MODESTO CITY COUNCIL
RESOLUTION 2010-279

A RESOLUTION AMENDING THE DEFERRED PAYMENT AGREEMENT AND NOTICE OF LIEN WITH PETER AND CHARLENE REECE, JOSEPH AND SHERYL PIMENTEL, AND STEPHEN AND KATHLEEN HUGHES FOR THE PAYMENT OF CAPITAL FACILITIES FEES IN THE AMOUNT OF $44,252.46, PLUS INTEREST, IN NO MORE THAN FIVE (5) ANNUAL INSTALLMENTS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on February 28, 2006, Peter A. Reece and Charlene Reece, Joseph and Sheryl Pimentel, and Stephen and Kathleen Hughes (Owners) and the City of Modesto (City) entered into a Deferred Payment Agreement and Notice of Lien (Agreement) to defer the payment of Capital Facilities Fees (CFF) in the amount of $138,288.93 for the construction of three commercial buildings located at 3948 Sylvan Avenue, Modesto, CA 95355, and

WHEREAS, Agreement enabled Owners to pay twenty percent (20%) of the total CFF at the time of building permit issuance and pay the remaining eighty percent (80%), plus interest, in no more than five annual installments, and

WHEREAS, on March 15, 2006, Owners paid $27,657.79 (20%) of the total CFF at the time the building permits were issued, and

WHEREAS, on December 21, 2006, Owners paid the first of five installments of the deferred CFF in the amount of $22,512.68, and

WHEREAS, on May 21, 2007, Owners paid the second of five installments of the deferred CFF in the amount of $29,317.56, and

WHEREAS, on June 24, 2008, Owners paid the third of five installments of the deferred CFF in the amount of $27,451.98, and
WHEREAS, on April 6, 2009, Owners requested that the City to defer the fourth and fifth CFF installments due to the economic conditions that precluded them from securing tenants for their buildings, and

WHEREAS, on or about April 27, 2009, City and Owners entered into a Letter Agreement to modify the fourth and fifth installments of the deferred CFF, plus interest, to be due on April 1, 2010 and April 1, 2011 respectively, and

WHEREAS, on March 18, 2010, Owners requested additional assistance from the City to defer the balance of CFF, and

WHEREAS, Owners have requested an Amendment to the Deferred Payment Agreement and Notice of Lien deferring the remaining CFF due, plus interest, in no more than five (5) annual installments commencing on April 1, 2011.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Letter Agreement is hereby terminated and the Amendment to the Deferred Payment Agreement and Notice of Lien ("Agreement") with Peter and Charlene Reece, Joseph and Sheryl Pimentel, and Stephen and Kathleen Hughes for the payment of $44,252.46, plus interest, in no more than five (5) annual installments is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is 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 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(S.E.A.L.)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 ANNUAL OPERATING BUDGET

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual Budget of the City of Modesto for Fiscal Year 2009-2010.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2009-2010 budget have been adjusted as shown in Exhibit A, which is incorporated by reference herein.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALÁ WOOD, City Attorney
INFORMATION TECHNOLOGY
In 2005 the City of Modesto and Stanislaus County entered into a contract with Final Cut Media, in the amount of $263,000, for production/broadcast support of cable broadcast events. From 2005-2008, the General Fund paid for the City’s contract contribution, $131,500. In FY2008-09 no City contributions were made, but starting in FY2009-10, the FY2008-09 and FY2009-10 charges were transferred into the Information Technology Internal Service Fund model and only charged to non-General Fund funds. The reasoning behind that direction was, the General Fund had fully funded the charges for the first five years of the contract, and the other funds would bear the cost for the remaining five years of the contract. Since the City contributions were processed through the Information Technology Internal Service Fund model, a budget adjustment is necessary to transfer the amount of $134,500 to the Education and Government Community Fund (0320) since the Information Technology Internal Service Fund model collects these funds in the Information Technology Fund (7130). In FY2009-10 when the transfers were adopted only funding for FY2008-09 was transferred. Therefore, this budget adjustment is necessary to transfer funding for FY2009-10.

PARKS, RECREATION AND NEIGHBORHOODS
An adjustment is necessary to create a multi-year organization within the HOME Fund (1170) for the American Dream Down Payment Initiative. This adjustment transfers previous year’s carryover funding in HOME Fund Reserves and Direct Loans totaling $120,621 for the multi-year Homebuyer’s Assistance Program.

An adjustment is necessary to reduce appropriations by $1,369 in Capital N442, Playground Equipment Upgrades and close the account. Additionally, this adjustment will reduce the transfer from the Parks Fund in the amount of $34.

Originally, Virginia Corridor was established with all revenues reflected in the Primary Capital Improvement Account, A087. To clearly identify revenues and expenditures associated with this project the accounting of Primary and Secondary projects should remain independent of one another. This adjustment removes funding in the amount of $524,229 from Capital Improvement Project A087, Virginia Corridor-Primary, as the funding already resides in the Secondary accounts, Virginia Corridor Phase III/IV - P713, Virginia Corridor Phase V - P365 and Virginia Corridor Phase VI - P366.

POLICE
An adjustment is necessary to reduce appropriations by $23,311 in Fund 0410, Block Grant Reimbursement, as the grant has ended. Additionally, this adjustment will reduce the transfer from the General Fund to the Block Grant Reimbursement Fund in the amount of $23,311.

This budget adjustment recognizes unbudgeted revenue in the amount of $22,631 in Fund 8850, Stanislaus Drug Enforcement Agency (SDEA), due to the acceptance of a California Emergency Management Agency Grant approved by Council on March 11, 2010, and appropriates these funds to the Calena Antidrug Abuse Stimulus operating costs in Organization 2105 within Fund 8850.

