2009, and in 2007, staff from the County Department of Environmental Resources and the City of Modesto Solid Waste Division began negotiations on a new contract with Covanta, and

WHEREAS, those negotiations proved unsuccessful, so in May 2009, the County and the City of Modesto exercised an option given in the original contract to extend the contract under the same terms an additional six years through December 31, 2015, and

WHEREAS, when the Power Purchase Agreement (PPA) with PG&E expired in January, 2010, Covanta elected to extend its contract with PG&E under extension provisions pursuant to California Public Utilities Commission (CPUC) Decision No. 07-09-040, and

WHEREAS, those provisions caused the price paid for power to revert to the Short Run Avoided Cost, or "SRAC", which was about $55 per MW at the time and has since dropped even further, and
WHEREAS, this pricing also did not include a premium for renewable energy, and the capacity payment was reduced, and as a result, revenues from electricity generation declined sharply resulting in a significant operating deficit, and

WHEREAS, both the Contracting Communities and Covanta recognized that it would be in our joint interests to return to the negotiating table and secure a long term commitment that would motivate Covanta to negotiate a new PPA at much more favorable rates than current SRAC rates, and

WHEREAS, a new negotiating team was formed and reopened negotiations with Covanta, with the objectives of preserving the current RRA balance, a stable and predictable tipping fee, a commitment to no increased importation of waste, meeting diversion requirements and preserving landfill capacity, and reducing City/County risk exposure from change-in-law, public perception, and change in science/technology, and

WHEREAS, the Contracting Communities negotiating team has met on a regular basis over the past year and has provided periodic updates on the status of negotiations to the Solid Waste-to-Energy Executive Committee and the City-County Liaison Committee, and

WHEREAS, major deal points from the negotiations have been agreed upon by the team and Covanta and are outlined in the attached Term Sheet (Attachment A), and

WHEREAS, Legal Counsel to the Executive Committee, Sidley Austin LLP, has reviewed the Term Sheet and provided comments on the terms to protect the interests of the Contracting Communities, and

WHEREAS, upon approval of the Term Sheet, staff is also recommending that the City Manager be authorized to enter into a contract with Sidley Austin, LLP, for the
development of the New Service Agreement on behalf of the Contracting Communities, and

WHEREAS, upon approval of the Term Sheet, staff is also recommending that the City Manager, or designee, be directed to negotiate a new Service Agreement with Stanislaus County and Covanta Stanislaus, Inc. consistent with the Term Sheet and return to the City Council for final approval of the new Service Agreement, and

WHEREAS, now that the major business points have been negotiated and outlined in the Term Sheet, staff is working to expedite the development of the New Service Agreement and return to the City Council for final approval.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Term Sheet to be used in the development of a new Service Agreement with Covanta Stanislaus, Inc., a copy of which is attached hereto as Attachment "A" and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign the Term Sheet.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby directed to negotiate a new Service Agreement with Stanislaus County and Covanta Stanislaus, Inc. consistent with the Term Sheet and to return to the City Council for final approval of the new Service Agreement.

BE IT FURTHER RESOLVED that the City Manager is authorized to enter into a contract with Sidley Austin, LLP, for the development of the New Service Agreement on behalf of the Contracting Communities,
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
TERM SHEET
among Covanta Stanislaus, Inc. ("Covanta"),
the City of Modesto, CA (the "City") and
the County of Stanislaus, CA (the "County");
the City and the County, collectively
(the "Contracting Communities")

The Contracting Communities and Covanta are parties to that certain Amended and
Restated Service Agreement for the Supply and Acceptance of Solid Waste dated as of June
1986, as amended through the date hereof (the "Original Service Agreement"). The term of the
Original Service Agreement, as previously extended, is scheduled to expire January 1, 2016.
Covanta and the Contracting Communities wish to amend and restate in its entirety the Original
Service Agreement in accordance with this Term Sheet. The Original Service Agreement as so
amended and restated is hereinafter referred to as the "New Service Agreement". The term of
the New Service Agreement shall commence on April 1, 2012 and continue until April 1, 2027.
This Term Sheet is not intended and shall not be construed as a binding contract between the
parties but shall serve solely to memorialize the understanding between the parties on the issues
addressed herein. Capitalized terms used but not defined in this Term Sheet, if defined in the
Original Service Agreement, shall have the meaning ascribed to such terms in the Original
Service Agreement.

1. **Tipping Fee.** The tipping fee shall be $32 per ton of Acceptable Waste, escalated
   annually on July 1st of each year, beginning July 1, 2013, by the increase as of January 1st of the
   then current year compared to January 1st of the immediately preceding year, in the Consumer
   Price Index, "Urban Wage Earners and Clerical Workers, All items, West – Size B/C (1996 =
   100, not seasonally adjusted)". At the time of each annual escalation, the as-escalated tip fee
   shall be (a) no greater than 120% of the average of the posted gate rates per ton for the landfills
   (whether or not owned by the County) within fifty miles of the Facility; and (b) no less than $32
   per ton; and if 120% of such average is less than $32 per ton, then the tip fee for such year shall
   nevertheless be $32 per ton (the "Tipping Fee").

2. **Electric Revenues.** Subject to Sections 3(a)(ii) and 3(b)(ii) below, Covanta shall have
   the right to receive and retain all electric revenues generated by the Project. Electric revenues
   shall mean all revenues derived from the sale of electrical energy, capacity or ancillary services
   from the Facility, including any benefit of environmental attributes reflected in the price of the
   foregoing. (the "Electric Revenues").

3. **Unforeseen Circumstance Cost.**

   (a) From April 1, 2012 until January 1, 2016:

   (i) Covanta shall bear 75% of Unforeseen Circumstance Costs (including Cap
       and Trade Costs as defined below) and the Contracting Communities shall bear 25% of
       such Unforeseen Circumstance Costs, subject to Cost Substantiation.

   (ii) Covanta shall separately account for the portion of Electric Revenues in
        excess of $82.50/MWH (the "Excess Electric Revenues"). Excess Electric Revenues
shall be deemed to reduce the costs of complying with legislation or regulations imposing
a cap and trade program on greenhouse gas emissions ("Cap & Trade Costs"), including
without limitation, regulations promulgated pursuant to the Global Warming Solutions
Act of 2006, if any, before the allocation between the parties described in Section 3(a)(i)
above is applied, and the Contracting Communities shall have no responsibility for Cap
& Trade Costs in excess of 25% of the net amount remaining after such deemed
reduction. If on January 2, 2016, the New Service Agreement remains in effect and there
are any Excess Electric Revenues which have not been applied as contemplated by the
immediately preceding sentence, then any such balance of Excess Electric Revenues shall
be added to the amounts provided under Section 3(b)(ii) below and applied as provided
therein. However, if there is a termination of the New Service Agreement before January
2, 2016, and there is any such balance of Excess Electric Revenues remaining, then such
balance shall be for the account of Covanta.

(b) From January 2, 2016 until the termination of the New Service
Agreement:

(i) Covanta shall bear 75% of Unforeseen Circumstance Costs and the
Contracting Communities shall bear 25% of Unforeseen Circumstance Costs, subject to
Cost Substantiation.

(ii) Covanta shall separately account for Excess Electric Revenues from
Electric Revenues in excess of $92.50/MWH. Such Excess Electric Revenues, together
with any balance transferred in accordance with Section 3(a)(ii) above, shall be deemed
to reduce any and all Unforeseen Circumstance Costs before the allocation between the
parties described in Section 3(b)(i) above is applied, and the Contracting Communities
shall have no responsibility for Unforeseen Circumstance Costs in excess of 25% of the
net amount remaining after such deemed reduction. If upon expiration or termination of
the New Service Agreement after January 2, 2016 there is any balance of such Excess
Electric Revenues remaining, then such balance shall be for the account of Covanta.

(c) The Contracting Communities shall have the right to cause an independent
third party to audit the books and records of Covanta relating to the accounting of all revenues,
costs, liabilities or expenditures that affect the rights, obligations or liabilities of the Contracting
Communities under the New Service Agreement, by providing to Covanta written notice of
exercise of such audit right within three years after the closing of the books for any period to be
audited. The independent third party shall enter into a confidentiality agreement reasonably
acceptable to Covanta and the Contracting Communities before accessing such books and
records of Covanta. Following execution of such confidentiality agreement, Covanta shall
cooperate in all reasonable respects with the audit. The parties shall reconcile any discrepancy
revealed by the audit within 60 days after the conclusion thereof, subject to the dispute resolution
provisions of the New Service Agreement for any good faith disputes arising from the conclusion
of the audit.
(d) If the cumulative total Unforeseen Circumstance Costs incurred from the date of commencement of the New Service Agreement collectively by Covanta and by the Contracting Communities exceeds $15,000,000, excluding amounts reimbursed by proceeds of insurance and excluding Excess Electric Revenues applied pursuant to Section 3(a)(ii) or Section 3(b)(ii) above (such net amount being the "Initial UCC Termination Threshold"), then each of Covanta, on the one hand, and the Contracting Communities, acting jointly on the other hand, shall have the right to terminate the New Service Agreement (a "UCC Termination") by providing written notice thereof to the other within 90 days after receiving notice or other written confirmation that such Initial UCC Termination Threshold has been reached. The party to whom such notice of termination is given shall have the right to avoid the UCC Termination by paying to the party giving the notice, within 30 days after receipt of the notice, the amount incurred in excess of $3.75 million in the case of the Contracting Communities, and the amount in excess of $11.25 million in the case of Covanta (each a "Termination Avoidance Amount"). If neither party timely exercises the UCC Termination when the Initial UCC Termination Threshold is reached, or if a party avoids the UCC Termination pursuant to the immediately preceding sentence, then the New Service Agreement shall continue uninterrupted and in full force and effect, unless and until additional Unforeseen Circumstance Costs, in excess of the Initial UCC Termination Threshold, incurred collectively by Covanta and by the Contracting Communities exceed a cumulative total of $1,500,000 (a "Subsequent UCC Termination Threshold"), at which time a UCC Termination right shall arise for each party again in accordance with the foregoing provisions of this Section 3(d), based on a Subsequent UCC Termination Threshold amount of $1,500,000 (rather than $15,000,000) and including the termination avoidance provisions with Termination Avoidance Amounts of $375,000 for the Contracting Communities and $1,125,000 for Covanta. If neither party timely exercises the UCC Termination when the Subsequent UCC Termination Threshold is reached, or if a party avoids the UCC Termination pursuant to the immediately preceding sentence, then this same process shall apply each time a new Subsequent UCC Termination Threshold is reached during the term of the New Service Agreement.


(a) Quantity of Waste. The Contracting Communities shall deliver or cause to be delivered to the Facility, on a put-or-pay basis, and the Company shall accept, for Processing or, subject to Section 9(e) below, disposal, 243,300 tons of Acceptable Waste per year during the term of the New Service Agreement ("Guaranteed Tonnage"). Acceptable Waste delivered or tendered for delivery to the Facility by or on behalf of the Contracting Communities and rejected by Covanta due to one or more scheduled maintenance outages during any calendar year which aggregate more than 672 hours shall count towards the put-or-pay obligation of the Contracting Communities, in addition to other remedies if any applicable to such rejection under the New Service Agreement. In addition, the Contracting Communities may tender for delivery, and if so tendered and if Processing Capacity (hereinafter defined) at the Facility is available, the Company shall accept, additional Acceptable Waste (originating within the territorial limits of the Contracting Communities) in excess of 243,300 tons per year up to the Processing Capacity of the Facility as set forth in Section 9 below ("Excess Waste"). The tipping fee for the first 10,000 tons per year of Excess Waste shall be $2 per ton less than the then applicable Tipping Fee, and the Tipping Fee for all further Excess Waste shall be $4 per ton less than the then applicable Tipping Fee. The Contracting Communities acknowledge that waste that requires
special handling or secure destruction “Special Waste” will have priority over the processing of Excess Waste, as provided in Section 9(c) below.

(b) Quality of Waste. The Contracting Communities shall deliver Acceptable Waste to the Facility. Any inadvertent delivery of Hazardous Waste and/or Unacceptable Waste to the Facility by the Contracting Communities shall not constitute a breach of the Contracting Communities, and the New Service Agreement shall contain provisions similar to the Original Service Agreement governing the procedures, costs and liabilities associated with the delivery of Hazardous Waste and/or Unacceptable Waste to the Facility. If Hazardous Waste and/or Unacceptable Waste are delivered to the Facility by or on behalf of third parties, the Contracting Communities’ share of the cost incurred to remedy such delivery shall be in accordance with their share of the tipping fee benefit from the delivery of such Waste to the Facility had it been Acceptable Waste.

(c) Delivery Schedule. The New Service Agreement shall contain a delivery schedule which is negotiated between Covanta and the Contracting Communities. The delivery schedule will set forth the hours for waste deliveries to the Facility and the daily and monthly tonnage maximums. Also, the New Service Agreement will outline terms for notifying Contracting Communities when the Facility is unable to accept and Process Acceptable Waste.

(d) Weight. The tonnage of waste delivered to the Facility shall be weighed at the scales owned by Covanta, but operated by the County of Stanislaus at the Facility. The New Service Agreement shall contain provisions similar to the Original Service Agreement for addressing periods when the scales become inoperative, for maintaining the accuracy of the scales, resolving discrepancies, observing testing and other procedures.

5. Landfill Disposal. The Contracting Communities shall provide disposal capacity throughout the term of the New Service Agreement at the Fink Road Landfill (the “Landfill”) for Covanta’s disposal of all Process Residue, Unacceptable Waste and By-Pass Waste from the Facility. Covanta may dispose of all Process Residue, Unacceptable Waste and By-Pass Waste from the Facility at the Landfill and shall pay to the Contracting Communities (i) a tipping fee of $26 for each ton of Process Residue, and (ii) the then-posted gate rate at the Landfill for By-Pass Waste, delivered to the Landfill. Such tipping fee for Process Residue shall escalate annually at the same time and by the same percentage as the tipping fee for Acceptable Waste escalates, after giving effect to the limiting parameters described in Section 1(a) and (b) above. Covanta may dispose of Unacceptable Waste delivered to the Facility by or on behalf of the Contracting Communities at the Landfill free of charge. The Contracting Communities shall not be obligated to pay to Covanta the tipping fee for Unacceptable Waste delivered to the Facility by or on behalf of the Contracting Communities but shall only pay to Covanta substantiated incremental handling, removal and transport costs for removing such Unacceptable Waste from the Facility, provided that the Contracting Communities make the Landfill available to Covanta for disposal of such Unacceptable Waste free of charge. The New Service Agreement shall otherwise contain provisions similar to the provisions in Article VII of the Original Service Agreement.

6. Recovered Resources. Subject to Section 3 above, Covanta shall have the sole and absolute right, at Covanta’s option, and pursuant to such terms and conditions as Covanta determines in its sole and absolute discretion, to sell, trade, donate or otherwise alienate any and
all Recovered Resources, solely for the account of Covanta. “Recovered Resources” means (i) steam, electric energy, capacity, ancillary services, ferrous and non-ferrous metals, ash and such other materials of whatever nature or description as the Company may from time-to-time recover from Solid Waste, Process Residue or any other material, whether at the Facility or elsewhere, as determined by the Company in its sole and absolute discretion, and (ii) offsets, credits or benefits of whatever nature or description, for emissions, pollution, greenhouse gas, renewable energy generation, investment, production, taxes or any certificate, grant or intangible entitlement relating to the Facility or its operation, exclusive of diversion credits from the State for wastes processed by the Facility.

7. **Costs of Facility.**

   (a) Except as provided in Section 3 above and clause (b) below in this Section, or as is expressly provided in the Facility Site Lease or the New Service Agreement, Covanta shall solely bear all costs and risks and have all benefits of ownership, operation and maintenance of the Facility including casualties and liability.