PUBLIC WORKS / UTILITY PLANNING & PROJECTS
An adjustment is necessary to transfer $2,580,992 from the Wastewater Development Fees Fund (6211) to Capital Improvement Project B805, Wastewater Phase 1A Tertiary, to pay growth related project expenses in FY2009-10.
RESOLUTION NO. 2010-281

A RESOLUTION APPROVING AN AGREEMENT WITH THE STANISLAUS COUNTY FIRE AUTHORITY IN THE AMOUNT OF $40,000 TO RESTORE THE FIRE DEPARTMENT EMS COORDINATOR POSITION TO THREE-QUARTER TIME; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in 2006, the Modesto Fire Department created the position of Emergency Medical (EMS) Coordinator, to assist with all emergency medical program duties and responsibilities, and

WHEREAS, the EMS Coordinator’s responsibilities include department-wide EMS training, Paramedic training and oversight, dispatch quality assurance and improvement, and policy and procedure development, and

WHEREAS, this position has assisted other County fire agencies with many of these same responsibilities, and

WHEREAS, in Fiscal Year 2009-10, budget reductions resulted in reducing this position to part-time (960 hours), and

WHEREAS, the Modesto Fire Department has significantly limited the assistance it now provides to County fire agencies, and

WHEREAS, the Stanislaus County Fire Authority has recognized the need for this assistance, and has offered to pay $40,000 via contract to restore the EMS Coordinator position to a three-quarter time position.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with the Stanislaus County Fire Authority in the amount of $40,000 to restore the EMS Coordinator position to three quarter time position.
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 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCAZA WOOD, City Attorney
A RESOLUTION AMENDING THE FISCAL YEAR 2010/11 GENERAL FUND FIRE DEPARTMENT OPERATING BUDGET ESTIMATING REVENUE OF $40,000 FROM THE STANISLAUS COUNTY FIRE AUTHORITY EMERGENCY MEDICAL SERVICES COORDINATOR CONTRACT

WHEREAS, in 2006, the Modesto Fire Department created the position of Emergency Medical (EMS) Coordinator, to assist with all emergency medical program duties and responsibilities, and

WHEREAS, the EMS Coordinator’s responsibilities include department-wide EMS training, Paramedic training and oversight, dispatch quality assurance and improvement, and policy and procedure development, and

WHEREAS, this position has assisted other County fire agencies with many of these same responsibilities, and

WHEREAS, in Fiscal Year 2009-10, budget reductions resulted in reducing this position to part-time (960 hours), and

WHEREAS, the Modesto Fire Department has significantly limited the assistance it now provides to County fire agencies, and

WHEREAS, the Stanislaus County Fire Authority has recognized the need for this assistance, and has committed $40,000 via contract to restore the EMS Coordinator position to a three-quarter time position.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2010/11 Operating Budget is hereby amended to include $40,000 in revenue to the Fire Department.

Revenue Account 0100-180-1805-8XXX
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 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, 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. 2010-283

A RESOLUTION AMENDING THE FIRE DEPARTMENT POSITION ALLOCATION TO INCLUDE ONE THREE-QUARTER TIME BENEFITED EMERGENCY MEDICAL SERVICES COORDINATOR POSITION

WHEREAS, in 2006, the Modesto Fire Department created the position of Emergency Medical (EMS) Coordinator, to assist with all emergency medical program duties and responsibilities, and

WHEREAS, the EMS Coordinator’s responsibilities include department-wide EMS training, Paramedic training and oversight, dispatch quality assurance and improvement, and policy and procedure development, and

WHEREAS, this position has assisted other County fire agencies with many of these same responsibilities, and

WHEREAS, in Fiscal Year 2009-10, budget reductions resulted in reducing this position to part-time (960 hours), and

WHEREAS, the Modesto Fire Department has significantly limited the assistance it now provides to County fire agencies, and

WHEREAS, the Stanislaus County Fire Authority has recognized the need for this assistance, and has committed $40,000 via contract to restore the EMS Coordinator position to a three-quarter time position.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fire Department position allocation is hereby amended to include one three-quarter-time benefited Emergency Medical Services Coordinator position.
BE IT FURTHER RESOLVED that the Human Resources Director, or her
designee, is hereby authorized to take the necessary steps to implement the provisions of
this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who
moved its adoption, which motion being duly seconded by Councilmember Hawn, was
upon roll call carried and the resolution adopted by the following vote:

AYES:  Councilmembers:  Geer, Hawn, Lopez, Marsh, Muratore, Olsen,
Mayor Ridenour

NOES:  Councilmembers:  None

ABSENT: Councilmembers:  None

ATTEST:  

SEAL)

APPROVED AS TO FORM:

By:

SUSANA ALCAIJA WOOD, City Attorney
A RESOLUTION APPROVING THE FY 2010-2011 BUDGET FOR THE STANISLAUS RESOURCE RECOVERY ("WASTE-TO-ENERGY") FACILITY AND RESCINDING RESOLUTION NO. 2009-198

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 Agreement established a Solid Waste-to-Energy Executive Committee ("Executive Committee"), which prepares an annual budget for each fiscal year, and submits said annual budget to the City Council and Board of Supervisors for approval by August 1\textsuperscript{st} of a year, and

WHEREAS, said Executive Committee may also recommend adjustments to an approved annual budget as necessary to provide sufficient funding for project activities, and

WHEREAS, at its March 18, 2010, meeting the Executive Committee also considered the proposed FY 2010/2011 Budget as shown in Attachment "A", attached hereto and incorporated herein by reference, and the Executive Committee unanimously approved forwarding this proposed FY 2010-2011 Budget to the Modesto City Council and the Stanislaus County Board of Supervisors for approval,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the FY 2010-2011 Waste-to-Energy Project Budget, a copy of which is attached hereto as Attachment “A” and incorporated herein by reference, as recommended by the Executive Committee.

BE IT FURTHER RESOLVED that Resolution No 2009-198 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
## Expenditures