   (b) Notwithstanding the immediately preceding sentence, Covanta shall have a right to reimbursement from the Contracting Communities for any taxes, assessments or fees imposed by the County, the City, or any special taxing district or authority under the control of the County or City, that are imposed on Covanta, the Facility, its operation or the solid waste industry and that are not generally applicable throughout the entire County (collectively, “Discriminatory Taxes”). Except for Discriminatory Taxes, Covanta will be responsible for the payment of any ad valorem, personal or business property and possessory interest lease or property taxes.

8. **Site Lease.** The Facility Site Lease Agreement dated as of June 1, 1986 between the County and Covanta shall be amended as follows:

   (a) The initial term thereof shall be extended to expire on April 1, 2027. One fifteen-year renewal option shall remain in effect; and

   (b) The rental provision shall be amended to provide for a fixed annual base rent of $198,000 per year until the earlier of (i) the termination of the New Service Agreement or (ii) April 1, 2027.

9. **Waste Capacity.**

   (a) The Contracting Communities shall have a right of first use of all Processing Capacity (as such term is defined in Section 9(d) below) at the Facility, subject to the following procedures. If at any time and from time to time the Contracting Communities have not delivered sufficient waste to fill the Processing Capacity of the Facility, then within 24 hours of Covanta’s notice to the Contracting Communities of the existence of excess Processing Capacity at the Facility, Covanta shall have the right to market, for the benefit of both the Contracting Communities and Covanta as provided in Section 9(c) below, the difference between the Processing Capacity and the total of Acceptable Waste being delivered by the Contracting Communities.
(b) If Covanta procures waste from third parties to mitigate a shortfall in the Contracting Communities meeting their scheduled Guaranteed Tonnage (a “Waste Delivery Shortfall”), then Covanta shall be entitled to, and the Contracting Communities shall owe, a procurement fee of 15% (the “Procurement Commission”) of the tipping fee paid by such third parties (the “Third Party Tipping Fee”) for the procurement of such waste. In addition, if the Third Party Tipping Fee is less than the Tipping Fee then, in addition to the Procurement Commission, (a) the Contracting Communities will pay the difference between the Third Party Tipping Fee and the then current Tipping Fee (“Shortfall Payment”), but (b) the Contracting Communities shall have the right, upon 48 hours notice, to terminate any such supply arrangement which results in net payments by the Contracting Communities and direct Covanta to accept waste from alternative sources procured by the Contracting Communities in order to reduce the Waste Delivery Shortfall. If the Third Party Tipping Fee is greater than the then current Tipping Fee, the “excess revenues” derived therefrom shall be separately accounted for and used as a credit to satisfy past, present and/or future Shortfall Payments. For the purposes of this calculation, it is assumed that the Procurement Commission, in such cases will be paid separately by the Contracting Communities to Covanta, and the Contracting Communities may permit such excess revenues to be applied toward such purpose. Any such excess revenues remaining at the expiration or termination of the New Service Agreement shall be entirely for Covanta’s account.

(c) If Covanta is procuring Excess Waste (other than Special Waste) from third parties, (i) Covanta shall retain for its own account the portion of the tipping fee for such Excess Waste up to the then applicable reduced Tipping Fee (under Section 4(a)), and (ii) the portion of such tipping fee in excess of the then applicable reduced Tipping Fee shall be split 60% to Covanta and 40% to Contracting Communities. Covanta shall retain for its own account the entire tipping fee for Special Waste. Covanta agrees that the Contracting Communities may dispose at the Facility, free of charge, Special Waste arising out of governmental activities occurring within Stanislaus County, such as illegal drugs confiscated by law enforcement agencies.

(d) “Processing Capacity” shall mean the actual Processing Capacity of the Facility but not more than 310,000 tons per year unless the Contracting Communities consent to the establishment of a greater amount, which consent for a greater amount shall not be unreasonably withheld, conditioned or delayed if the basis for the Processing Capacity being set above 310,000 tons per year is due to the lower heating value of the waste then being Processed at the Facility. Any Cap & Trade Costs resulting from an increase in the capacity of the Facility beyond 310,000 tons shall be solely Covanta’s responsibility, unless otherwise agreed to by the Contracting Communities. The definition of Processing Capacity shall not alter or diminish Covanta’s obligation to accept the Guaranteed Tonnage.

(e) Acceptable Waste delivered by the Contracting Communities pursuant to this Agreement shall have priority over any waste arranged by Covanta, except that Excess Waste shall be subordinate as follows:

(i) From April 1, 2012 until January 1, 2016, up to 7,300 tons per year of Special Waste arranged by Covanta shall have priority over Excess Waste; and
(ii) From January 2, 2016 until April 1, 2027, up to 12,200 tons per year of Special Waste arranged by Covanta shall have priority over Excess Waste.

10. **Default & Termination.** Events of default similar to those set forth in the Original Service Agreement (and adjusted to remove construction related defaults), which continue following notice and an applicable cure period negotiated as part of the New Service Agreement, shall permit the non-defaulting party to pursue the defaulting party for the put-or-pay amount and/or direct damages, as applicable and subject to Section 11 below, and/or terminate the New Service Agreement. Direct damages for the Contracting Communities and for Covanta will be further described as mutually agreed in the New Service Agreement. If Covanta defaults by violating the Contracting Communities' right of first use of the Facility, as described in Section 9 above, then the Contracting Communities shall have as an additional remedy the right to seek a decree of specific performance to enforce such right of first use and to preliminary and permanent injunctive relief in connection therewith and/or similar remedies in equity. If the Contracting Communities default in their delivery obligations by delivering Acceptable Waste to locations other than the Facility while failing to meet their obligation to deliver the Guaranteed Tonnage, then Covanta shall have as an additional remedy the right to seek a decree of specific performance to enforce such delivery obligations and to preliminary and permanent injunctive relief in connection therewith and/or similar remedies in equity. The remedies described in this Section 10 shall be the sole and exclusive remedies of the parties.

11. **Limit of Liability.** Notwithstanding any other provision of the New Service Agreement, in no event shall Covanta, on the one hand, or the Contracting Communities, on the other hand, be obligated to pay damages to the other for any and all breaches and events of default from the beginning of the New Service Agreement and thereunder, in a cumulative amount in excess of $25 million. Excluded from such limit of liability are tort claims for injury to persons or damage to property, even if pursued under a provision of contractual indemnity. And if either party reaches the $25 million limit, the other party shall have the right to terminate the New Service Agreement. The defaulting party's obligation to make payment, up to the limit of liability, shall survive such termination of the New Service Agreement.

12. **Right of First Refusal.** During the term of the New Service Agreement, the Contracting Communities shall have a right of first refusal to purchase the Facility, on the same terms and conditions and for the same price, as set forth in an offer to purchase from a third party which Covanta is willing to accept. The New Service Agreement will contain notice provisions and procedures for exercising such right of first refusal. The right of first refusal will not be triggered by one or more sales of equity interests in Covanta or its direct or indirect parent companies.

13. **Purchase Option.** At the expiration of the term of the New Service Agreement (2027), and at the end of the term of the Site Lease if extended (2042) by Covanta exercising its renewal option, or upon earlier termination of the Site Lease as result of a Covanta default thereunder, the Contracting Communities shall have the option to purchase the Facility for its fair market value. The option to purchase will contain notice provisions and exercise and valuation procedures similar to those set forth Sections 11.19 and 11.20 of the Original Service Agreement.
14. **Parent Guaranty.** Covanta Holding Corporation ("CHC") shall provide a financial guaranty of the obligations of Covanta under the New Service Agreement. The guaranty agreement will contain provisions permitting substitution of guarantors (i) without the approval of the Contracting Communities if the substituted guarantor assumes CHC’s obligations under the guaranty and posts for the benefit of the Contracting Communities a letter of credit in the amount of the limit of liability, or (ii) with the approval of the Contracting Communities, which approval shall not be unreasonably withheld.

[Signatures appear on the next page]
Executed as of the date set forth below.

Dated: ______, 2012

COVANTA STANISLAUS, INC.

By: ______________________________
Name: ___________________________
Title: ____________________________

CITY OF MODESTO

By: ______________________________
Name: ___________________________
Title: ____________________________

COUNTY OF STANISLAUS

By: ______________________________
Name: ___________________________
Title: ____________________________
A RESOLUTION DIRECTING THE CITY MANAGER TO NEGOTIATE AMENDMENT NO. 3 TO THE AGREEMENT BETWEEN CITY OF MODESTO AND COUNTY OF STANISLAUS RELATING TO ADMINISTRATION OF SERVICE AGREEMENT FOR SUPPLY AND ACCEPTANCE OF SOLID WASTE WITH THE COUNTY OF STANISLAUS

WHEREAS, on December 17, 1985, the City of Modesto and County of Stanislaus entered into an agreement for administration of the City/County Service Agreement with the Stanislaus Waste Energy Company (now Covanta Stanislaus) for supply and acceptance of solid waste, and

WHEREAS, since that time, the City has been partners with Stanislaus County and Covanta Stanislaus in the Stanislaus Resource Recovery Facility (the “Waste-to-Energy” or “WTE” Facility), and

WHEREAS, the City and County operate the project as a Joint Powers Agency under a Joint Powers Agreement, with the County acting as the Treasurer, and

WHEREAS, under the current Service Agreement, the Contracting Communities pay Covanta a service fee to operate the facility and are also responsible for all pass through costs associated with the facility such as taxes, insurance, air permit fees, ash disposal, etc., and

WHEREAS, the Contracting Communities are also responsible for any costs associated with unforeseen circumstances such as changes in law, major upgrades or any acts, events or conditions that have a material adverse effect on the operation of the facility, and

WHEREAS, the Contracting Communities are responsible for delivering wastes to the facility under a minimum tonnage guarantee of 243,300 tons, and Covanta uses this
waste to generate electricity, which it sells to PG&E under a Power Purchase Agreement (PPA), and

WHEREAS, the Contracting Communities currently retain 90% of the electric revenue generated by the facility, all of the disposal fees, 50% of metal recycling revenue and 30% of supplemental waste revenue, which revenues are used to offset costs, and

WHEREAS, the existing Service Agreement was set to expire on December 31, 2009, and in 2007, staff from the County Department of Environmental Resources and the City of Modesto Solid Waste Division began negotiations on a new contract with Covanta, and

WHEREAS, those negotiations proved unsuccessful with Covanta, so in May 2009, the County and the City of Modesto exercised an option given in the original contract to extend the contract under the same terms an additional six years through December 31, 2015, and

WHEREAS, when the Power Purchase Agreement (PPA) with PG&E expired in January, 2010, Covanta elected to extend its contract with PG&E under extension provisions pursuant to California Public Utilities Commission (CPUC) Decision No. 07-09-040, and

WHEREAS, those provisions caused the price paid for power to revert to the Short Run Avoided Cost, or “SRAC”, which was about $55 per MW at the time and has since dropped even further, and

WHEREAS, this pricing also did not include a premium for renewable energy, and the capacity payment was reduced, and as a result, revenues from electricity generation declined sharply resulting in a significant operating deficit, and
WHEREAS, both the Contracting Communities and Covanta recognized that it would be in our joint interests to return to the negotiating table and secure a long term commitment that would motivate Covanta to negotiate a new PPA at much more favorable rates than current SRAC rates, and

WHEREAS, a new negotiating team was formed and reopened negotiations with Covanta, with the objectives of preserving the current RRA balance, a stable and predictable tipping fee, a commitment to no increased importation of waste, meeting diversion requirements and preserving landfill capacity, and reducing City/County risk exposure from change-in-law, public perception, and change in science/technology, and

WHEREAS, the Contracting Communities negotiating team has met on a regular basis over the past year and has provided periodic updates on the status of negotiations to the Solid Waste-to-Energy Executive Committee and the City-County Liaison Committee, and

WHEREAS, major deal points from the negotiations have been agreed upon by the team and Covanta and are outlined in the attached Term Sheet (Attachment A), and

WHEREAS, Legal Counsel to the Executive Committee, Sidley Austin LLP, has reviewed the Term Sheet and provided comments on the terms to protect the interests of the Contracting Communities, and

WHEREAS, as the Contracting Communities enter into a new contractual arrangement with Covanta, it will also be important to discuss and clarify a number of areas relative to the ongoing working relationship between the County and City, such as the disposition of the Resource Recovery Account (RRA), guaranteed tonnage
obligations, gate processing, notifications, etc., through the negotiation of an Amendment to the JPA Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby directs the City Manager to negotiate Amendment No. 3 to the Agreement Between City Of Modesto And County Of Stanislaus Relating To Administration Of Service Agreement For Supply And Acceptance Of Solid Waste with the County of Stanislaus regarding the disposition of the Resource Recovery Account and other operating procedures upon commencement of a new Service Agreement, and return to the City Council for final approval of the Amendment concurrent with the approval of the new Service Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
TERM SHEET
among Covanta Stanislaus, Inc. ("Covanta"),
the City of Modesto, CA (the "City") and
the County of Stanislaus, CA (the "County");
the City and the County, collectively
(the "Contracting Communities")

The Contracting Communities and Covanta are parties to that certain Amended and
Restated Service Agreement for the Supply and Acceptance of Solid Waste dated as of June
1986, as amended through the date hereof (the "Original Service Agreement"). The term of the
Original Service Agreement, as previously extended, is scheduled to expire January 1, 2016.
Covanta and the Contracting Communities wish to amend and restate in its entirety the Original
Service Agreement in accordance with this Term Sheet. The Original Service Agreement as so
amended and restated is hereinafter referred to as the "New Service Agreement". The term of
the New Service Agreement shall commence on April 1, 2012 and continue until April 1, 2027.
This Term Sheet is not intended and shall not be construed as a binding contract between the
parties but shall serve solely to memorialize the understanding between the parties on the issues
addressed herein. Capitalized terms used but not defined in this Term Sheet, if defined in the
Original Service Agreement, shall have the meaning ascribed to such terms in the Original
Service Agreement.

1. **Tipping Fee.** The tipping fee shall be $32 per ton of Acceptable Waste, escalated
annually on July 1st of each year, beginning July 1, 2013, by the increase as of January 1st of the
then current year compared to January 1st of the immediately preceding year, in the Consumer
Price Index, "Urban Wage Earners and Clerical Workers, All items, West – Size B/C (1996 =
100, not seasonally adjusted)". At the time of each annual escalation, the as-escalated tip fee
shall be (a) no greater than 120% of the average of the posted gate rates per ton for the landfills
(whether or not owned by the County) within fifty miles of the Facility; and (b) no less than $32
per ton; and if 120% of such average is less than $32 per ton, then the tip fee for such year shall
nevertheless be $32 per ton (the "Tipping Fee").

2. **Electric Revenues.** Subject to Sections 3(a)(ii) and 3(b)(ii) below, Covanta shall have
the right to receive and retain all electric revenues generated by the Project. Electric revenues
shall mean all revenues derived from the sale of electrical energy, capacity or ancillary services
from the Facility, including any benefit of environmental attributes reflected in the price of the
foregoing. (the "Electric Revenues").

3. **Unforeseen Circumstance Cost.**
   
   (a) From April 1, 2012 until January 1, 2016:

   (i) Covanta shall bear 75% of Unforeseen Circumstance Costs (including Cap
       and Trade Costs as defined below) and the Contracting Communities shall bear 25% of
       such Unforeseen Circumstance Costs, subject to Cost Substantiation.