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Operatings &amp; Maintainence Expense</td>
<td>$12,352,734</td>
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<tr>
<td>Pass-Through Costs</td>
<td></td>
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<tr>
<td>Ash Disposal</td>
<td>1,215,200</td>
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<tr>
<td>Process Rejects</td>
<td>4,447</td>
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<td>Recovered Materials (Credit)</td>
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<td>Insurance</td>
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<td>Ferrous Metals</td>
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<td>Property Tax</td>
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<td>Sales Tax</td>
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<td>Trustee Fees</td>
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<tr>
<td>Site Lease</td>
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<tr>
<td>Air Permit Fees</td>
<td>135,000</td>
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<tr>
<td>County Fees/Other Fees</td>
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<tr>
<td>Franchise Fees</td>
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<td>Carbon Expense</td>
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<td>Dolomitic Lime Expense</td>
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<td>Total Pass-Through Costs</td>
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<td>Debt Service Expense</td>
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<tr>
<td>Bond Principal Payment Due January 1st</td>
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<tr>
<td>Bond Interest Expense</td>
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<tr>
<td>Liquidity Fee</td>
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<td>Remarketing Fee</td>
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<tr>
<td>DSRF Interest Earnings</td>
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<tr>
<td>Principal Account Interest Earnings</td>
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<tr>
<td>Net Debt Service Expense</td>
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<tr>
<td>Annual Administrative Expenses</td>
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<tr>
<td>62200-Memberships (IEPA)</td>
<td>20,000</td>
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<tr>
<td>62410-Refunds (Arbitrage Liability)</td>
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<tr>
<td>62500-Office Supplies</td>
<td>555</td>
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<tr>
<td>62780-Books/Periodicals</td>
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<tr>
<td>63000-Professional &amp; Special Services</td>
<td>75,000</td>
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<tr>
<td>63300-Leg. Lobbyist Audits, FPA's Energy Consultant</td>
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<td>63400-Engineering Services (Consulting Eng)</td>
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<td>63410-City of Modesto Admin</td>
<td>262,000</td>
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<td>63840-Legal Services (outside Counsel)</td>
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<tr>
<td>65000-Public/Legal Notices</td>
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<td>65100-Rent/Equipment</td>
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<td>65300-Rent/Structure</td>
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<td>65780-Education/Training</td>
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<td>67040-Travel Expenses (Wir conf )</td>
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<td>74000-Central Services Printing</td>
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<td>74250-County Counsel</td>
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<td>74301-County Auditor</td>
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<td>74370-County Stores</td>
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<td>74520-County Admin (incl project position)</td>
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<td>82130-Office Equipment</td>
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<td>84420-Persona Computer Equipment</td>
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<td>73010-Contributions to other agencies</td>
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<td>(HHW and AB939 surcharges)</td>
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<td>Total Administrative Expenses</td>
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## Revenues

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<td>Electric Credit</td>
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</tr>
<tr>
<td>Revenue from Electricity Sales</td>
<td>6,872,250</td>
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<tr>
<td>Fixed Capacity Charge</td>
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<tr>
<td>Gross Electric Revenues</td>
<td>7,503,915</td>
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<td>90% of Gross Electric Revenues</td>
<td>6,753,524</td>
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<tr>
<td>Total Electric Credit</td>
<td>$6,753,524</td>
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<tr>
<td>Disposal Fees</td>
<td>$6,860,000</td>
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<tr>
<td>Supplemental Waste Disposal</td>
<td>$350,000</td>
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<tr>
<td>RRA Interest Earnings</td>
<td>$167,011</td>
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<tr>
<td>Use of RRA Fund Balance</td>
<td>$3,840,360</td>
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<tr>
<td>Total Revenue</td>
<td>$17,970,894</td>
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</tbody>
</table>

### Total Expenditure

- $17,970,894

### Total Revenue

- $17,970,894
RESOLUTION APPROVING A FIVE-YEAR EXTENSION TO THE CURRENT AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO CONVENTION AND VISITORS BUREAU TO PROVIDE CONVENTION AND VISITOR BUREAU SERVICES

WHEREAS, on August 3, 2005, the City Council, by Resolution No. 2005-382, approved an Agreement between the City of Modesto and the Modesto Convention and Visitors Bureau (CVB) to provide convention and visitor bureau services, and

WHEREAS, funding for the CVB is based on Transient Occupancy Tax collections received by the City of Modesto, and

WHEREAS, the current agreement between the CVB and the City of Modesto is set to terminate on June 30, 2010, and

WHEREAS, the CVB has requested to exercise the agreement renewal option and extend the agreement for five years, through June 30, 2015, and

WHEREAS, it is the desire of the City and the CVB to continue to provide convention and visitor bureau services.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year extension to the current agreement with the Modesto Convention and Visitors Bureau to provide convention and visitor bureau services.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-286

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND OFFICER FAINTER FOR THE PURCHASE OF RETIRED CITY OF MODESTO POLICE CANINE, BARZ; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Police Chief for the City of Modesto, from time to time, officially retires police canines from departmental service, and

WHEREAS, City of Modesto police canine handler, Officer Fainter, wishes to purchase and assume possession of his assigned canine, Barz, upon the dog’s official retirement, and

WHEREAS, it is necessary to adopt a resolution authorizing the purchase of a City of Modesto police canine by its assigned handler,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between the City of Modesto and Officer Fainter for the purchase of retired police canine, Barz.

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 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, 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. 2010-287

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND OFFICER KLEIBER FOR THE PURCHASE OF RETIRED CITY OF MODESTO POLICE CANINE, VANCO; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Police Chief for the City of Modesto, from time to time, officially retires police canines from departmental service, and

WHEREAS, City of Modesto police canine handler, Officer Kleiber, wishes to purchase and assume possession of his assigned canine, Vanco, upon the dog’s official retirement, and

WHEREAS, it is necessary to adopt a resolution authorizing the purchase of a City of Modesto police canine by its assigned handler,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between the City of Modesto and Officer Kleiber for the purchase of retired police canine, Vanco.

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 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SIGNATURE)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION ACCEPTING THE WORK BY SIERRA NATIONAL CONSTRUCTION, INC. FOR THE “ADVANCE TRAFFIC MANAGEMENT SYSTEM (ATMS) EXPANSION PELANDALE 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 $293,085.43

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the “Advance Traffic Management System (ATMS) Expansion Pelandale Avenue Project” has been completed by Sierra National Construction, Inc., in accordance with the contract agreement dated June 8, 2008.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “Advance Traffic Management System (ATMS) Expansion Pelandale Avenue Project” is hereby accepted as complete from said contractor Sierra National Construction, Inc.