   (ii) Covanta shall separately account for the portion of Electric Revenues in
       excess of $82.50/MWH (the "Excess Electric Revenues"). Excess Electric Revenues
shall be deemed to reduce the costs of complying with legislation or regulations imposing a cap and trade program on greenhouse gas emissions ("Cap & Trade Costs"), including without limitation, regulations promulgated pursuant to the Global Warming Solutions Act of 2006, if any, before the allocation between the parties described in Section 3(a)(i) above is applied, and the Contracting Communities shall have no responsibility for Cap & Trade Costs in excess of 25% of the net amount remaining after such deemed reduction. If on January 2, 2016, the New Service Agreement remains in effect and there are any Excess Electric Revenues which have not been applied as contemplated by the immediately preceding sentence, then any such balance of Excess Electric Revenues shall be added to the amounts provided under Section 3(b)(ii) below and applied as provided therein. However, if there is a termination of the New Service Agreement before January 2, 2016, and there is any such balance of Excess Electric Revenues remaining, then such balance shall be for the account of Covanta.

(b) From January 2, 2016 until the termination of the New Service Agreement:

(i) Covanta shall bear 75% of Unforeseen Circumstance Costs and the Contracting Communities shall bear 25% of Unforeseen Circumstance Costs, subject to Cost Substantiation.

(ii) Covanta shall separately account for Excess Electric Revenues from Electric Revenues in excess of $92.50/MWH. Such Excess Electric Revenues, together with any balance transferred in accordance with Section 3(a)(ii) above, shall be deemed to reduce any and all Unforeseen Circumstance Costs before the allocation between the parties described in Section 3(b)(i) above is applied, and the Contracting Communities shall have no responsibility for Unforeseen Circumstance Costs in excess of 25% of the net amount remaining after such deemed reduction. If upon expiration or termination of the New Service Agreement after January 2, 2016 there is any balance of such Excess Electric Revenues remaining, then such balance shall be for the account of Covanta.

(c) The Contracting Communities shall have the right to cause an independent third party to audit the books and records of Covanta relating to the accounting of all revenues, costs, liabilities or expenditures that affect the rights, obligations or liabilities of the Contracting Communities under the New Service Agreement, by providing to Covanta written notice of exercise of such audit right within three years after the closing of the books for any period to be audited. The independent third party shall enter into a confidentiality agreement reasonably acceptable to Covanta and the Contracting Communities before accessing such books and records of Covanta. Following execution of such confidentiality agreement, Covanta shall cooperate in all reasonable respects with the audit. The parties shall reconcile any discrepancy revealed by the audit within 60 days after the conclusion thereof, subject to the dispute resolution provisions of the New Service Agreement for any good faith disputes arising from the conclusion of the audit.
(d) If the cumulative total Unforeseen Circumstance Costs incurred from the date of commencement of the New Service Agreement collectively by Covanta and by the Contracting Communities exceeds $15,000,000, excluding amounts reimbursed by proceeds of insurance and excluding Excess Electric Revenues applied pursuant to Section 3(a)(ii) or Section 3(b)(ii) above (such net amount being the “Initial UCC Termination Threshold”), then each of Covanta, on the one hand, and the Contracting Communities, acting jointly on the other hand, shall have the right to terminate the New Service Agreement (a “UCC Termination”) by providing written notice thereof to the other within 90 days after receiving notice or other written confirmation that such Initial UCC Termination Threshold has been reached. The party to whom such notice of termination is given shall have the right to avoid the UCC Termination by paying to the party giving the notice, within 30 days after receipt of the notice, the amount incurred in excess of $3.75 million in the case of the Contracting Communities, and the amount in excess of $11.25 million in the case of Covanta (each a “Termination Avoidance Amount”). If neither party timely exercises the UCC Termination when the Initial UCC Termination Threshold is reached, or if a party avoids the UCC Termination pursuant to the immediately preceding sentence, then the New Service Agreement shall continue uninterrupted and in full force and effect, unless and until additional Unforeseen Circumstance Costs, in excess of the Initial UCC Termination Threshold, incurred collectively by Covanta and by the Contracting Communities exceed a cumulative total of $1,500,000 (a “Subsequent UCC Termination Threshold”), at which time a UCC Termination right shall arise for each party again in accordance with the foregoing provisions of this Section 3(d), based on a Subsequent UCC Termination Threshold amount of $1,500,000 (rather than $15,000,000) and including the termination avoidance provisions with Termination Avoidance Amounts of $375,000 for the Contracting Communities and $1,125,000 for Covanta. If neither party timely exercises the UCC Termination when the Subsequent UCC Termination Threshold is reached, or if a party avoids the UCC Termination pursuant to the immediately preceding sentence, then this same process shall apply each time a new Subsequent UCC Termination Threshold is reached during the term of the New Service Agreement.

4. **Waste Delivery and Disposal Obligations.**

(a) **Quantity of Waste.** The Contracting Communities shall deliver or cause to be delivered to the Facility, on a put-or-pay basis, and the Company shall accept, for Processing or, subject to Section 9(e) below, disposal, 243,300 tons of Acceptable Waste per year during the term of the New Service Agreement (“Guaranteed Tonnage”). Acceptable Waste delivered or tendered for delivery to the Facility by or on behalf of the Contracting Communities and rejected by Covanta due to one or more scheduled maintenance outages during any calendar year which aggregate more than 672 hours shall count towards the put-or-pay obligation of the Contracting Communities, in addition to other remedies if any applicable to such rejection under the New Service Agreement. In addition, the Contracting Communities may tender for delivery, and if so tendered and if Processing Capacity (hereinafter defined) at the Facility is available, the Company shall accept, additional Acceptable Waste (originating within the territorial limits of the Contracting Communities) in excess of 243,300 tons per year up to the Processing Capacity of the Facility as set forth in Section 9 below (“Excess Waste”). The tipping fee for the first 10,000 tons per year of Excess Waste shall be $2 per ton less than the then applicable Tipping Fee, and the Tipping Fee for all further Excess Waste shall be $4 per ton less than the then applicable Tipping Fee. The Contracting Communities acknowledge that waste that requires
special handling or secure destruction “Special Waste” will have priority over the processing of Excess Waste, as provided in Section 9(e) below.

(b) **Quality of Waste.** The Contracting Communities shall deliver Acceptable Waste to the Facility. Any inadvertent delivery of Hazardous Waste and/or Unacceptable Waste to the Facility by the Contracting Communities shall not constitute a breach of the Contracting Communities, and the New Service Agreement shall contain provisions similar to the Original Service Agreement governing the procedures, costs and liabilities associated with the delivery of Hazardous Waste and/or Unacceptable Waste to the Facility. If Hazardous Waste and/or Unacceptable Waste are delivered to the Facility by or on behalf of third parties, the Contracting Communities’ share of the cost incurred to remedy such delivery shall be in accordance with their share of the tipping fee benefit from the delivery of such Waste to the Facility had it been Acceptable Waste.

(c) **Delivery Schedule.** The New Service Agreement shall contain a delivery schedule which is negotiated between Covanta and the Contracting Communities. The delivery schedule will set forth the hours for waste deliveries to the Facility and the daily and monthly tonnage maximums. Also, the New Service Agreement will outline terms for notifying Contracting Communities when the Facility is unable to accept and Process Acceptable Waste.

(d) **Weight.** The tonnage of waste delivered to the Facility shall be weighed at the scales owned by Covanta, but operated by the County of Stanislaus at the Facility. The New Service Agreement shall contain provisions similar to the Original Service Agreement for addressing periods when the scales become inoperative, for maintaining the accuracy of the scales, resolving discrepancies, observing testing and other procedures.

5. **Landfill Disposal.** The Contracting Communities shall provide disposal capacity throughout the term of the New Service Agreement at the Fink Road Landfill (the “Landfill”) for Covanta’s disposal of all Process Residue, Unacceptable Waste and By-Pass Waste from the Facility. Covanta may dispose of all Process Residue, Unacceptable Waste and By-Pass Waste from the Facility at the Landfill and shall pay to the Contracting Communities (i) a tipping fee of $26 for each ton of Process Residue, and (ii) the then-posted gate rate at the Landfill for By-Pass Waste, delivered to the Landfill. Such tipping fee for Process Residue shall escalate annually at the same time and by the same percentage as the tipping fee for Acceptable Waste escalates, after giving effect to the limiting parameters described in Section 1(a) and (b) above. Covanta may dispose of Unacceptable Waste delivered to the Facility by or on behalf of the Contracting Communities at the Landfill free of charge. The Contracting Communities shall not be obligated to pay to Covanta the tipping fee for Unacceptable Waste delivered to the Facility by or on behalf of the Contracting Communities but shall only pay to Covanta substantiated incremental handling, removal and transport costs for removing such Unacceptable Waste from the Facility, provided that the Contracting Communities make the Landfill available to Covanta for disposal of such Unacceptable Waste free of charge. The New Service Agreement shall otherwise contain provisions similar to the provisions in Article VII of the Original Service Agreement.

6. **Recovered Resources.** Subject to Section 3 above, Covanta shall have the sole and absolute right, at Covanta’s option, and pursuant to such terms and conditions as Covanta determines in its sole and absolute discretion, to sell, trade, donate or otherwise alienate any and
all Recovered Resources, solely for the account of Covanta. “Recovered Resources” means (i) steam, electric energy, capacity, ancillary services, ferrous and non-ferrous metals, ash and such other materials of whatever nature or description as the Company may from time-to-time recover from Solid Waste, Process Residue or any other material, whether at the Facility or elsewhere, as determined by the Company in its sole and absolute discretion, and (ii) offsets, credits or benefits of whatever nature or description, for emissions, pollution, green house gas, renewable energy generation, investment, production, taxes or any certificate, grant or intangible entitlement relating to the Facility or its operation, exclusive of diversion credits from the State for wastes processed by the Facility.

7. **Costs of Facility.**

   (a) Except as provided in Section 3 above and clause (b) below in this Section, or as is expressly provided in the Facility Site Lease or the New Service Agreement, Covanta shall solely bear all costs and risks and have all benefits of ownership, operation and maintenance of the Facility including casualties and liability.

   (b) Notwithstanding the immediately preceding sentence, Covanta shall have a right to reimbursement from the Contracting Communities for any taxes, assessments or fees imposed by the County, the City, or any special taxing district or authority under the control of the County or City, that are imposed on Covanta, the Facility, its operation or the solid waste industry and that are not generally applicable throughout the entire County (collectively, “Discriminatory Taxes”). Except for Discriminatory Taxes, Covanta will be responsible for the payment of any ad valorem, personal or business property and possessory interest lease or property taxes.

8. **Site Lease.** The Facility Site Lease Agreement dated as of June 1, 1986 between the County and Covanta shall be amended as follows:

   (a) The initial term thereof shall be extended to expire on April 1, 2027. One fifteen-year renewal option shall remain in effect; and

   (b) The rental provision shall be amended to provide for a fixed annual base rent of $198,000 per year until the earlier of (i) the termination of the New Service Agreement or (ii) April 1, 2027.

9. **Waste Capacity.**

   (a) The Contracting Communities shall have a right of first use of all Processing Capacity (as such term is defined in Section 9(d) below) at the Facility, subject to the following procedures. If at any time and from time to time the Contracting Communities have not delivered sufficient waste to fill the Processing Capacity of the Facility, then within 24 hours of Covanta’s notice to the Contracting Communities of the existence of excess Processing Capacity at the Facility, Covanta shall have the right to market, for the benefit of both the Contracting Communities and Covanta as provided in Section 9(c) below, the difference between the Processing Capacity and the total of Acceptable Waste being delivered by the Contracting Communities.
(b) If Covanta procures waste from third parties to mitigate a shortfall in the Contracting Communities meeting their scheduled Guaranteed Tonnage (a “Waste Delivery Shortfall”), then Covanta shall be entitled to, and the Contracting Communities shall owe, a procurement fee of 15% (the “Procurement Commission”) of the tipping fee paid by such third parties (the “Third Party Tipping Fee”) for the procurement of such waste. In addition, if the Third Party Tipping Fee is less than the Tipping Fee then, in addition to the Procurement Commission, (a) the Contracting Communities will pay the difference between the Third Party Tipping Fee and the then current Tipping Fee (“Shortfall Payment”), but (b) the Contracting Communities shall have the right, upon 48 hours notice, to terminate any such supply arrangement which results in net payments by the Contracting Communities and direct Covanta to accept waste from alternative sources procured by the Contracting Communities in order to reduce the Waste Delivery Shortfall. If the Third Party Tipping Fee is greater than the then current Tipping Fee, the “excess revenues” derived therefrom shall be separately accounted for and used as a credit to satisfy past, present and/or future Shortfall Payments. For the purposes of this calculation, it is assumed that the Procurement Commission, in such cases will be paid separately by the Contracting Communities to Covanta, and the Contracting Communities may permit such excess revenues to be applied toward such purpose. Any such excess revenues remaining at the expiration or termination of the New Service Agreement shall be entirely for Covanta’s account.

(c) If Covanta is procuring Excess Waste (other than Special Waste) from third parties, (i) Covanta shall retain for its own account the portion of the tipping fee for such Excess Waste up to the then applicable reduced Tipping Fee (under Section 4(a)), and (ii) the portion of such tipping fee in excess of the then applicable reduced Tipping Fee shall be split 60% to Covanta and 40% to Contracting Communities. Covanta shall retain for its own account the entire tipping fee for Special Waste. Covanta agrees that the Contracting Communities may dispose at the Facility, free of charge, Special Waste arising out of governmental activities occurring within Stanislaus County, such as illegal drugs confiscated by law enforcement agencies.

(d) “Processing Capacity” shall mean the actual Processing Capacity of the Facility but not more than 310,000 tons per year unless the Contracting Communities consent to the establishment of a greater amount, which consent for a greater amount shall not be unreasonably withheld, conditioned or delayed if the basis for the Processing Capacity being set above 310,000 tons per year is due to the lower heating value of the waste then being Processed at the Facility. Any Cap & Trade Costs resulting from an increase in the capacity of the Facility beyond 310,000 tons shall be solely Covanta’s responsibility, unless otherwise agreed to by the Contracting Communities. The definition of Processing Capacity shall not alter or diminish Covanta’s obligation to accept the Guaranteed Tonnage.

(e) Acceptable Waste delivered by the Contracting Communities pursuant to this Agreement shall have priority over any waste arranged by Covanta, except that Excess Waste shall be subordinate as follows:

   (i) From April 1, 2012 until January 1, 2016, up to 7,300 tons per year of Special Waste arranged by Covanta shall have priority over Excess Waste; and
(ii) From January 2, 2016 until April 1, 2027, up to 12,200 tons per year of Special Waste arranged by Covanta shall have priority over Excess Waste.

10. **Default & Termination.** Events of default similar to those set forth in the Original Service Agreement (and adjusted to remove construction related defaults), which continue following notice and an applicable cure period negotiated as part of the New Service Agreement, shall permit the non-defaulting party to pursue the defaulting party for the put-or-pay amount and/or direct damages, as applicable and subject to Section 11 below, and/or terminate the New Service Agreement. Direct damages for the Contracting Communities and for Covanta will be further described as mutually agreed in the New Service Agreement. If Covanta defaults by violating the Contracting Communities’ right of first use of the Facility, as described in Section 9 above, then the Contracting Communities shall have as an additional remedy the right to seek a decree of specific performance to enforce such right of first use and to preliminary and permanent injunctive relief in connection therewith and/or similar remedies in equity. If the Contracting Communities default in their delivery obligations by delivering Acceptable Waste to locations other than the Facility while failing to meet their obligation to deliver the Guaranteed Tonnage, then Covanta shall have as an additional remedy the right to seek a decree of specific performance to enforce such delivery obligations and to preliminary and permanent injunctive relief in connection therewith and/or similar remedies in equity. The remedies described in this Section 10 shall be the sole and exclusive remedies of the parties.

11. **Limit of Liability.** Notwithstanding any other provision of the New Service Agreement, in no event shall Covanta, on the one hand, or the Contracting Communities, on the other hand, be obligated to pay damages to the other for any and all breaches and events of default from the beginning of the New Service Agreement and thereunder, in a cumulative amount in excess of $25 million. Excluded from such limit of liability are tort claims for injury to persons or damage to property, even if pursued under a provision of contractual indemnity. And if either party reaches the $25 million limit, the other party shall have the right to terminate the New Service Agreement. The defaulting party’s obligation to make payment, up to the limit of liability, shall survive such termination of the New Service Agreement.