BE IT FURTHER RESOLVED that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $293,085.43 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 6th day of July, 2010, by Councilmember Lopez, who
moved its adoption, which motion being duly seconded by Councilmember Hawn, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _______________________

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _______________________

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION ACCEPTING THE PRELIMINARY DESIGN REPORT DATED APRIL 2010 FOR AREA 2 STORM DRAIN CROSS CONNECTIONS REMOVAL PROJECT AS COMPLETE

WHEREAS, the 2007 Wastewater Master Plan identified hydraulic capacity deficiencies in the sanitary sewer system due to direct connections of storm drain runoff to the sewer system, and

WHEREAS, in order to improve the overall hydraulic capacity of the sanitary sewer collections system and to prevent sewer overflows, it is necessary to remove these cross connections, and

WHEREAS, on April 28, 2009, by Resolution 2009-151, the City Council approved an agreement with RRM Design Group to prepare the Preliminary Design Report (PDR) for Area 2 Storm Drain Cross Connections Removal project, and

WHEREAS, the PDR summarizes existing facilities, details proposed project elements, presents preliminary engineering drawings, and provides estimated cost and schedule projections for project implementation, and

WHEREAS, the 35% PDR has been successfully completed and will serve as the basis for the final design of the Area 2 Storm Drain Cross Connection Removal project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Preliminary Design Report dated April 2010 for Area 2 Storm Drain Cross Connections Removal project as complete.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6\textsuperscript{th} day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

\begin{itemize}
  \item **AYES:** Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
  \item **NOES:** Councilmembers: None
  \item **ABSENT:** Councilmembers: None
\end{itemize}

\begin{center}
ATTEST: \\
STEPHANIE LOPEZ, City Clerk
\end{center}

(SEAL)

\begin{center}
APPROVED AS TO FORM:
\end{center}

\begin{center}
By: SUSANA ALCALA WOOD, City Attorney
\end{center}
A RESOLUTION APPROVING AN AGREEMENT WITH RRM DESIGN GROUP FOR FINAL DESIGN SERVICES FOR AREA 2 STORM DRAIN CROSS CONNECTIONS REMOVAL PROJECT-PHASE 1 IN AN AMOUNT NOT TO EXCEED $222,747 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $22,274 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $245,021; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the 2007 Wastewater Master Plan identified hydraulic capacity deficiencies in the sanitary sewer system due to direct connections of storm drain runoff to the sewer system, and

WHEREAS, the 2007 Wastewater Master Plan identified the need to remove these direct cross connections to prevent sewer overflows, to decrease the costs of downstream sanitary sewer improvement projects, and to improve the overall hydraulic capacity of the sanitary sewer collections system, and

WHEREAS, on April 7, 2009, by Resolution 2009-151, the City Council approved an agreement with RRM Design Group to prepare the Preliminary Design Report (PDR) for Area 2 Storm Drain Cross Connections Removal project, and

WHEREAS, the PDR titled “Area 2 Storm Drain to Sanitary Sewer Cross Connections Removal Project,” summarizes existing facilities, establishes project design criteria and method of design, identifies critical project elements and provides an estimated construction cost of $2.9 million for Area 2 Storm Drain to Sanitary Sewer Cross Connections Removal Project-Phase 1, and

WHEREAS, RRM Design Group successfully completed the PDR for Area 2 Storm Drain Cross Connections Removal project, and
WHEREAS, this agreement for final project design will allow for the final design, development of biddable documents, and assistance during the bid period for Phase 1 of the project, and

WHEREAS, City staff recommends approving an agreement with RRM Design Group as the City does not have the staffing level to complete the final design services for Area 2 Storm Drain Cross Connections Removal Project-Phase 1, and current workload levels do not provide for timely in-house solutions/responses.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with RRM Design Group for Final Design Services for Area 2 Storm Drain Cross Connections Removal Project-Phase 1 in an amount not to exceed $222,747 for the identified scope of services, plus $22,274 for additional services (if needed), for a maximum total amount of $245,021.

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 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTTEST: [Signature]

(S Seal)

APPROVED AS TO FORM:

By: [Signature]

SUSANA/ALCALA WOOD, City Attorney
A RESOLUTION ACCEPTING THE WORK BY INSITUFORM TECHNOLOGIES, INC. FOR THE RELINE EXISTING WATERLINE UNDER UNION PACIFIC RAILROAD TRACKS ON “I” STREET BETWEEN 8TH AND 9TH STREETS PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $120,110

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Reline Existing Waterline Under Union Pacific Railroad Tracks on “I” Street Between 8th and 9th Streets Project has been completed by Insituform Technologies, Inc., in accordance with the contract agreement dated January 12, 2010.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Reline Existing Waterline Under Union Pacific Railroad Tracks on “I” Street Between 8th and 9th Streets Project is hereby accepted as complete from said contractor Insituform Technologies, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, release securities upon expiration of statutory periods, and that payment of amounts totaling $120,110 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 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SYMBOL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING A PURCHASE AGREEMENT WITH WENFU SHIEH AND IRENE SHIEH, AS CO-TRUSTEES OF THE SHIEH FAMILY TRUST, DATED MARCH 11, 1998, FOR A 0.03-ACRE (1,219 SQ. FT.) PARCEL IN FEE, AND A 0.03-ACRE (1,459 SQ. FT.) PORTION FOR A TEMPORARY CONSTRUCTION EASEMENT OF A PARCEL LOCATED AT 3448 ROSELLE AVENUE (APN 085-001-040), IN THE AMOUNT OF $19,961, FOR THE ROSELLE AVENUE WIDENING PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW ON JUNE 9, 2009.

WHEREAS, on June 9, 2009, the City Council, by Ordinance No. 3516-C.S., approved proceeding with the Proposed Operating and Multi-year budgets and the Capital Improvement Program, and

WHEREAS, as part of the Capital Improvement Program, certain City streets have been identified for widening, and

WHEREAS, staff has identified eight parcels along the east side of Roselle Avenue for a project to widen Roselle Avenue, between Floyd and Sylvan Avenues, from two lanes to four lanes, to include curb, gutter, sidewalks, median, and landscaping and street lighting to improve traffic flow and reduce congestion, and

WHEREAS, the property needs to be acquired for this street widening project, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement with Wenfu Shieh and Irene Shieh, as Co-Trustees of the Shieh Family Trust, dated March 11, 1998, for a 0.03-acre (1,219 sq. ft.) parcel in fee, and a 0.03-acre (1,459 sq. ft.) portion for a Temporary Construction easement.
Easement of a parcel located at 3448 Roselle Avenue (APN 085-001-040), in the amount of $19,961, for the Roselle Avenue Widening Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, 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. 2010-293

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN CERTIFICATE OF ACCEPTANCE FORMS FOR THE GRANT DEED AND GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR THE ACQUISITION OF A PORTION OF A PARCEL OF LAND LOCATED AT 3448 ROSELLE AVENUE (APN 085-001-040), OWNED BY WENFU SHIEH AND IRENE SHIEH, AS CO-TRUSTEES OF THE SHIEH FAMILY TRUST, DATED MARCH 11, 1998, TO BE PURCHASED BY THE CITY OF MODESTO FOR THE ROSELLE AVENUE WIDENING PROJECT