12. **Right of First Refusal.** During the term of the New Service Agreement, the Contracting Communities shall have a right of first refusal to purchase the Facility, on the same terms and conditions and for the same price, as set forth in an offer to purchase from a third party which Covanta is willing to accept. The New Service Agreement will contain notice provisions and procedures for exercising such right of first refusal. The right of first refusal will not be triggered by one or more sales of equity interests in Covanta or its direct or indirect parent companies.

13. **Purchase Option.** At the expiration of the term of the New Service Agreement (2027), and at the end of the term of the Site Lease if extended (2042) by Covanta exercising its renewal option, or upon earlier termination of the Site Lease as result of a Covanta default thereunder, the Contracting Communities shall have the option to purchase the Facility for its fair market value. The option to purchase will contain notice provisions and exercise and valuation procedures similar to those set forth Sections 11.19 and 11.20 of the Original Service Agreement.
14. **Parent Guaranty.** Covanta Holding Corporation ("CHC") shall provide a financial guaranty of the obligations of Covanta under the New Service Agreement. The guaranty agreement will contain provisions permitting substitution of guarantors (i) without the approval of the Contracting Communities if the substituted guarantor assumes CHC’s obligations under the guaranty and posts for the benefit of the Contracting Communities a letter of credit in the amount of the limit of liability, or (ii) with the approval of the Contracting Communities, which approval shall not be unreasonably withheld.

[Signatures appear on the next page]
Executed as of the date set forth below.

Dated: _____, 2012

COVANTA STANISLAUS, INC.

By: ______________________ __
Name: ______________________
Title: ______________________

CITY OF MODESTO

By: ______________________ __
Name: ______________________
Title: ______________________

COUNTY OF STANISLAUS

By: ______________________ __
Name: ______________________
Title: ______________________
RESOLUTION AUTHORIZING THE CITY OF MODESTO WATER ENTERPRISE FUND TO POST COLLATERAL UP TO $25 MILLION WITH JP MORGAN CHASE BANK UNDER TERMS OF A SWAP AGREEMENT FOR THE 2007 MODESTO IRRIGATION DISTRICT REVENUE BONDS RELATED TO THE DOMESTIC WATER TREATMENT AND DELIVERY SYSTEM

WHEREAS, in May 2007, the City Council, by Resolution No. 2007-275, approved the issuance of revenue bonds by the Modesto Irrigation District Financing Authority related to the financing of Phase 2 of the Domestic Water Treatment and Delivery System of the Modesto Irrigation District, and

WHEREAS, this debt issue included an interest rate swap with JPMorgan Chase Bank, and

WHEREAS, the purpose of an interest rate swap is to create a synthetic fixed interest rate that holds each party harmless as the variable interest rate moves up or down, and

WHEREAS, due to current economic conditions, interest rates are at historically low levels, therefore creating a negative swap termination value currently calculated to be approximately $16 million that the City would be required to pay to JPMorgan if this agreement was terminated, and

WHEREAS, under the swap agreement the City can be required to post collateral to assure JPMorgan’s financial interests in the event the agreement is terminated, and
WHEREAS, on June 22, 2010, the City Council, by Resolution No. 2010-278, authorized staff to post collateral up to $18 million; however, staff recommends raising the collateral posting from $18 to $25 million, and

WHEREAS, the City retains ownership of collateral on deposit and earns interest at market rates, thus minimizing impacts to the Water Enterprise Fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City of Modesto Water Enterprise Fund to post collateral up to $25 million with JPMorgan chase Bank under terms of a Swap Agreement for the 2007 Modesto Irrigation District Revenue Bonds related to the Domestic Water Treatment and Delivery System.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is 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 10th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

ATTEST: ____________

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ____________

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING THE APPOINTMENT OF CHRIS TYLER AS THE 2012 PLANNING COMMISSION REPRESENTATIVE TO THE CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE

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

WHEREAS, on November 7, 2011, the Planning Commission recommended Chris Tyler as its representative to the Citizens Housing & Community Development Committee,

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

SECTION 1. Chris Tyler is hereby reappointed as the 2012 Planning Commission representative to the Citizens Housing & Community Development Committee, with a term expiration of January 1, 2013.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Citizens Housing & Community Development, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

(Seal)

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSAN ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF CONTRACT FOR THE PURCHASE OF A JOHN DEERE BACKHOE LOADER FOR THE WATER DIVISION, THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO PAPE MACHINERY, FRENCH CAMP, CA, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $108,477

WHEREAS, the Public Works Department, Fleet Services Division, has requested the purchase of a John Deere Backhoe Loader for use by the Water Division, and

WHEREAS, State Assembly Bill 2575 requires that urban water suppliers install water meters on all service connections by the year 2025, and

WHEREAS, the City Council has approved the addition of a second meter crew and the equipment for that crew in order to meet this deadline, and

WHEREAS, the State of California, Department of General Services, went through a competitive bid process for the purchase of John Deere construction products and issued contract #4-08-23-0022A, and

WHEREAS, the most responsive and responsible bidder that met the bid specifications was Pape Machinery, French Camp, CA, and

WHEREAS, Pape Machinery was awarded the California Multiple Award Schedules (CMAS) contract #4-08-23-0022A for John Deere construction products and is extending the CMAS discount to the City of Modesto, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2011-12, in Water Fund account #4180-59999-57970-100574, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases, which meet or exceed $50,000.00 for material, equipment or contractual...
services to be formally bid; however, there are exceptions to the rule set forth in the Modesto Municipal Code. One exception, MMC Section 8-3.204(d), is available where the Purchasing Manager, in his or her discretion, determines that a process other than the usual formal bid procedure set forth in MMC Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, acting within his discretion, the Purchasing Manager invoked that exception for this purchase due to the cost savings of staff time and the limited number of competitors,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of contract for the purchase of a backhoe loader for the Public Works Department, Water Division, through the Fleet Services Division, to Pape Machinery, French Camp, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for a total estimated cost of $108,477.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

01/24/2012/Finance/MTorres/Item 7  3  2012-25
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-26

RESOLUTION AMENDING THE CITY OF MODESTO FINANCIAL POLICIES, SPECIFICALLY SECTION 11, REGARDING THE BUDGET ADJUSTMENT AUTHORITY AND INCORPORATE GOVERNMENTAL ACCOUNTING STANDARDS BOARD STATEMENT NO. 54 REQUIREMENTS INTO THE FINANCIAL POLICIES

WHEREAS, a review of the City of Modesto financial policies has been performed, and in order to create a more operationally efficient budget adjustment process and include Governmental Accounting Standards Board Statement No. 54 requirements, Finance staff recommends amending the City of Modesto financial policies,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the City of Modesto financial policies as shown in Exhibit C, which is attached hereto and incorporated by reference herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 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 votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
City of Modesto Financial Policies

1. **Budget Adoption Level**: The citywide, legally adopted level for the budget of any program is by department at the Fund level.

2. **General Fund Reserve**: The Council has established the unappropriated reserve's minimum level to be 8% of the current appropriations for operating expenditures and operating transfers-out.

3. **Forecasting Model**: For the General, Enterprise, Internal Service and Capital Project and other major funds the Finance Department will maintain either a 5 or 10-year financial forecasting model to assess the city's ability to respond to changes in anticipated revenue levels, capital improvement program needs and changes proposed in operating costs. (the use of a 5 or 10-year model will depend on the conditions that apply to each fund)

4. **Enterprise Funds and other Non-General Fund Operations**: These activities should be self-supporting and should maintain reserve levels that are adequate to protect against fluctuations in revenue and expenditure levels. Activities that deviate from this requirement shall be identified for the City Council annually at the time of budget adoption. Exempt from this requirement are those funds that account solely for grant funds.

5. **Inter-fund Loans and Loans to Component Units**: Loans between funds and loans to the RDA and other component units of the city should be considered in light of a multi-year business plan that demonstrates a reasonable ability to repay the loan. All inter-fund loans and loans to component units, either existing or proposed, shall be identified for the City Council at the time of budget adoption. Generally, inter-fund loans and loans to component units shall be established with a repayment deadline that reflects the earliest feasible opportunity for repayment of the loan. Interest rates charged on the loan shall be based on the actual rate of return earned by the city's investment portfolio during the 12-month period immediately preceding a payment date.

   a. Note that the terms and conditions for existing loans between the City and the Redevelopment Agency are governed by one or more separate resolutions adopted at the time the loans were approved.

6. **Interest Allocation**: Interest shall be allocated quarterly to all funds based on their average monthly balances during each quarter.

7. **Direct Charges between Funds**: Costs charged between funds such as force-account labor and other direct costs shall be charged on the basis of actual cost and not on the budgeted amount, unless a separate contract exists between the managers of the two programs allowing the use of the budgeted amount as the basis for the charge.
8. **Inter-fund Transfers:** Unless direction is given at the time an inter-fund transfer is approved that the amount to be transferred between funds is not subject to adjustment based on a share of cost formula, all inter-fund transfers shall be based upon the sending fund's pro rata share of any project costs or other obligation that is the basis for the transfer. Therefore, a reconciliation of the share of costs allocable to the fund(s) from which resources are to be transferred shall be performed prior to the year-end closing of the city's financial records and shall become the basis for determining the actual amount of any resources to be transferred. It is the intent of this policy that any transfers designed to provide a subsidy to the operations of another fund shall not exceed the amount needed to provide sufficient resources to make revenues equal expenditures unless other direction is provided by the City Council.

All inter-fund transfers and their purpose shall be identified to the Council annually, at the time of the budget adoption.

9. **Multi-year appropriations:** Appropriations for certain grants and on-going Capital Improvement Program projects that were authorized in previous years and that are not fully expended shall be deemed valid until revoked. Appropriations related to certain developer-funded expenditures may also be treated as multi-year appropriations.

10. **Fund Replacement Reserves:** In order to provide future resources for the replacement or repair of depreciable assets, each fund shall establish a list of depreciable assets, including useful lives and replacement costs that will determine the amount to be set-aside annually to allow the timely replacement or repair of these assets. Each program manager shall also establish a plan for funding the reserve and shall disclose the adequacy of the reserve level annually to the City Council as part of the annual budget adoption process.

11. **Budget Adjustment Authority:** The authority to approve any budget adjustment in the amount of $25,000 or less is delegated to the Director of Finance. The authority to approve any budget adjustment between $25,000 and $50,000 is delegated to the City Manager. Authority for any budget adjustment of $50,000 or more is delegated to the parties shown below. The following budgetary adjustment actions are delegated to the parties shown below:

   a. City Council
      i. Appropriation of undesignated reserves
      ii. Appropriation of new revenues
         1. Does not include Developer Payments
         2. Does not include private donations or grants made to the Fund Development Program of the Parks, Recreation, & Neighborhoods Department for specified purposes of less than $25,000
Exhibit C

iii. Budgeting inter-fund transfers
   1. Does not include adjustments to budgeted transfers where
      the intent is to subsidize an enterprise operation as shown in
      item (x) under the City Manager’s budget adjustment
      authority shown on page 3

iv. Creation of inter-fund loans

v. Creation of, or increase in, any multi-year appropriation except for
   the allocation of interest

vi. Addition of permanent staff positions

vii. Appropriation of payments for new indebtedness including
    operating leases

viii. All other budgetary actions not delegated to another official

City Manager

i. Transfer appropriations between departments within a fund

ii. Changing any capital equipment appropriation

iii. Changing appropriations for temporary agency labor

iv. Changing any CIP line item appropriation Move to Director of
   Finance

v. Transfer appropriations to or from salary line items

vi. Appropriate reserves for litigation on a case-by-case basis

vii. Revoke multi-year appropriations Move to Director of Finance

viii. Adjust operating program appropriation levels at his/her discretion
     to maintain the required 8% reserve level and any reserve levels
     for non-GF funds

ix. Transfer appropriations from a primary capital project to create or
    modify the budget of a related secondary capital project without
    increasing the total appropriations Move to Director of Finance

x. Transfer appropriations between two or more related secondary
    capital projects without increasing the total appropriations Move to
    Director of Finance

xi. Close Capital Improvement Program projects Move to Director
    Finance

xii. Adjustments to Inter-fund transfers intended to balance enterprise
    fund operations where the cumulative total of any adjustment
    does not increase the original City Council approved appropriation
    by more than $50,000

xiii. Appropriate Developer Payments not previously budgeted
    1. Annexation Deposits
    2. Special District Formation Deposits
    3. Developer Deposits to be recognized as revenue

xiv. Appropriate private donations or grants made to the Fund
    Development Program of the Parks, Recreation, &
    Neighborhoods Department for specified purposes up to $25,000
b. Director of Finance
   i. Appropriate unbudgeted grant interest
   ii. Revise the allocation of Internal Service Fund charges between departments, provided that the total allocated amount does not increase (any such changes to the allocation shall not result in an increase or decrease to the total amount of discretionary appropriations provided to the affected department(s))
   iii. Make technical budget corrections to implement the intent of Council-approved actions and resolutions
   iv. Transfer fiscal appropriations between sub-funds of a single fund (except where this changes appropriation amounts for temporary agency labor and/or capital equipment purchases over $5,000)

c. Department Director
   i. Transfer appropriations between non-salary line items within a department, within a single fund (excludes appropriations related to capital equipment, capital improvement program projects and temporary agency labor)
   ii. Acting as a designee of the City Manager, the Parks, Recreation, & Neighborhoods Director shall be authorized to appropriate private donations or grants made to the Fund Development Program of the Parks, Recreation, & Neighborhoods Department for specified purposes up to $25,000.00

12. Fund Balance Information Requirements: The requirements of GASB Statement No. 54 are intended to enhance the usefulness, including the understandability, of fund balance information, in the financial statements. The City will spend the most restricted dollars before less restricted, given equal eligibility, in the following order:

   Non-Spendable – if funds become spendable (inventories, prepaid amounts)
   Restricted (grants, bond proceeds)
   Committed (capital acquisitions, pending projects)
   Assigned (purchase orders, encumbrances)
   Unassigned (residual fund balance after deducting the other fund balance categories)
RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF THREE (3) PICK-UP TRUCKS FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, THROUGH THE FLEET SERVICES DIVISION, TO THEODORE ROBINS FORD, COSTA MESA, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $79,205

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 11/12 through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The three (3) pick-up trucks were included in the FY 11/12 new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, two of the pick-up trucks are replacement trucks for the Water Division, these trucks have been subjected to a thorough evaluation and have met or exceeded the replacement criteria before being placed on the replacement list, and

WHEREAS, the purchase of one new pick-up truck will support a new meter installation crew, which Council approved in the FY 2011/12 budget, and

WHEREAS, the additional metering crew is needed in order to meet State Assembly Bill 2575 which requires that urban water suppliers install water meters on all service connections by the year 2025, and

WHEREAS, the Purchasing Division issued RFB No. 1112-14 for the purchase of three (3) pick-up trucks to sixteen (16) prospective bidders, posted the bid on the City’s website and formally advertised as required by law. Three (3) of the sixteen (16) prospective bidders are located within Stanislaus County, one of which is a local vendor, and
WHEREAS, RFB’s were formally opened in the City Clerk’s office. Of the sixteen (16) prospective bidders, four (4) companies chose to respond, three (3) bidders are located in Stanislaus County, one of which is a local vendor. All four (4) companies provided responsive and responsible bids, and

WHEREAS, the five percent (5%) differential for Local Vendor Preference was not a factor in determination for award, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of three (3) pick-up trucks to Theodore Robins Ford, Costa Mesa, CA, for a total estimated cost of $79,205, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2011-12 in the following appropriation unit 5410-53241-57003, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of three (3) pick-up trucks to Theodore Robins Ford, Costa Mesa, CA, for the Department of Public Works, Fleet Services Division, conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the purchase of three (3) pick-up trucks for the Public Works Department, Water Division, through the Fleet Services Division, to Theodore Robins Ford, Costa Mesa, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is authorized to issue a purchase order for a total estimated cost of $79,205.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING AGREEMENTS BETWEEN THE CITY OF MODESTO AND KAISER PERMANENTE, ANTHEM BLUE CROSS, UNITED HEALTHCARE, OPTUM HEALTH AND STANISLAUS FOUNDATION; CONTINUING DENTAL AND VISION COVERAGE THROUGH THE CITY’S SELF-INSURED PROGRAMS; AUTHORIZING THE EMPLOYEE BENEFITS MANAGER TO SERVE AS THE COORDINATOR FOR THE VARIOUS PLANS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY AGREEMENTS

WHEREAS, the City of Modesto offers its employees, their dependents and eligible retirees group health insurance coverage, and

WHEREAS, the Employee Benefits Advisory Committee (EBAC) consisting of three representatives from each bargaining unit reviewed and made recommendations to City management regarding health insurance coverage for plan year January 1 through December 31, 2012, and

WHEREAS, the City broker was instructed to market the City’s health and dental program to existing carriers as well as any other carriers active in the region, and

WHEREAS, the City received declinations from all medical carriers except for existing carriers Anthem Blue Cross and Kaiser Permanente, and

WHEREAS, the City received an overall rate increase of 24% from Anthem Blue Cross and an overall rate increase of 2.6% from Kaiser Permanente for health coverage, and

WHEREAS, the City’s post-65 retiree health plans provided by United Healthcare Senior Supplemental and Kaiser Permanente Senior Advantage received minimal rate increases, and
WHEREAS, OptumHealth rates for the employee assistance program will remain the same, and

WHEREAS, the City received several proposals for dental administration and decided to replace Delta Dental with Stanislaus Foundation, and

WHEREAS, the City's self-insured vision and dental rates were decreased slightly for the plan year 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves agreements between the City of Modesto and Kaiser Permanente, Anthem Blue Cross, United Healthcare, OptumHealth, and Stanislaus Foundation.