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

WHEREAS, the City of Modesto desires to acquire a 0.03-acre (1,219 sq. ft.) portion of a 2.86-acre parcel of land located on Roselle Avenue (APN 085-001-040) within the project area, owned by Wenfu Shieh and Irene Shieh, as Co-Trustees of the Shieh Family Trust, Dated March 11, 1998, to be purchased by the City of Modesto for the Roselle Avenue Widening Between Floyd and Sylvan project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign Certificate of Acceptance Forms for the Grant Deed and the Grant for Temporary Construction Easement for the acquisition of a property located on Roselle Avenue (APN 085-001-040), owned by Wenfu Shieh and Irene Shieh, as Co-Trustees of the Shieh Family Trust, Dated March 11, 1998, to be purchased by the City of Modesto for the Roselle Avenue Widening Between Floyd and Sylvan project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-294

A RESOLUTION INCREASING THE DIRECTOR OF UTILITY PLANNING AND PROJECTS’ AUTHORITY TO ISSUE CHANGE ORDERS ON THE “EMERALD TRUNK LINE REHABILITATION” PROJECT BY $113,880 FROM 8% ($455,520) TO 10% ($569,400) OF THE ORIGINAL CONTRACT PRICE WITH K.J. WOODS CONSTRUCTION, INC. TO FUND THE CHANGE ORDER WORK

WHEREAS, the City Council, on July 14, 2009, by Resolution No. 2009-340, awarded a $5,694,000 contract to K. J. Woods Construction, Inc. for the Emerald Trunk Line Rehabilitation, and

WHEREAS, during the course of construction, additional scope of work was identified for the emergency replacement of a section of approximately 300 feet of pipeline along South Emerald Avenue, and

WHEREAS, the additional scope cost of $194,700 includes removal and replacement of pipe and removal of large amounts of concrete used in the previous repair, and

WHEREAS, the Director of Utility Planning and Projects currently has authority to approve change orders up to a cumulative amount of $455,520, and

WHEREAS, due to the inherent nature of this type of construction, the anticipated change orders related to the project, and in order to leave the Emerald Trunk project Change Order Authority uncompromised, staff is requesting Council approval to increase the Director’s Change Order Authority from 8% ($455,520) to 10% ($569,400).

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves increasing the Director of Utility Planning and Projects’ authority to issue change orders on the Emerald Trunk Line Rehabilitation project by $113,880.
from 8% ($455,520) to 10% ($569,400) of the original contract price with K. J. Woods Construction, Inc.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(Seal)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney

07/06/2010/UP&P/KOhlson/Item 15  2  2010-294
MODESTO CITY COUNCIL  
RESOLUTION NO. 2010-295  

RESOLUTION APPROVING AND CONFIRMING THE ASSIGNMENT AGREEMENT BETWEEN JP MORGAN CHASE BANK, BEAR STEARNS CAPITAL MARKETS INC. AND THE MODESTO IRRIGATION DISTRICT FINANCING AUTHORITY INCREASING THE PLEDGOR’S THRESHOLD FOR THE 2007 SWAP AGREEMENT FROM $5 MILLION TO $20 MILLION

WHEREAS, in May 2007 the City Council, by Resolution 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 Bear Sterns Capital Markets, which was subsequently acquired by JP Morgan 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 their lowest levels when compared to the last 20 years, therefore creating a swap termination value currently calculated to be approximately $18 million that the City would be required to pay to JP Morgan if this agreement was terminated, and

WHEREAS, under the swap agreement if three conditions exist, then the City can be required to post collateral with an independent trustee to assure JP Morgan’s financial interests in the event the agreement is terminated, and

WHEREAS, these conditions include: 1) the credit rating of the bond and swap payment insurer (MBIA) must fall below A- category. Currently, the credit rating for MBIA is in the BBB category. 2) The lowest credit rating for the Modesto Irrigation
District revenue bonds is below the AA- category. These bonds have a credit rating of AA-/. 5) The swap agreement Pledgor’s Threshold against the City is greater than $5 million. Currently, it is calculated to be approximately $18 million, and

WHEREAS, while these conditions have existed for approximately a year, JP Morgan has not asserted its right to have the City post termination collateral, and

WHEREAS, on June 17, 2010, the City was informed that JP Morgan intended to require the City to post this collateral in the immediate future. JP Morgan, Modesto Irrigation District and the City have tentatively negotiated an Assignment Agreement which would change the Pledger’s Threshold from $5 million to $20 million, and

WHEREAS, on June 22, 2010, Council authorized staff to post collateral up to $18 million; however, execution of the attached Assignment Agreement will raise the Pledger’s Threshold from $5 to $20 million, thus reducing the required collateral posting, and

WHEREAS, staff believes it is in the City’s best interest to post $3 million in collateral to avoid daily adjustments as interest rates fluctuate, 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 approves and confirms the Assignment Agreement between JPMorgan Chase Bank, Bear Stearns Capital Markets Inc. and the Modesto Irrigation District Financing Authority increasing the Pledger’s Threshold for the 2007 Swap Agreement from $5 million to $20 million.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 6th day of July, 2010, by Councilmember Hawn, 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: Geer, Hawn, Lopez, Marsh, Muratore, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SIGNATURE)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
ASSIGNMENT AGREEMENT

ASSIGNMENT AGREEMENT, dated as of June 28, 2010, by and among Bear Stearns Capital Markets Inc. ("Assignor"), Modesto Irrigation District Financing Authority ("Remaining Party") and JPMorgan Chase Bank, N.A. ("Assignee").

Assignor and Remaining Party have executed the Master Agreement dated as of June 5, 2007 between Assignor and Remaining Party, including the Schedule and Credit Support Annex thereto, as may have been amended and/or restated (the “Master Agreement”) and Assignor and Remaining Party have entered into one or more transactions under the Master Agreement pursuant to the related Confirmation(s) between the Assignor and the Remaining Party (collectively, the “Transaction”).

The Assignor wishes to assign its rights and delegate its obligations under the Master Agreement and Transaction to the Assignee, and the Assignee wishes to succeed to the rights and assume the obligations of the Assignor under the Master Agreement and Transaction.