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

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Employee Benefits Manager, or her designee, is hereby authorized to serve as the coordinator for the various plans.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute all necessary agreements.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING AN AMENDMENT TO ARTICLE VII OF THE BYLAWS OF THE MODESTO CITY-COUNTY AIRPORT ADVISORY COMMITTEE CALLING FOR REGULAR MONTHLY MEETINGS

WHEREAS, in 1972 the City established the Airport Advisory Committee (AAC) to provide public input and assistance to the City Manager on all policy matters affecting the use, growth and development of the City-County Airport (Airport), and

WHEREAS, on August 9, 2011, the City Council, by Resolution No. 2011-355, approved revised AAC Bylaws incorporating changes to clarify the composition, function and authority of this all-volunteer committee, and

WHEREAS, the revised Bylaws state that regular meetings of the AAC shall be held once per quarter, and

WHEREAS, on October 20, 2011, the AAC unanimously agreed that meeting only four times per year would create a delay in moving issues forward in a timely manner and restrict availability of a forum for matters of importance to the Airport and its users, and

WHEREAS, the City of Modesto operates the Airport for the benefit of all businesses, industries, visitors and residents in and around the City of Modesto, Stanislaus County, and surrounding areas, and

WHEREAS, the Modesto City Council and Stanislaus County Board of Supervisors seek to ensure that the Airport is maintained and developed in such a manner that it will continue to be a high-quality aviation facility for its users and a good neighbor in the community, recognizing that both the users and community may change as the surrounding area continues to grow and develop,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Article VII of the Bylaws of the Modesto City-County Airport Advisory Committee calling for regular monthly meetings of the Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 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 Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: 

(SIGNATURE)

APPROVED AS TO FORM:

By: 

(SIGNATURE)

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING EXTENSION OF PROMOTIONAL AIRPORT HANGAR RENTAL RATES FOR CALENDAR YEAR 2012 IN ORDER TO INCREASE OCCUPANCY AT THE MODESTO CITY/COUNTY AIRPORT

WHEREAS, Section 7-3.401 of the Modesto Municipal Code authorizes the Council, by Resolution, to establish rental charges and fees for activities and services at the Modesto City-County Airport/Harry Sham Field, and

WHEREAS, the economic downturn has impacted local aircraft ownership, which has contributed to a high hangar vacancy rate, and

WHEREAS, the airport has 15 vacant T-hangars that are not leased and there is currently no active waiting list, and

WHEREAS, if all vacant T-hangars were leased there would be an increase of approximately $2,950 per month, less any discounts, and

WHEREAS, in an attempt to attract new aircraft from outside the Modesto area, Council approved offering new tenants a promotional discount equivalent to three months of free rent for a new 12-month T-hangar lease during calendar year 2011, and

WHEREAS, this promotional rate was extended only to aircraft and tenants that had not been based at Modesto Airport during the past 12 months, and

WHEREAS, during calendar year 2011 seven new tenants signed 12-month leases for T-hangars, and

WHEREAS, new aircraft at Modesto Airport also increased local revenues through new taxes paid on planes based in Stanislaus County, increased fuel sales and local aircraft repairs.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the extension of promotional airport hangar rates for calendar year 2012 in order to increase occupancy at the Modesto City/County Airport.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING CALTRANS INVOICES TOTALING $119,250 WHICH EXCEEDS THE SR132 UTILITY AGREEMENT WITH CALTRANS FOR WATER AND SEWER BY $85,950, AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, Caltrans has completed roadway improvement construction at the following location: Modesto SR132 Rehab: L Street to San Juan Drive – grind and overlay roadway rehabilitation, and

WHEREAS, the project has City water and sewer utility covers that have been reset to the elevation of the new asphalt pavement, and

WHEREAS, the low-bidding contractor reset the utility covers for Caltrans, who acted as the lead agency, and the City of Modesto has been billed for reimbursement, and

WHEREAS, in order to specify the terms of reimbursement from the City, a Utility Agreement for the project between the City and Caltrans was executed prior to construction, and

WHEREAS, the SR 132 Utility Agreement No. 10-3721.11 with Caltrans was approved by City Council on September 23, 2008, by Resolution No. 2008-553, and

WHEREAS, this agreement indicates terms of reimbursement for adjustment of water valve and sewer manhole covers to the elevation of the new asphalt pavement, and

WHEREAS, the total estimated cost of the reimbursement from the City to Caltrans indicated in the Agreement is $33,300, and

WHEREAS, however, the actual invoiced cost for this Agreement is $119,250, and
WHEREAS, the initial number of utility covers to be adjusted to grade and the projected adjustment costs shown in the utility agreement for SR132 were based on preliminary engineer’s estimates prepared by Caltrans, and

WHEREAS, however, final payments are based on the actual number of utility covers adjusted at the unit prices bid by the contractor, and

WHEREAS, during construction, 18 more water valve covers and 5 more manhole covers were discovered in the area of work that required adjustment, and

WHEREAS, in addition, just prior to Caltrans’ highway project, a new water main was installed in 9th Street and a substandard City water main was replaced in Yosemite Boulevard, and

WHEREAS, this added 141 new water valve covers above the initial estimate indicated in the Agreement, and

WHEREAS, City staff has field verified all quantities and the billing amount is correct, and

WHEREAS, City staff recommends approving Caltrans invoices totaling $119,250 which exceeds the SR132 Utility Agreement with Caltrans for water and sewer by $85,950,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Caltrans invoices totaling $119,250 which exceeds the SR132 Utility Agreement with Caltrans for water and sewer by $85,950.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 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, Cogdill, Geer, Gunderson, Lopez, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-32

RESOLUTION APPROVING CALTRANS INVOICE OF $82,007.41 WHICH EXCEEDS SR108 UTILITY AGREEMENT WITH CALTRANS FOR WATER BY $64,087, AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, Caltrans has completed roadway improvement construction at the following location: Modesto SR 108 Rehab: 9th Street to Corralwood Road -- grind and overlay roadway rehabilitation, and

WHEREAS, the project has City water utility covers that have been reset to the elevation of the new asphalt pavement, and

WHEREAS, the low-bidding contractor reset the utility covers for Caltrans, who acted as the lead agency, and the City of Modesto has been billed for reimbursement, and

WHEREAS, in order to specify the terms of reimbursement from the City, a Utility Agreement for the project between the City and Caltrans was executed prior to construction, and

WHEREAS, the SR 108 Utility Agreement No. 10-3772.51 with Caltrans was approved by City Council on September 23, 2008, by Resolution No. 2008-554, and

WHEREAS, this agreement indicates terms of reimbursement for adjustment of water valve covers to the elevation of the new asphalt pavement, and

WHEREAS, the total estimated cost of the reimbursement from the City to Caltrans indicated in the Agreement is $17,920, and

WHEREAS, however, the actual invoiced cost for this Agreement is $82,007.41, and
WHEREAS, the initial number of water valve covers to be adjusted to grade and the projected adjustment cost shown in the utility agreement for SR108 were based on preliminary engineer’s estimates prepared by Caltrans, and

WHEREAS, however, final payment is based on the actual number of valve covers adjusted at the unit price bid by the contractor, and

WHEREAS, during construction, 50 more valve covers were discovered in the area of work that required adjustment, and

WHEREAS, in addition, just prior to Caltrans’ highway project, City forces made several connections to water mains in McHenry Avenue and extended piping to beyond Caltrans’ limits of construction for future extensions and/or water system upgrades, and

WHEREAS, this added 50 new water valve covers to the initial estimate indicated in the Agreement, and

WHEREAS, City staff has field verified this total and the billing amount is correct, and

WHEREAS, City staff recommends approving Caltrans invoice of $82,007.41 which exceeds SR108 Utility Agreement with Caltrans for water by $64,087,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Caltrans invoice of $82,007.41 which exceeds SR108 Utility Agreement with Caltrans for water by $64,087.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 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, Cogdill, Geer, Gunderson, Lopez, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSAN ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-33

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE HICKMAN TEST WELL PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH DAN’S WATER WELL & PUMP SERVICE INC. OF LIVERMORE, CALIFORNIA IN THE AMOUNT OF $150,096, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Hickman Test Well project, and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Hickman Test Well project were opened at 11:00 a.m. on November 8, 2011, 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 $150,096 received from Dan’s Water Well & Pump Service Inc., of Livermore, California be accepted as the lowest responsible and responsive bid and the contract be awarded to Dan’s Water Well & Pump Service Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Hickman Test Well project, accepts the bid of Dan’s Water Well & Pump Service Inc., of Livermore, California in the amount of $150,096, and approves the contract.

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 24th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH BROWN AND CALDWELL FOR CONSTRUCTION OVERSIGHT AND ANALYSIS SERVICES FOR THE HICKMAN TEST WELL PROJECT IN AN AMOUNT NOT TO EXCEED $35,777 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $3,578 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $39,355, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in the mid 1990’s, the City of Modesto acquired the former Del Este Water System which included the communities of Hickman, Grayson, Del Rio, City of Waterford, and a portion of the City of Turlock, and

WHEREAS, the City now manages, operates, and maintains these five outlying water service areas, and

WHEREAS, as a component of the City of Modesto’s Water Engineer Report, the City hired West Yost Associates to provide an individual hydraulic assessment of each of these systems in order to evaluate the ability of existing facilities to meet the current and buildout demands, and

WHEREAS, the existing Hickman water distribution system was evaluated under the demand scenarios of Maximum Day, Peak Hour, and Maximum Day plus Fire Flow, and

WHEREAS, one of the recommended Capital Improvement Projects to correct existing deficiencies in the Hickman system includes the construction of a new 600 gallons per minute (gpm) production well, and

WHEREAS, prior to constructing a complete production well, the City staff recommends drilling a test well to determine a viable water source, and
WHEREAS, the Hickman Test Well project will determine whether this particular site is a suitable location for the Hickman production well, and

WHEREAS, the ultimate improvements (not a part of this project or contract) will include the construction of a 600 gpm production well and onsite pump station, and

WHEREAS, due to the geological and hydrological analysis involved with determining a viable underground water source for safe drinking water, City Staff will rely on the technical expertise of Brown and Caldwell’s hydrogeologist to provide insight during construction, as well as interpretation of testing and analysis results, and

WHEREAS, in past practice, City staff relied on the expertise of the well drilling contractor to develop a reliable production well, and

WHEREAS, however, due to increasing costs for wellhead treatment for contaminated wells, it is vital that the City evaluate new wells and their surrounding hydrogeologic conditions before additional funds are spent to install an above ground pump station, and

WHEREAS, Brown and Caldwell was selected from a prequalified list (“shortlist”) of hydrogeologist firms consisting of Brown and Caldwell, URS and West Yost Associates that was approved by City Council, on April 7, 2009, by Resolution No. 2009-149, and

WHEREAS, Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural & Engineering Services for Capital Projects, indicates that Requests for Proposals (RFP’s) should be sent to all firms on the shortlist for individual projects, depending on whether the project is considered to be “Major” or “Minor” (fees above or below $50,000, respectively), and
WHEREAS, the Council resolution indicated that the shortlist is to be used on a "rotating, as-needed basis", however, the other two firms on the shortlist are actively involved in other projects providing hydrogeologist services for the City, and

WHEREAS, since the other two firms were unavailable for this project, it was determined to obtain a proposal from Brown and Caldwell, and

WHEREAS, therefore, City staff recommends approving an agreement with Brown and Caldwell for construction oversight and analysis services for the Hickman Test Well project, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Brown and Caldwell for construction oversight and analysis services for the Hickman Test Well project in an amount not to exceed $35,777 for the identified scope of services, plus $3,578 for additional services (if needed), for a maximum total amount of $39,355.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 24th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST:  

(S Seal)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE
DEL RIO REPLACEMENT TEST WELL PROJECT, ACCEPTING THE BID,
AND APPROVING A CONTRACT WITH DAN’S WATER WELL & PUMP
SERVICE, INC. OF LIVERMORE, CALIFORNIA IN THE AMOUNT OF
$136,935, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO
EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Del Rio
Replacement Test Well project and City staff recommends approval by the City Council,
and

WHEREAS, the bids received for the Del Rio Replacement Test Well project
were opened at 11:00 a.m. on December 20, 2011, and later tabulated by the Director of
Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that
the bid of $136,935, received from Dan’s Water Well & Pump Service, Inc. of
Livermore, California, be accepted as the lowest responsive and responsible bid and the
contract be awarded to Dan’s Water Well & Pump Service, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the plans and specifications for the Del Rio Replacement Test
Well project, accepts the bid of Dan’s Water Well & Pump Service, Inc. of Livermore,
California, in the amount of $136,935, and awards Dan’s Water Well & Pump Service,
Inc. the contract for the Del Rio Replacement Test Well 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 24th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, INC. FOR CONSTRUCTION OVERSIGHT AND ANALYSIS SERVICES FOR THE DEL RIO REPLACEMENT TEST WELL PROJECT IN AN AMOUNT NOT TO EXCEED $25,982 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $2,598 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $28,580, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in the mid 1990's, the City of Modesto acquired the former Del Este Water System, which included the communities of Del Rio, Grayson, Hickman, City of Waterford, and a portion of the City of Turlock, and

WHEREAS, the City now manages, operates, and maintains these five outlying water service areas, and

WHEREAS, as a component of the City of Modesto’s Water System Engineer’s Report, hydraulic assessments of each of these systems were performed in order to evaluate the ability of existing facilities to meet the current and build-out demands, and

WHEREAS, the Engineer’s Report recommends the construction of a 1,000 gallon per minute (gpm) production well to replace Well 271 in Del Rio, and

WHEREAS, prior to constructing a complete production well pump station, City staff recommends drilling a test well to determine a viable water source, and