1. Assignment and Assumption.

Effective as of June 28, 2010 (the “Assignment Effective Date”), Assignor hereby assigns, transfers and sets over to the Assignee all the right, title and interest, powers, privileges and remedies of the Assignor under the Master Agreement and Transaction, and the Assignor hereby delegates and the Assignee hereby assumes all duties, liabilities and obligations of the Assignor under the Master Agreement and Transaction, provided that the parties agree that the modifications set forth below shall be incorporated into the Master Agreement. As of the Assignment Effective Date, all references to “Party A” in the Master Agreement shall mean “JPMorgan Chase Bank, N.A.”

2. Consent and Release.

Remaining Party hereby consents to the foregoing assignment and delegation. As of the Assignment Effective Date, Assignor and Remaining Party release one another from all obligations with respect to the Master Agreement and Transaction, provided that such release shall not affect any rights or obligations arising before the Assignment Effective Date.

3. Schedule.

   (a) All references to “Bear Stearns Capital Markets Inc.” in the Schedule shall be replaced with “JPMorgan Chase Bank, N.A.”.

   (b) Part 1(h)(i)(a) of the Schedule is amended by replacing “The Bear Stearns Companies Inc. (“BSC”)” with “Party A”.

   (c) The following addresses shall replace the addresses for notices to Party A set forth in Part 3(a) of the Schedule:

       JPMorgan Chase Bank, N.A.
       Attention: Legal Department-Capital Markets Group
270 Park Avenue, 40th Floor  
New York, New York 10017-2070  
Facsimile No.: (212) 270-7468

With respect to delivery of financial statements:

JPMorgan Chase Bank, N.A.  
270 Park Avenue, 22nd Floor  
New York, New York 10017  
Attention: Municipal Derivatives Credit Group

(d) Part 3(e) of the Schedule is replaced in its entirety with the following:


c) Part 3(d) of the Schedule is replaced in its entirety with the following:


(a) Paragraph 13(b)(iv)(E) of the Credit Support Annex is amended by replacing “The Bear Stearns Companies Inc.” with “Party A”.

(b) The table attached to the Credit Support Annex is replaced in its entirety with the following:

<table>
<thead>
<tr>
<th>Rating Issued by Moody’s</th>
<th>Rating Issued by S&amp;P</th>
<th>Rating Issued by Fitch</th>
<th>Pledgor’s Threshold</th>
<th>Minimum Transfer Amounts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aa3 and above</td>
<td>AA- and above</td>
<td>AA- and above</td>
<td>$20,000,000</td>
<td>$500,000</td>
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<td>A1</td>
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<td>A+</td>
<td>$20,000,000</td>
<td>$500,000</td>
</tr>
<tr>
<td>A2</td>
<td>A</td>
<td>A</td>
<td>$5,000,000</td>
<td>$500,000</td>
</tr>
<tr>
<td>At or below A3 or suspended, withdrew or unrated</td>
<td>At or below A- or suspended, withdrew or unrated</td>
<td>At or below A- or suspended, withdrew or unrated</td>
<td>Zero</td>
<td>Zero</td>
</tr>
</tbody>
</table>

If Moody’s, S&P or Fitch issue different rating classifications for a party, the Pledgor’s Threshold and the Minimum Transfer Amount that apply to such party shall be the applicable amounts opposite the lowest of the ratings. In addition, a party that is a Defaulting Party shall be deemed to have a Threshold
5. ISDA Master Agreement.

Effective as of the Assignment Effective Date, the Master Agreement and Transaction, and the related Confirmation(s) of the Transaction, shall be deemed to be between the Assignee and the Remaining Party.

6. Representations.

Each party hereby represents that (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization or incorporation, (ii) it has the power to execute and deliver this Assignment Agreement and to perform its obligations under this Assignment Agreement and has taken all necessary action to authorize such execution and delivery and performance of such obligations, (iii) its execution and delivery of this Assignment Agreement do not violate or conflict with any law, rule or regulation applicable to it, any provision of its charter or by-laws (or comparable constituent documents), any order or judgment of any court or other agency of government applicable to it or any of its assets, (iv) all authorizations of and exemptions, actions or approvals by, and all notices to or filings with any governmental or other authority that are required to have been obtained or made by the party at the time this representation is made with respect to this Assignment Agreement have been obtained or made and are in full force and effect and all conditions of any such authorizations, exemptions, actions or approvals have been complied with, and (v) this Assignment Agreement constitutes the party's legal, valid and binding obligation, enforceable against the party in accordance with its terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

7. Amendments.

No amendment of this Assignment Agreement will be effective unless in writing and signed by each of the parties.


The Assignment Agreement shall be governed by and construed in accordance with the laws of the State of California without reference to choice of law doctrine.


This Assignment Agreement may be executed in counterparts, each of which shall be deemed an original.

10. Wire Instructions.
The following account details shall be used for Party A:

JPMORGAN CHASE BANK, N.A.
ABA/Bank No.: 021 0000 21
Account No.: 999 97 979
JPMorgan Ref. No.:  

EXECUTION COPY
IN WITNESS WHEREOF, the parties have executed this Assignment Agreement as of the date first above written.

BEAR STEARNS CAPITAL MARKETS INC.

By: __________________________
    Name: __________________________
    Title: __________________________

MODESTO IRRIGATION DISTRICT FINANCING AUTHORITY

By: __________________________
    Name: __________________________
    Title: __________________________

JPMORGAN CHASE BANK, N.A.

By: __________________________
    Name: __________________________
    Title: __________________________

Acknowledged and Consented to by:

National Public Finance Guarantee Corporation (formerly known as MBIA Insurance Corp. of Illinois) ("National"), as reinsurer of Interest Rate Swap Insurance Policy No. 497333 pursuant to the Amended and Restated Quota Share Reinsurance Agreement, dated as of March 11, 2009 and effective as of January 1, 2009, by and between MBIA Insurance Corporation ("MBIA") and National, and as administrator of administrative and other services on behalf of MBIA pursuant to the terms of the Administrative Services Agreement, dated as of February 17, 2009, by and between MBIA and National, hereby acknowledges and consents to the amendments set forth in this Assignment Agreement.

NATIONAL PUBLIC FINANCE GUARANTEE CORPORATION
(as agent for MBIA Insurance Corporation)

By: __________________________
    Name: __________________________
    Title: __________________________
RESOLUTION APPROVING LANGUAGE CHANGES FOR A SUCCESSOR MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO CITY EMPLOYEE'S ASSOCIATION (MCEA) FOR A TERM OF JUNE 22, 2010 TO JUNE 18, 2012 AND AUTHORIZING THE DIRECTOR OF HUMAN RESOURCES AND CITY MANAGER TO TAKE THE NECESSARY ADMINISTRATIVE ACTION TO IMPLEMENT THE AGREEMENT

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto City Employee’s Association (MCEA) expired on June 21, 2010, and

WHEREAS, representatives of the CITY and the MCEA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the CITY and MCEA have reached agreement on language changes for a successor MOU which, upon execution, shall be attached hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. TERM. The term of the MOU shall be from June 22, 2010 to June 18, 2012.

SECTION 2. REOPENER.

A) Meet and confer on further concessions, if deemed necessary.

B) Meet and confer through impasse and implementation process on pension reform no later than August 2, 2010.

C) Meet and confer on Sick Leave and Retiree Medical Conversion Program Restructuring no later than August 2, 2010.
SECTION 3. MANDATORY FURLoughs. For FY 2010-11 and FY 2011-12, each bargaining unit member shall take 96-hours of mandatory furloughs per year. Two furlough days shall be non-fixed so that employees can schedule them in the manner as vacation is scheduled. The remaining ten days shall be scheduled as fixed dates. The dates for FY 2010-11 will be July 2, September 3, November 22, 23, 24, December 27, 28, 29, 30 and February 14. The corresponding dates for FY 2011-12 shall be determined once the 2011-2012 holiday schedule is available.

SECTION 4. PAY DIFFERENTIAL.

A) Crane Certificates—Continue to pay the differential as outlined in the current MOU. Appoint a committee consisting of CITY representatives and MCEA members will be responsible for identifying City needs, the number of crane certifications required, and the appropriate level of compensation. The committee shall have a recommendation for the Director of Human Resources no later than December 1, 2010.

B) Alternative Work Program—The Human Resources Department shall review the viability of the Alternative Work Program and make recommendations for consideration by the City no later than January 15, 2011. As part of the City's review, the City will meet with MCEA to review MCEA's proposed solutions as part of this process.

SECTION 5. SICK LEAVE. A Department Director may require a doctor's certificate for absences of less than three consecutive days for employees who have received a Corrective Improvement Memorandum for attendance. The Retirement provision to have 90% of unused sick leave up to 2,000 hours applied to premiums for health, dental and vision insurance plans shall apply to employees hired on or before
December 31, 2010 and shall be for those employees who retire in good standing after five years of continuous service.

SECTION 6. HEALTH, DENTAL, VISION INSURANCE. The CITY’s contribution to employees’ Health, Dental and Vision coverage shall be as follows:

<table>
<thead>
<tr>
<th></th>
<th>Total Contributions (monthly)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>7/1/09</td>
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</tr>
<tr>
<td>Employee Only</td>
<td>596</td>
</tr>
<tr>
<td>Opt Out</td>
<td>450</td>
</tr>
</tbody>
</table>

SECTION 7. RETIREE HEALTH INSURANCE. For employees hired on or after January 1, 2011 the CITY shall contribute to a Defined Contribution retiree medical benefit plan for each eligible employee in the form of a deposit into a Health Reimbursement Arrangement (HRA) account up to a maximum of $100 per month. The employees subject to this defined contribution plan shall not be eligible for any sick leave conversion towards retiree medical premiums of any sort. The CITY’s contribution under this section represents the entire contribution towards employee retiree medical.

SECTION 8. LANGUAGE CHANGES. Languages changes or corrections are to be made pertaining to the following items: fatigued employees, standby response time and eligibility, safety goggles, leaves of absence, job sharing, long term disability insurance, employee parking, and agency shop. The exact language shall be set forth in the MOU between the CITY and MCEA.

SECTION 9. CONTINUATION OF REMAINING PROVISIONS. Except as provided above, the remaining provisions of the June 23, 2009, through June 21, 2010, MOU between the CITY and MCEA shall continue in the new MOU.
The exact language of all provisions shall be set forth in the MOU between the CITY and MCEA.

WHEREAS, the Council considered this matter at its meeting of July 6, 2010.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the language changes for a successor Memorandum of Understanding between the City of Modesto and the Modesto City Employee's Association, which covers a term from June 22, 2010 through June 18, 2012, and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SIGNATURE)

(SEAL)

APPROVED AS TO FORM:

By: 

(SIGNATURE)

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-297

RESOLUTION APPROVING LANGUAGE CHANGES FOR A SUCCESSOR MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND MODESTO POLICE NON-SWORN ASSOCIATION (MPNSA) FOR A TERM OF JUNE 22, 2010 TO SEPTEMBER 10, 2012 AND AUTHORIZING THE DIRECTOR OF HUMAN RESOURCES AND CITY MANAGER TO TAKE THE NECESSARY ADMINISTRATIVE ACTION TO IMPLEMENT THE AGREEMENT

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Police Non-Sworn Association (MPNSA) expired on June 21, 2010, and

WHEREAS, representatives of the CITY and the MPNSA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the CITY and MPNSA have reached agreement on language changes for a successor MOU which, upon execution, shall be attached hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. TERM. The term of the MOU shall be from June 22, 2010 to September 10, 2012.

SECTION 2. REOPENER.

A) Meet and discuss on further concessions, if deemed necessary.

B) Meet and confer through impasse and implementation process on pension reform no later than August 2, 2010.

C) Meet and discuss on Sick Leave and Retiree Medical Conversion Program Restructuring no later than August 2, 2010.
SECTION 3. Mandatory Furloughs. For FY 2010-11 and FY 2011-12, each bargaining unit member shall take 96-hours of mandatory furloughs per year. For Fire Prevention employees two furlough days shall be non-fixed so that employees can schedule them in the manner as vacation is scheduled. The remaining ten days shall be scheduled as fixed dates. The dates for FY 2010-11 will be July 2, September 3, November 22, 23, 24, December 27, 28, 29, 30 and February 14. The corresponding dates for FY 2011-12 shall be determined once the 2011-2012 holiday schedule is available.