WHEREAS, bids were opened for the Del Rio Replacement Test Well project on December 20, 2011, and Dan’s Water Well & Pump Service, Inc. of Livermore, California, was the apparent low bidder, and

WHEREAS, due to the geological and hydrological analysis involved with determining a viable underground water source for safe drinking water, City Staff will
rely on the technical expertise of West Yost's hydrogeologist to provide insight during construction, as well as interpretation of testing and analysis results, and

WHEREAS, in past practice, City staff relied on the expertise of the well drilling contractor to develop a reliable production well, and

WHEREAS, however, due to increasing costs for wellhead treatment for contaminated wells, it is vital that the City evaluate new wells and their surrounding hydrogeologic conditions including water quantity and quality before additional funds are spent to purchase a well site property and install an above ground pump station, and

WHEREAS, West Yost Associates was selected from a prequalified list ("shortlist") of hydrogeologist firms consisting of Brown and Caldwell, URS and West Yost Associates that was approved by City Council, on April 7, 2009, by Resolution No. 2009-149, and

WHEREAS, Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural & Engineering Services for Capital Projects, indicates that Requests for Proposals (RFP's) should be sent to all firms on the shortlist for individual projects, depending on whether the project is considered to be “Major” or “Minor” (fees above or below $50,000, respectively), and

WHEREAS, the Council resolution indicated that the shortlist is to be used on a “rotating, as-needed basis”, however, the other two firms on the shortlist are actively involved in other projects providing hydrogeologist services for the City, and

WHEREAS, West Yost Associates has performed well on other projects for the City and the negotiated fee was reasonable, and
WHEREAS, therefore, City staff recommends approving an agreement with West Yost for construction oversight and analysis services for the Del Rio Replacement Test Well project, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner,

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 oversight and analysis services for the Del Rio Replacement Test Well project in an amount not to exceed $25,982 for the identified scope of services, plus $2,598 for additional services (if needed), for a maximum total amount of $28,580.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: ____________________________

______________________________

(SEAL)

APPROVED AS TO FORM:

By: ______________________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-37

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): AMENDING SECTION 27-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE FROM THE LOW DENSITY RESIDENTIAL ZONE, R-1, TO THE MEDIUM DENSITY RESIDENTIAL ZONE, R-2, PROPERTY LOCATED AT 1721 YOSEMITE BOULEVARD, BETWEEN ROSINA AVENUE AND N. CONEJO AVENUE (HOGAN INVESTMENTS, L.P.)

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, Hogan Investments, L.P. has proposed that the zoning designation for the property located at 1721 Yosemite Boulevard, between Rosina Avenue and N. Conejo Avenue, be amended to rezone from the Low Density Residential Zone, R-1, to the Medium Density Zone, R-2, 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 2011-36 (“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 January 4, 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 January 24, 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 amendment to the Zoning Map to rezone from Low Density Residential Zone, R-1 to Medium Density Residential Zone, R-2, property located at 1721 Yosemite Boulevard, between Rosina Avenue and Conejo Avenue, a copy of which Initial Study 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 24th day of January, 2012, by Councilmember Cogdill, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANNA ALCALA WOOD, City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2011-36
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2011-36

For the proposed:

Rezone from Low-Density Residential (R-1) Zone to Medium-Density Residential (R-2) Zone to Facilitate Development Potential of the Vacant Northern Portion of Property located at 1721 Yosemite Avenue (Between Rosina Avenue and N. Conejo Avenue)
APN: 116-004-040

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

October 18, 2011

Updated: April 2011
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 Low Density Residential (R-1) Zone to Medium-Density Residential (R-2) Zone 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: Rezone from Low-Density Residential (R-1) Zone to Medium-Density Residential (R-2) Zone

B. Address or Location: 1721 Yosemite Blvd (between Rosina Ave and N. Conejo Ave)  
   APN: 116-004-040

C. Applicant: Hogan Investments, L. P.; 1512 Rockhaven Dr; Modesto, CA 95356

D. City Contact Person: Katharine Martin  
   Project Manager: Katharine Martin  
   Department: C&ED Planning Division  
   Phone Number: 209-577-5465  
   E-mail address: kamartin@modestogov.com

E. Current General Plan Designation(s): R "Residential"

F. Current Zoning Classification(s): R-1 "Low-Density Residential"

G. Surrounding Land Uses:
   North: R-1 Zone, Single-Family Residential uses
H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

The applicant proposes to rezone the northerly 0.57-acre portion of an existing 1.41-acre lot zoned for Low-Density Residential (R-1) uses to the Medium-Density Residential (R-2) Zone in order to match existing zoning adjacent to the area.

The site is a single lot of 100 feet width and 615 feet depth, with the southerly 100 feet on Yosemite Blvd frontage and the northerly 100 feet on the Miller Avenue frontage. Three separate zoning designations exist on the property: the southerly 268 feet of the lot is zoned C-2 for General Commercial Uses and the northerly 247 feet is zoned R-1 for Low-Density Residential uses. A 100 x 100-foot center portion is zoned for Medium-Density Residential (R-2) uses. Under the current zoning, the northerly 247 feet of the property is limited to Low Density Residential Zone uses.

The portion of the lot proposed for rezoning is vacant and in order to facilitate reuse opportunities that would be consistent with the R-2 Zone designation to the south and west, the applicant proposes to rezone the property from R-1 Low-Density Residential to the R-2 Medium-Density Residential Zone. This would allow for higher-density residential uses than what is currently allowed in the site’s existing zone designation, including duplexes or apartments. No development is proposed with this application; however, residential development of one to four units is permitted in the R-2 Zone, and development of five or more units would be subject to Development Plan Review by the Director of the Community and Economic Development Department as provided by Article 30 of the City of Modesto Municipal Code. Any future development would be assessed for consistency to applicable City Zoning Ordinances, Design Guidelines and City Standards.

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 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.

Original signed copy on file with CEDD

Project Manager

Title

Date

RZN-11-003: Finding of Conformance
City of Modesto General Plan Master EIR

Initial Study EA No. 2011-36
October 31, 2011
4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any “No” response must be discussed.

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<tr>
<td>(1)</td>
<td>The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.</td>
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<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>
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<tr>
<td>(3)</td>
<td>Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).</td>
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<tr>
<td>(4)</td>
<td>No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.</td>
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<tr>
<td>(5)</td>
<td>The development will occur within the boundaries of the City’s planning area as established in this Urban Area General Plan.</td>
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<tr>
<td>(6)</td>
<td>Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.</td>
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5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any “no” response must be explained.

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<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>
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<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>
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<tr>
<td>(c)</td>
<td>Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.</td>
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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 application is a proposal to rezone a portion of the subject property from the R-1 Zone to the R-2 Zone. The appropriate mitigation to be applied to any future development of the site includes: TC-42 and TC-47 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-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>
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<tr>
<td>1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.</td>
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<td>2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?</td>
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<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>
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<td>4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).</td>
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<td>5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.</td>
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<td>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>
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<td>7) The proposed project would result in an increase</td>
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</table>
in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.

Discussion:

(1-7) The proposed project to rezone from R-1 Low-Density Residential to R-2 Medium-Density Residential is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential", which assumed traffic generation consistent with the type and intensity of uses that would be permitted by this rezoning. The site is vacant; however, future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards for site access to and from adjacent streets, internal circulation and parking.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

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

**Direct Impacts**

**Effect:** Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO\(_x\)) (see MEIR Table 2-8, page V-2-27).

**Effect:** Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM\(_{10}\)) 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\(_x\), PM\(_{10}\), and PM\(_{2.5}\).

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

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

The application is a proposal to rezone a portion of the subject property from the R-1 Zone to the R-2 Zone. The appropriate mitigation to be applied to any future development of the site includes: AQ-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-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>
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<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, NOX, PM_{10}, and PM_{2.5} by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.</td>
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<td>☐</td>
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<td>x</td>
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<tr>
<td>2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NOX, PM_{10}, and PM_{2.5}.</td>
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<td>☐</td>
<td>☐</td>
<td>x</td>
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<tr>
<td>3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.</td>
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<td>x</td>
</tr>
<tr>
<td>4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>x</td>
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<tr>
<td>5) The proposed project would create objectionable odors affecting a substantial number of people.</td>
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<td>☐</td>
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Discussion:

(1) The proposed project to rezone from R-1 Low-Density Residential to R-2 Medium-Density Residential is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential", which assumed traffic volumes and emissions consistent with the type and intensity of uses that would be permitted by this rezoning.
(2) Any future development at the site will be required to adhere to applicable City Zoning Ordinances, Standards, and applicable best management practices during the construction process.

(3) The proposed project to rezone from R-1 Low-Density Residential to R-2 Medium-Density Residential is consistent with the Urban Area General Plan and the site’s General Plan Land Use designation of R “Residential”. The Residential land use designation allows for uses as permitted within the R-2 Zone.

(4-5) Any future development at the site will be required to adhere to applicable City Zoning Ordinances, Standards, and applicable best management practices during the construction process.

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 application is a proposal to rezone the subject property from R-1 Low-Density Residential to the R-2 Medium-Density Residential Zone. No development is proposed with the application. Any future development would be required to adhere to the City’s noise ordinance.

(2-4) The proposed project to rezone the subject property from R-1 Low-Density Residential to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site’s General Plan Land Use designation of R “Residential”. No development is proposed with the application; however, any increase in ambient noise levels would be construction-related.
and temporary. Any future development would be required to adhere to the City’s noise ordinance.

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:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
4. EFFECTS ON AGRICULTURAL LANDS

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
</tr>
<tr>
<td>2)</td>
<td>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>
</tr>
<tr>
<td>3)</td>
<td>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>
</tr>
<tr>
<td>4)</td>
<td>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>
</tr>
</tbody>
</table>

Discussion:

(1-2) The proposed project to rezone from R-1 Low-Density Residential to R-2 Medium-Density Residential is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Residential". The site is surrounded by urban uses and would not result in development of land outside of the City's General Plan boundary.

(3-4) The project site is not zoned for agricultural use. There is no existing Williamson Act contract on the property. The site is surrounded by urban uses and would not cause the conversion of additional farmland to a non-agricultural use.

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 application is a proposal to rezone the subject property from R-1 Low-Density Residential to the R-2 Medium-Density Residential Zone. No development is proposed with the application; however, the appropriate mitigation to be applied to any future development of the site includes: WS-11 and WS-13 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</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</td>
<td>☐</td>
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</tr>
</tbody>
</table>
Less Than Significant
Potentially with Less Than Significant Mitigation

<table>
<thead>
<tr>
<th>Impact</th>
<th>Incorporation</th>
<th>Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>groundwater recharge.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Discussion:

(1-3) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site’s General Plan Land Use designation of R “Residential”, which assumed water demand to be consistent with the type and intensity of development that would be permitted by this rezoning. The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

**Effect:** Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson’s hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

**Effect:** No additional cumulative impacts were identified in the Master EIR.

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

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.
Discussion:

The application is a proposal to rezone the subject property from R-1 Low-Density Residential to the R-2 Medium-Density Residential Zone. No development is proposed with the application; however, the appropriate mitigation to be applied to any future development of the site includes: SS-8 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>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 water supply policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</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>
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<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1-3) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential", which assumed wastewater generation to be consistent with the type and intensity of development that would be permitted by this rezoning. The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
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 appropriate mitigation to be applied to this project includes (insert reference nos. for appropriate mitigation, if any measures are required, if none required, indicate "none") from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2)</td>
<td>Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3)</td>
<td>The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4)</td>
<td>The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5)</td>
<td>Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>6)</td>
<td>The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**

(1) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site’s General Plan Land Use designation of R “Residential”. The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

(2-4) The project site is located within the Baseline Developed Area of the City and is therefore completely surrounded by developed urban area. It is not a biologically sensitive site as defined by Figure V-7-1 of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(5-6) The proposal to rezone the property is not in conflict with any local policies or ordinances protecting biological resources, nor is in conflict with any adopted 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:**
There are no mitigation measures applicable to this project.

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>Project-Specific Effects</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>

RZN-11-003: Finding of Conformance
City of Modesto General Plan Master EIR

Initial Study EA No. 2011-36
October 31, 2011
### Historical Sites

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>2</td>
<td>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>
</tr>
<tr>
<td>3</td>
<td>The proposed project would modify or demolish a structure more than 50 years in age.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>4</td>
<td>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>
</tr>
<tr>
<td>5</td>
<td>Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

#### Discussion:

1. The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

2-4. The area of the proposed rezone is vacant. The site is not eligible for listing as a historic resource, nor is categorized as an existing historic landmark.

5. The proposal to rezone the property would not be in conflict with any policy or ordinance protecting 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 application is a proposal to rezone the subject property from R-1 Low-Density Residential to the R-2 Medium-Density Residential Zone. No development is proposed with the application; however, the appropriate mitigation to be applied to any future development of the site includes: SD-7 and SD-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-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>9. INCREASED DEMAND FOR STORM DRAINAGE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</tr>
</tbody>
</table>
### 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 application is a proposal to rezone the subject property from R-1 Low-Density Residential to the R-2 Medium-Density Residential Zone. No development is proposed with the application; however, the appropriate mitigation to be applied to any future development of the site includes: FWQ-13 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 substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
Discussion:

(1-2) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site’s General Plan Land Use designation of R “Residential”. The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

(3-4) The proposed project is to rezone the property from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone. The site is outside of the 100-year flood zone as defined by the FEMA 2008 Flood Insurance Rate Maps (FIRM).

(5-8) Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

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

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measures applicable to the project.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:
11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

<table>
<thead>
<tr>
<th></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:

(1-3) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

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:
There are no mitigation measures applicable to the project.

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:
(1-2) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site’s General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
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 (insert reference nos. for appropriate mitigation, if any measures are required, if none required, indicate "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</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.

<table>
<thead>
<tr>
<th>Least Than 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:

(1-2) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site’s General Plan Land Use designation of R “Residential”. The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

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

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
14. INCREASED DEMAND FOR FIRE SERVICES

<table>
<thead>
<tr>
<th>Impact Description</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
</tr>
<tr>
<td>2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
</tr>
<tr>
<td>3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
</tr>
</tbody>
</table>

Discussion:

(1-3) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

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

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.
Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.8 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>Effect</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>15. GENERATION OF SOLID WASTE</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Discussion:

(1-2) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential", which assumed solid waste generation to be consistent with the type and intensity of development that would be permitted by this rezoning. The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts
Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

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

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
No mitigation measures are applicable to this project.

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 proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site’s General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

(2) The area proposed for rezoning is vacant. Three buildings previously used as an automotive dealership exist to the south, and the site overall is surrounded by urban uses. The La Loma Junior High School exists within one-quarter mile of the project site. However, the proposed rezone would allow for residential uses only. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

(3) The project is not located on a site which is 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:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:
17. GEOLOGY, SOILS, AND MINERAL RESOURCES

1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.

2) The proposed project would expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.

Discussion:

(1) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

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 are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>18. ENERGY</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1-2) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

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

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>19. EFFECTS ON VISUAL RESOURCES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.</td>
<td>❑</td>
<td>❑</td>
<td>❑</td>
<td>❑</td>
</tr>
<tr>
<td>2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.</td>
<td>❑</td>
<td>❑</td>
<td>❑</td>
<td>❑</td>
</tr>
<tr>
<td>3) The proposed project would degrade views of RZN-11-003: Finding of Conformance City of Modesto General Plan Master EIR</td>
<td>❑</td>
<td>❑</td>
<td>❑</td>
<td>❑</td>
</tr>
</tbody>
</table>
less Than Significant

Potentially Significant Impact | Less Than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact

riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.

Discussion:

(1) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site’s General Plan Land Use designation of R “Residential”. The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

(2-3) The project site is not in the vicinity of parks or riverside areas. No views into parks or riverside areas would be blocked or degraded from roadways or properties adjacent to the site.

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:

No mitigation measures are applicable to this project.

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></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>20. LAND USE AND PLANNING</strong></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.</td>
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</tr>
<tr>
<td>2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**

1. The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site’s General Plan Land Use designation of R "Residential”. The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

2. The site proposed for rezoning is vacant and is surrounded by urban uses. The project would not divide an established community.

3. The proposed rezoning does not represent a conflict with any land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.

4. The proposed rezoning is not subject to any habitat conservation plan or natural community conservation plan.

**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 are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>21. CLIMATE CHANGE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.</td>
<td>❌</td>
<td>❌</td>
<td>❌</td>
<td>❌</td>
</tr>
<tr>
<td>2) The proposed project would result in average automobile trip lengths or CO₂ emissions higher than those assumed in the Master EIR.</td>
<td>❌</td>
<td>❌</td>
<td>❌</td>
<td>❌</td>
</tr>
<tr>
<td>3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative</td>
<td>❌</td>
<td>❌</td>
<td>❌</td>
<td>❌</td>
</tr>
</tbody>
</table>
Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.

Discussion:

(1-3) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site’s General Plan Land Use designation of R “Residential”. The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project’s effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect: None.

**Traffic and Circulation:**

None

**Degradation of Air Quality:**

None

**Generation of Noise:**

None

**Effects on Agricultural Lands:**

None

**Increased Demand for Long-Term Water Supplies:**

None
Increased Demand for Sanitary Sewer Services: None

Loss of Sensitive Wildlife and Plant Habitat: None

Disturbance of Archaeological/Historic Sites: None

Increased Demand for Storm Drainage: None

Flooding and Water Quality: None

Increased Demand for Parks and Open Space: None

Increased Demand for Schools: None

Increased Demand for Police Services: None

Increased Demand for Fire Services: None

Generation of Solid Waste: None

Generation of Hazardous Materials: None

Geology, Soils, and Mineral Resources: None

Energy:
None

**Effects on Visual Resources:**

None

**Land Use and Planning:**

None

**Climate Change:**

None
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-38

A RESOLUTION APPROVING THE EXPENDITURE PLAN FOR THE ADDITIONAL FUNDING FROM THE FISCAL YEAR 2010/2011 STATE SUPPLEMENTAL LAW ENFORCEMENT GRANT IN THE AMOUNT OF $94,678, FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND FOR POLICE EQUIPMENT AND TECHNOLOGY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, on September 28, 2010, the City Council, by Resolution No. 2010-421, accepted the State Supplemental Law Enforcement Grant in the amount of at least $100,000 from the State Supplemental Law Enforcement Services Fund for police overtime, and

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

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

WHEREAS, the allocation to the City of Modesto for FY 2010/2011 was increased to $194,678, and

WHEREAS, the Modesto Police Department would like approval to spend the remaining $94,678 for police equipment and technology, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that after holding a public hearing, it hereby approves the expenditure plan for the
additional funding from the Fiscal Year 2010/2011 State Supplemental Law Enforcement Grant in the amount of $94,678 from the State Supplemental Law Enforcement Services Fund for police equipment and technology.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 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 Ridenour

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 2010/2011 MULTI-YEAR OPERATING BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES OF $94,678 FOR THE CITY OF MODESTO’S ALLOCATION FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND; AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, on September 28, 2010, the City Council, by Resolution No. 2010-421, accepted the State Supplemental Law Enforcement Grant in the amount of at least $100,000 from the State Supplemental Law Enforcement Services Fund for police overtime, and

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

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

WHEREAS, the allocation to the City of Modesto for FY 2010/2011 was increased to $194,678, and

WHEREAS, the Modesto Police Department would like approval to spend the remaining $94,678 for police equipment and technology, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that after holding a public hearing, it hereby approves amending the FY 2010/2011 Multi-
Year Operating Budget to appropriate revenues and expenditures of $94,678 for the City of Modesto’s allocation from the State Supplemental Law Enforcement Services Fund for police equipment and technology, as shown in Exhibit A attached hereto.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
The SLESF allocation for Fiscal Year 2010/2011 will be increased:

<table>
<thead>
<tr>
<th>Revenues:</th>
<th>Increase/(Decrease)</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>To:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MY-1340-19999-42140-100142</td>
<td>$ 94,678</td>
<td>2010-11 Intergov-State-SLESF Revenue</td>
</tr>
</tbody>
</table>

| Expenses: |                    |            |
| To:       |                    |            |
| MY-100142-Appr. Unit C | $ 32,591     | Tools, Equip, Supplies < $5,000 |
| MY-100142-Appr. Unit C | $ 35,887     | Info Tech Equipment > $5,000   |
| MY-100142-Appr. Unit C | $ 26,200     | Information Tech < $5,000      |
|           | $ 94,678        |             |
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-40

A RESOLUTION ELECTING TO BECOME THE SUCCESSOR AGENCY TO
THE REDEVELOPMENT AGENCY OF THE CITY OF MODESTO PURSUANT
TO PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND
SAFETY CODE AND APPROVE TITLE TRANSFER OF PROPERTIES

WHEREAS, the City Council of the City of Modesto ("City") approved and
adopted the Redevelopment Plan for the Modesto Redevelopment Project
("Redevelopment Plan") covering certain properties within the City (the "Project Area"),
and

WHEREAS, the Redevelopment Agency of the City of Modesto ("Agency") has
been engaged in activities to execute and implement the Redevelopment Plan pursuant to
the provisions of the California Community Redevelopment Law (Health and Safety
Code § 33000, et seq.) ("CRL"), and

WHEREAS, since adoption of the Redevelopment Plan, the Agency has
undertaken redevelopment projects in the Project Area to eliminate blight, to improve
public facilities and infrastructure, to renovate and construct affordable housing, and to
enter into partnerships with private industries to create jobs and expand the local
economy, and

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature
enacted, and the Governor signed, companion bills AB 1X 26 and AB 1X 27, requiring
that each redevelopment agency be dissolved unless the community that created it enacts
an ordinance committing it to making certain payments, and

WHEREAS, a Petition for Writ of Mandate was filed in the Supreme Court of the
Malosantos, et al., Case No. S194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement, and

WHEREAS, on August 11, 2011, and modified on August 17, 2011, the Supreme Court stayed portions of AB 1X 26, and AB 1X 27 in its entirety during the pendency of the matter, and

WHEREAS, on December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27, and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012, and

WHEREAS, AB 1X 26 further provides that, upon their dissolution, any property taxes that would have been allocated to redevelopment agencies will no longer be deemed tax increment, and will be allocated first to successor agencies to make payments on the existing indebtedness of the dissolved redevelopment agencies, with remaining balances allocated in accordance with applicable constitutional and statutory provisions, and

WHEREAS, AB 1X 26 provides that successor agencies be designated as successor entities to the former redevelopment agencies, and provides that, with certain exceptions, all authority, rights, powers, duties and obligations previously vested with the former redevelopment agencies, under the CRL, are vested in the successor agencies, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:
Section 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. Election to be Successor Agency. In accordance with Health and Safety Code Section 34173, and based on the Recitals set forth above, the City Council hereby elects and determines that the City of Modesto shall become the “successor agency” to the former Redevelopment Agency of the City of Modesto. Upon dissolution of the Agency pursuant to Part 1.85 of Division 24 of the California Health and Safety Code, and except as provided under the CRL, all authority, rights, powers, duties and obligations previously vested with the former Agency, under the CRL, shall be vested in the City as the successor agency to the Agency.

Section 3. Implementation. The City Council hereby authorizes and directs the City Manager to take any action and execute any documents necessary to carry out the purposes of this Resolution, including but not limited to notifying the Stanislaus County Auditor-Controller, the Controller of the State of California, and the California Department of Finance providing notice of the adoption of this Resolution and the City’s election to be the successor agency to the Agency, in accordance with AB 1X 26.

Section 4. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.
Section 5. Certification. The City Clerk shall certify to the adoption of this Resolution.

Section 6. Effective Date. This Resolution shall become effective upon its adoption.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Geer, 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, Mayor Ridenour

NAYS: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION ELECTING TO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE REDEVELOPMENT AGENCY OF THE CITY OF MODESTO PURSUANT TO PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE.

WHEREAS, the City Council of the City of Modesto ("City") approved and adopted the Redevelopment Plan for the Modesto Redevelopment Project ("Redevelopment Plan") covering certain properties within the City (the "Project Area"), and

WHEREAS, the Redevelopment Agency of the City of Modesto ("Agency") has been engaged in activities to execute and implement the Redevelopment Plan pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, et seq.) ("CRL"), and

WHEREAS, since adoption of the Redevelopment Plan, the Agency has undertaken redevelopment projects in the Project Area to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to enter into partnerships with private industries to create jobs and expand the local economy, and

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature enacted, and the Governor signed, companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacted an ordinance committing it to make certain payments, and

WHEREAS, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (California Redevelopment Association, et al. v. Ana
Matosantos, et al., Case No. S194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies, and

WHEREAS, on December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27, and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012, and

WHEREAS, Health and Safety Code Section 34176 provides that the city that authorized the creation of the redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency, and

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

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

Section 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. Election to Retain Housing Assets and Functions. In accordance with Health and Safety Code Section 34176, and based on the Recitals set forth above, because the City Council authorized the creation of the Redevelopment Agency of the City of Modesto, the City Council hereby elects to retain the housing assets and functions previously performed by the Redevelopment Agency of the City of Modesto. Upon dissolution of the Agency pursuant to Part 1.85 of Division 24 of the California Health and Safety Code, and except as provided under the CRL, all rights, powers, duties and obligations, excluding any amounts on deposit in the Redevelopment
Agency of the City of Modesto’s Low and Moderate Income Housing Fund shall be transferred to the City of Modesto.

Section 3. Implementation. The City Council hereby authorizes and directs the City Manager to take any action and execute any documents necessary to carry out the purposes of this Resolution, including but not limited to notifying the Stanislaus County Auditor-Controller, the Controller of the State of California, and the California Department of Finance of the adoption of this Resolution and the transfer of all housing assets and functions of the former Redevelopment Agency of the City of Modesto to the City of Modesto, all in accordance with AB 1X 26.

Section 4. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

Section 5. Certification. The City Clerk shall certify to the adoption of this Resolution.

Section 6. Effective Date. This Resolution shall become effective upon its adoption.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Geer, 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, Mayor Ridenour

NAYS: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
RESOLUTION ESTABLISHING THE REDEVELOPMENT OBLIGATION RETIREMENT FUND

WHEREAS, the City Council of the City of Modesto ("City") approved and adopted the Redevelopment Plan for the Modesto Redevelopment Project ("Redevelopment Plan") covering certain properties within the City (the "Project Area"), and

WHEREAS, the Redevelopment Agency of the City of Modesto ("Agency") has been engaged in activities to execute and implement the Redevelopment Plan pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, et seq.) ("CRL"), and

WHEREAS, since adoption of the Redevelopment Plan, the Agency has undertaken redevelopment projects in the Project Area to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to enter into partnerships with private industries to create jobs and expand the local economy, and

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature enacted, and the Governor signed, companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacted an ordinance committing it to make certain payments, and

WHEREAS, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (California Redevelopment Association, et al. v. Ana
Matosantos, et al., Case No. S194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies, and

WHEREAS, on December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27, and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012, and

WHEREAS, AB 1X 26 provides that the City will be the “successor agency” to the Agency and responsible for the wind down of the Agency’s affairs, and

WHEREAS, the activities of the City, as successor agency, will be overseen by an oversight board, comprised primarily of representatives of other affected taxing agencies, until such time as the debts of the Agency are paid off, and

WHEREAS, all Agency liquidated assets and all property taxes will be redirected to local taxing agencies,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Redevelopment Obligation Fund is hereby adopted in order to process all transactions related to the wind down of redevelopment activity.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Geer, 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, Mayor Ridenour

NAYS: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2012-43  

A RESOLUTION APPROVING CITY OF MODESTO’S GENERAL PLAN AREA BOUNDARY FOR THE AGRICULTURAL PRESERVATION PLAN 2050

WHEREAS, the Mayors of the nine cities of Stanislaus County (Mayors Working Group) have initiated a growth management plan/countywide agricultural preservation policy referred to as the "Agricultural Preservation Plan 2050", and

WHEREAS, the Agricultural Preservation Plan 2050 is a regional approach to preserving agricultural land in Stanislaus County, and

WHEREAS, the goal of the Agricultural Preservation Plan 2050 is to create a map that can serve as a centerpiece of a ballot initiative that might be taken to the voters in the summer of 2012, and

WHEREAS, no definitive time line has been established for a ballot initiative and the details of any ballot initiative have not been drafted, and

WHEREAS, joint workshops between the City of Modesto Economic Development Committee and City of Modesto Planning Commission were held on October 12, 2011, November 14, 2011 and December 12, 2011 to discuss the Agricultural Preservation Plan 2050, and

WHEREAS, on December 12, 2011, the City of Modesto Economic Development Committee and the City of Modesto Planning Commission took action by motion (four in favor, three no; two members of the Planning Commission Absent) recommending the City Council accept the City of Modesto’s General Plan boundary for the Agricultural Preservation Plan 2050 and encourage other participating Cities to justify and explain their increase in their General Plan urban growth boundaries, and
WHEREAS, the Modesto City Council finds that the current adopted General Plan boundary is sufficient to accommodate future growth to the year 2050, and

WHEREAS, the action by the Modesto City Council to approve the current City of Modesto General Plan Boundary for the Agricultural Preservation Plan 2050 is exempt from environmental review pursuant to Section 15262 of the California Environmental Quality Act, and

WHEREAS, the City Council finds that the Agricultural Preservation Plan 2050 supports goals, policies and strategies of the City of Modesto Strategic Plan and the Modesto Urban Area General Plan, and

WHEREAS, the City Council encourages other participating Cities to justify and explain their increase in their General Plan urban growth boundaries, as part of the Agricultural Preservation Plan 2050 effort,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto’s General Plan boundary for the Agricultural Preservation Plan 2050.
The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Muratore, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Modesto


A. Paragraphs 1 through 13 are hereby stricken from said contract as executed effective March 6, 2009, and hereby replaced by the following paragraphs numbered 1 through 16 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members entering membership in the miscellaneous classification on or prior to the effective date of this amendment to contract; age 60 for local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract; age 50 for local police members and for those local fire members entering membership in the fire classification on or prior to the effective date of this amendment to contract and age 55 for local fire members entering membership for the first time in the fire classification after the effective date of this amendment to contract.

2. Public Agency shall participate in the Public Employees' Retirement System from and after August 1, 1946 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:

   (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.

   (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
(c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.

(d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.

(e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.

(f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.

(g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.

4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:

   a. Local Fire Fighters (herein referred to as local safety members);
   b. Local Police Officers (herein referred to as local safety members);
   c. Employees other than local safety members (herein referred to as local miscellaneous members).

5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

   a. POLICE COURT EMPLOYEES;
   b. ALL HOURLY RATED OR HOURLY BASIS EMPLOYEES HIRED ON AND AFTER OCTOBER 1, 1962; AND
   c. CITY COUNCIL MEMBERS ELECTED INTO OFFICE ON OR AFTER AUGUST 1, 2008.
6. Assets heretofore accumulated with respect to members in the local retirement system have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of the assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system has been credited to the individual membership account of each such employee under the Public Employees' Retirement System.

7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member entering membership in the miscellaneous classification on or prior to the effective date of this amendment to contract shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1956, the effective date of Social Security coverage, and prior to June 30, 1978, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).

8. The percentage of final compensation to be provided for each year of credited current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).

9. The percentage of final compensation to be provided for each year of credited prior and current service as a local police member and for those local fire members entering membership in the fire classification on or prior to the effective date of this amendment to contract shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).

10. The percentage of final compensation to be provided for each year of credited current service as a local fire member entering membership for the first time in the fire classification after the effective date of this amendment to contract shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
11. Public Agency elected and elects to be subject to the following optional provisions:


b. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980.

c. Section 21319 (One-Time 15% Increase for Local Miscellaneous Members Who Retired or Died Prior to July 1, 1971). Legislation repealed said Section effective January 1, 2002.

d. Section 21572 (Increased Level of 1959 Survivor Benefits) for local miscellaneous members only.

e. Section 20042 (One-Year Final Compensation) for local police members and for those local fire members and miscellaneous members entering membership on or prior to the effective date of this amendment to contract.

f. Section 21427 (Improved Nonindustrial Disability Allowance) for local miscellaneous members only.

g. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) for local safety members and for those local miscellaneous members entering membership on or prior to October 20, 1981.

h. Section 21325 (One-Time 3% to 15% Increase For Local Miscellaneous Members and Local Safety Members Who Retired or Died Prior to January 1, 1974). Legislation repealed said Section effective January 1, 2002.
i. Section 20475 (Different Level of Benefits). Sections 21624, 21626, and 21628 (Post-Retirement Survivor Allowance) are not applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after October 20, 1981.

Section 21353 (2% @ 60 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.

Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local fire members entering membership for the first time in the fire classification after the effective date of this amendment to contract.

j. Section 21322 (One-Time 4% Increase For Local Miscellaneous Members and Local Safety Members Who Retired or Died Prior to January 1, 1981). Legislation repealed said Section effective January 1, 2002.

k. Section 21317 (One-Time 15% Increase for Certain Local Safety Members Who Retired for Service Retirement). Legislation repealed said Section effective January 1, 2002.

l. Section 21024 (Military Service Credit as Public Service).

m. Section 21574.5 (Indexed Level of 1959 Survivor Benefits) for local safety members only.

n. Section 21547.7 (Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service).

o. Section 21118 (Partial Service Retirement) for local miscellaneous members only.

12. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on March 28, 1978. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
13. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.

14. Public Agency shall also contribute to said Retirement System as follows:

   a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574.5 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local safety members.

   b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.

   c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

15. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
16. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the 17 day of January, 2012.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY
KAREN DE FRANK, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF MODESTO

BY
PRESIDING OFFICER
Mayor Jim Ridenour

January 3, 2012
Witness Date

Attest:
Stephanie Lopez, City Clerk
[This page is attached by City to the Resolution of Intention to Terminate the Contract provided by CalPERS]

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 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: Burnside, Cogdill, Geer, Günderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(SSEAL)

ATTEST: ________________________________

STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: ________________________________

SUSANA ALCALA WOOD, City Attorney
RESOLUTION ACCEPTING THE STRATEGIC GROWTH COUNCIL’S PROPOSITION 84 SR108 CORRIDOR STUDY GRANT, IN THE AMOUNT OF $59,264, ON BEHALF OF THE COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY NECESSARY GRANT CONTRACTS AND RELATED DOCUMENTS

WHEREAS, the people of the State of California in 2006 approved Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act, which also authorized the Legislature to appropriate $90 million for planning grants and incentives to reduce energy consumption, conserve water, improve air and water quality, and provide other community benefits, and

WHEREAS, the California Strategic Growth Council has the authority to award grants of financial assistance for the development and implementation of plans that reduce greenhouse gas emissions and achieve other specified public objectives, and

WHEREAS, the City of Modesto is participating in a Proposition 84 grant application prepared and administered by the City of Riverbank to assist in preparing a corridor study for SR108, which will allow Riverbank, Modesto and Oakdale to have greater influence over future development patterns along the SR108 corridor that are consistent with both the San Joaquin Valley Blueprint and the greenhouse gas reduction goals of AB 32 and SB 375, and

WHEREAS, on August 10, 2010, the City Council, by Resolution No. 2010-375, approved the City’s joint applications with other cities in Stanislaus County, the County of Stanislaus, and the Stanislaus Council of Governments for Proposition 84 grant funding with a in-lieu match of staff time, and
WHEREAS, the City of Riverbank submitted a grant application to the Strategic Growth Council for a Proposition 84 SR108 Corridor Study Grant as authorized by City Council, and

WHEREAS, the Strategic Growth Council reviewed the grant application and awarded the project a Proposition 84 Planning Grant including $59,264 for the City of Modesto’s portion of the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the $59,264 Proposition 84 SR108 Corridor Study Grant from the Strategic Growth Council, and authorizes the $25,852 matching funds of in-lieu staff time.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of February, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2012-46

RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 MULTI-YEAR OPERATING GRANT FUND BUDGET TO ESTABLISH A NEW MULTI-YEAR BUDGET FOR THE STRATEGIC GROWTH COUNCIL’S PROPOSITION 84 SR108 CORRIDOR STUDY GRANT AND TO APPROPRIATE $59,264 IN GRANT REVENUE AND EXPENSE

WHEREAS, the people of the State of California in 2006 approved Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act, which also authorized the Legislature to appropriate $90 million for planning grants and incentives to reduce energy consumption, conserve water, improve air and water quality, and provide other community benefits, and

WHEREAS, the California Strategic Growth Council has the authority to award grants of financial assistance for the development and implementation of plans that reduce greenhouse gas emissions and achieve other specified public objectives, and

WHEREAS, the City of Modesto is participating in a Proposition 84 grant application prepared and administered by the City of Riverbank to assist in preparing a corridor study for SR108, which will allow Riverbank, Modesto and Oakdale to have greater influence over future development patterns along the SR108 corridor that are consistent with both the San Joaquin Valley Blueprint and the greenhouse gas reduction goals of AB 32 and SB 375, and

WHEREAS, on August 10, 2010, the City Council, by Resolution No. 2010-375, approved the City’s joint applications with other cities in Stanislaus County, the County of Stanislaus, and the Stanislaus Council of Governments for Proposition 84 grant funding with a in-lieu match of staff time, and
WHEREAS, the City of Riverbank submitted a grant application to the Strategic Growth Council for a Proposition 84 SR108 Corridor Study Grant as authorized by City Council, and

WHEREAS, the Strategic Growth Council reviewed the grant application and awarded the project a Proposition 84 Planning Grant including $59,264 for the City of Modesto’s portion of the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the Fiscal Year 2011-2012 Multi-Year Operating Grand Fund budget as necessary to accept the Proposition 84 Planning Grant including $59,264 for the City of Modesto.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of February, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION NO. 2012-47

RESOLUTION APPROVING AN AMENDED LETTER OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND MODESTO CITY FIRE FIGHTERS' ASSOCIATION TO MODIFY THE LEVEL OF CONSTANT STAFFING NECESSARY TO ACHIEVE IMMEDIATE OVERTIME SAVINGS

WHEREAS, on June 28, 2011, the City Council, by Resolution No. 2011-257, approved a Letter of Understanding (LOU) with the Modesto City Fire Fighters’ Association (MCFFA), that reduced the constant staffing number from thirty-six (36) suppression personnel on duty each sift to thirty-four (34), and

WHEREAS, this change was one of cost reduction strategies proposed and accepted as part of the FY 11/12 budget, and

WHEREAS, the Modesto Regional Fire Authority (MRFA) management has met and conferred with MCFFA to discuss various options to achieve needed cost reductions through July 1, 2012, and

WHEREAS, the amended LOU provides a further reduced level of constant staffing from thirty-four (34) suppression personnel on duty each shift to thirty-three (33), and

WHEREAS, this change will enable the Fire Chief to make the operational changes necessary to ensure cost reductions are realized in the current fiscal year, and

WHEREAS, this amendment allows MRFA management to continue the meet and confer process on the impact of the change in constant staffing levels as cost reductions for future fiscal years,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amended Letter of Understanding between the City of Modesto
and Modesto City Fire Fighters' Association to modify the level of constant staffing necessary to achieve immediate overtime savings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of February, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney

WHEREAS, in 1970, Earth Day was established to make the public aware of programs successful in protecting the environment and conserving natural resources, and

WHEREAS, on March 24, 1993, the City Council, by Resolution No. 92-129, acknowledged “Earth Day in the Park” as an annual event, and

WHEREAS, the Citizens' Advisory Committee on Recycling (CACOR) sponsors the event, and the 23rd Annual “Earth Day in the Park” will be held on Saturday, April 21, 2012, at Graceada Park, and

WHEREAS, the event provides a forum for merchants to display and sell their "environmentally friendly" merchandise, and for the creation of a "festival atmosphere", while giving the public an opportunity to make purchases of positive benefit to the environment, and

WHEREAS, “Earth Day in the Park Festival, 2011” had 68 vendor booths, and approximately 8,000 attendees, and

WHEREAS, as in prior years, the Committee seeks Council approval for the sale of merchandise in the Park during the event,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby affirms its co-sponsoring of “Earth Day in the Park Festival, 2012” at Graceada Park.
BE IT FURTHER RESOLVED by the Council that it hereby approves the sale of merchandise at Graceada Park during the ‘Earth Day in the Park Festival, 2012’ event.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of February, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING UPDATES TO THE CITY OF MODESTO'S SANITARY SEWER MANAGEMENT PLAN

WHEREAS, the goal of the Sanitary Sewer Management Plan (SSMP) is to facilitate proper funding and management of sanitary sewer systems, and

WHEREAS, the SSMP includes provisions for the proper and efficient management, operation, and maintenance of sanitary sewer systems, while taking into consideration risk management and cost benefit analysis, and

WHEREAS, City staff uses the SSMP as a guiding document to help reduce and prevent SSOs, as well as mitigate any SSOs that do occur, and

WHEREAS, in 2006, the State Water Resources Control Board (Regional Board) implemented regulations governing the operations and maintenance of wastewater collection systems, and

WHEREAS, in 2009 the SSMP was completed and certified, and

WHEREAS, City staff has made significant updates to the SSMP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves updates to the City of Modesto’s Sanitary Sewer Management Plan.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of February, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION ACCEPTING THE WORK BY REPUBLIC INTELLIGENT TRANSPORTATION SERVICES, INC., FOR THE "ARRA LED STREETLIGHT UPGRADE" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $366,850

WHEREAS, a report has been filed by the Interim Director of Utility Planning and Projects that the ARRA LED Streetlight Upgrade project has been completed by Republic Intelligent Transportation Services, Inc., in accordance with the contract agreement dated March 22, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the ARRA LED Streetlight Upgrade project is hereby accepted as complete from said contractor Republic Intelligent Transportation Services, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling $366,850 is authorized as provided in the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of February, 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
RESOLUTION NO. 2012-51

RESOLUTION ACCEPTING THE WORK BY NOR-CAL CONCRETE, INC., FOR THE HUD CURB RAMP IMPROVEMENT PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $213,835.50

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the HUD Curb Ramp Improvement project has been completed by Nor-Cal Concrete, Inc., in accordance with the contract agreement dated May 3, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the HUD Curb Ramp Improvement project is hereby accepted as complete from said contractor Nor-Cal Concrete, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and that payment of amounts totaling $213,835.50 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of February, 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 Ridenour

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. 2012-52

RESOLUTION APPROVING AN AMENDMENT TO THE DEPARTMENT OF HOUSING & URBAN DEVELOPMENT ANNUAL ACTION PLAN FOR FISCAL YEAR 2011-12, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE RELATED DOCUMENTS

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD) and allocates those funds to various eligible activities, and

WHEREAS, the City Council, on May 3, 2011, by Resolution No. 2011-154, approved the Fiscal Year 2011-12 HUD Annual Action Plan (AAP), and

WHEREAS, any changes to the allocations adopted in the AAP are accomplished through an AAP amendment, and

WHEREAS, staff has proposed an amendment to the AAP as set forth in Exhibit “A”, attached hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of the proposed amendment to the AAP, and to provide a 30-day comment period, which began January 4, 2012, and ends on February 7, 2012, and

WHEREAS, this first amendment will amend the Fiscal Year 2011-12 AAP to include the allocation of revolving loan and entitlement carryover funds, and

WHEREAS, the Citizens’ Housing and Community Development Committee (CH&CDC) considered the proposed amendment to the HUD AAP at its January 25, 2012, meeting, and the Committee recommended that the City Council approve the amendment to the HUD AAP as proposed by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on
February 7, 2012, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the proposed amendment to the Fiscal Year 2011-12 HUD AAP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Fiscal Year 2011-12 HUD Annual Action Plan.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of February, 2012, by Councilmember Lopez, who moved its adoption, with 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
This amendment specifically provides CDBG carryover funding for:

- restroom ADA compliance remodeling at the Senior Citizens' Center ($300,000)
- partial funding of report updating City's ADA Transition Plan ($25,000)
- restroom ADA compliance remodeling at the Muni Golf Course ($35,000)
- ADA accessibility pathway at the Elk Park ($10,000)
- designing and remodeling the Community Center located in the Airport Neighborhood ($85,000)
- ADA accessibility elevator at McHenry Museum ($55,000)
- Minor Home Repair Grant Program ($10,000)
- reduce Home Repair/Disabled Access budget (-$50,000)

In addition, this amendment is providing an additional $50,000 in revolving loan carryover funds for small business loans for a total budget of $204,780 and an additional $285,000 for the Home Repair/Disabled.

$4,070 in ESG carryover is funding administrative oversight

$27,851 in public service and emergency solutions grant funding will be redistributed to current FY grant recipients.
RESOLUTION AMENDING THE FY 2011-12 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO REFLECT THE APPROVED AMENDMENT TO THE ANNUAL ACTION PLAN FOR FISCAL YEAR 2011-12 AND THE REALLOCATION OF CARRYOVER FUNDS AS NOTED IN EXHIBIT A; AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and allocates those funds to various eligible activities, and

WHEREAS, on May 3, 2011, by Resolution No. 2011-154, the Modesto City Council approved the Fiscal Year 2011-12 HUD Annual Action Plan (AAP), and

WHEREAS, any changes to the allocations adopted in the AAP are accomplished through an AAP amendment, and

WHEREAS, this first amendment will amend the Fiscal Year 2011-12 HUD AAP to include the allocation of revolving loan and entitlement carryover funds as set forth in Exhibit “A”, attached hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of the proposed amendment to the HUD AAP, and to provide a 30-day comment period, which began January 4, 2012 and ends on February 7, 2012, and

WHEREAS, the Citizens’ Housing and Community Development Committee (CH&CDC) considered the proposed amendment to the HUD AAP at its January 25, 2012, meeting, and recommended that the Council approve, and

WHEREAS, a duly noticed public hearing was held by the City Council on February 7, 2012, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010
Tenth Street, to consider approval of the proposed amendment to the Fiscal Year 2011-12 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 2011-12 Annual Operating and Capital Improvement Budgets to reflect the approved amendment to the Annual Action Plan for Fiscal Year 2011-2012, and the reallocation of carryover funds as noted in Exhibit A.

BE IT FURTHER RESOLVED, that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of February, 2012, by Councilmember Lopez, who moved its adoption, with 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 Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
This amendment specifically provides CDBG carryover funding for:

- restroom ADA compliance remodeling at the Senior Citizens’ Center ($300,000)
- partial funding of report updating City’s ADA Transition Plan ($25,000)
- restroom ADA compliance remodeling at the Muni Golf Course ($35,000)
- ADA accessibility pathway at the Elk Park ($10,000)
- designing and remodeling the Community Center located in the Airport Neighborhood ($85,000)
- ADA accessibility elevator at McHenry Museum ($55,000)
- Minor Home Repair Grant Program ($10,000)
- reduce Home Repair/Disabled Access budget (-$50,000)

In addition, this amendment is providing an additional $50,000 in revolving loan carryover funds for small business loans for a total budget of $204,780 and an additional $285,000 for the Home Repair/Disabled.

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$27,851 in public service and emergency solutions grant funding will be redistributed to current FY grant recipients.