SECTION 4. Sick Leave. A doctor’s certificate shall be provided in all cases of absence due to illness of three consecutive days or more when requested by the Department Director. The Department Director may require a doctor’s certificate for absences of less than three consecutive days for employees who have received a Corrective Improvement Memorandum for attendance. The Retirement provision to have 90% of unused sick leave up to 2,000 hours applied to premiums for health, dental and vision insurance plans shall apply to employees hired on or before December 31, 2010 and shall be for those employees who retire in good standing after five years of continuous service.

SECTION 5. Health, Dental, Vision Insurance. The CITY’s contribution to employees’ Health, Dental and Vision coverage shall be as follows:

<table>
<thead>
<tr>
<th></th>
<th>Total Contributions (monthly)</th>
<th>7/1/09</th>
<th>1/1/11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family</td>
<td>$1050</td>
<td>$1100</td>
<td></td>
</tr>
<tr>
<td>Employee Only</td>
<td>596</td>
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<td></td>
</tr>
<tr>
<td>Opt Out</td>
<td>450</td>
<td>450</td>
<td></td>
</tr>
</tbody>
</table>
SECTION 6. RETIREE HEALTH INSURANCE. For employees hired on or after January 1, 2011, the CITY shall contribute to a Defined Contribution retiree medical benefit plan for each eligible employee in the form of a deposit into a Health Reimbursement Arrangement (HRA) account up to a maximum of $100 per month. The employees subject to this defined contribution plan shall not be eligible for any sick leave conversion towards retiree medical premiums of any sort. The CITY's contribution under this section represents the entire contribution towards employee retiree medical.

SECTION 7. LAYOFF AND DEMOTION PROCEDURES UPON REDUCTION IN FORCE. Remove all language pertaining to the use of performance evaluation ratings in determining seniority and applicable layoff and demotions procedures.

SECTION 8. LANGUAGE CHANGES. Languages changes or corrections are to be made pertaining to the following items: shift bidding, time bank, work schedules, and vacation. The exact language shall be set forth in the MOU between the CITY and MPNSA.

SECTION 9. CONTINUATION OF REMAINING PROVISIONS. Except as provided above, the remaining provisions of the June 23, 2009, through June 21, 2010, MOU between the CITY and MPNSA shall continue in the new MOU.

The exact language of all provisions shall be set forth in the MOU between the CITY and MPNSA.

WHEREAS, the Council considered this matter at its meeting of July 6, 2010.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the language changes for a successor Memorandum of
Understanding between the City of Modesto and the Modesto Police Non-Sworn
Association, which covers a term from June 22, 2010 through September 10, 2012, and
upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who
moved its adoption, which motion being duly seconded by Councilmember Hawn, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Stephanie Lopez, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCAÑA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-298

RESOLUTION APPROVING A REVISED PROJECT SCOPE FOR THE PROJECT KNOWN AS “ARCHWAY COMMONS” AND REAFFIRMING THE CITY OF MODESTO’S COMMITMENT OF FINANCIAL ASSISTANCE IN HOME FUNDS IN AN AMOUNT NOT TO EXCEED $1,000,000 FOR THE DEVELOPMENT OF A 118 UNIT AFFORDABLE HOUSING COMPLEX

WHEREAS, on November 1, 2007, a Request for Qualifications (RFQ) was released to solicit proposals for either the development of new construction or the rehabilitation of existing market rate housing to be converted to affordable units for low income households, and

WHEREAS, the Citizen’s Housing & Community Development Committee (CH&CDC) review subcommittee met on June 17, 2009, to review the Archway Commons project to provide affordable rental housing to a mix of household types, including single individuals, couples, households with children as well as seniors, and

WHEREAS, on July 7, 2009, the CH&CDC recommended the allocation of $1,000,000 for the development of this project with 11 out of the 150 units as HOME units. The investment per HOME unit is $90,909, and

WHEREAS, the City and Redevelopment Agency (Agency) entered into a Disposition and Development Agreement (“Existing DDA”), dated June 2, 2009, with EAH, Inc. (“Developer”) providing an option for the Developer to either purchase or ground lease from the Agency certain property (“Site”) for the development of a 150-unit affordable housing project (the “Housing Project”), and

WHEREAS, on August 11, 2009, the City and Agency approved an Amended and Restated Disposition and Development Agreement (the “Amended DDA”) to clarify that
the Developer would purchase the Site from the Agency, and make other conforming changes related thereto, and

WHEREAS, the proposed Amended DDA further provided that the Developer would develop the Housing Project on the Site, consisting of approximately 150 affordable housing units, and

WHEREAS, the Amended DDA also provided for Agency assistance for the Housing Project in an amount not to exceed $6,749,000.00 (the "Agency Loan"), which consists of three elements, including a Predevelopment Loan in the amount of $900,000; a Development Loan, not to exceed $1,869,900; and a Purchase Loan for the purchase price in the amount of $3,980,000, which amounts are consistent with the Agency Assistance provided for under the Existing DDA, and

WHEREAS, in order to improve the financial feasibility of the project, on March 23, 2010, the Agency approved a recommendation from the Developer to phase the 150-unit affordable housing complex into two phases with the first phase consisting of 102 units with a second phase of 48 units, and

WHEREAS, this strategy was ineffective in gaining approval of the Tax Credits needed to make the 150-unit project viable, and

WHEREAS, it continues to be in the Agency’s best interest to enhance the viability of the Housing Project.

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

1. The Council agrees to support a single-phased project of 118-units.
2. The Council reasserts its commitment of financial support for this project and hereby authorizes the use of HOMI funds in an amount not to exceed $1,000,000 for the 118 units of affordable housing.

BE IT FURTHER RESOLVED that the Council hereby authorizes and directs the City Manager, or his designee, to undertake such actions and execute such documents as are necessary to carry out the provisions of this resolution and to complete the obligations of City under the Amended DDA on behalf of the Agency, including without limitation, the execution of deeds trust agreement, and all other actions and documents necessary for the sale of the Site to the Developer, and funding of the remainder of the Agency Assistance, all as provided for in the Amended DDA.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Hawn, who moved its adoption, which motion is being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Olsen, Mayor Ridnour

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST:  

(SEAL)  

APPROVED AS TO FORM:  

By:  

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING A REVISED PROJECT SCOPE FOR THE PROJECT KNOWN AS “ARCHWAY COMMONS” AND REAFFIRMING THE REDEVELOPMENT AGENCY’S COMMITMENT OF $6,749,000 IN AFFORDABLE HOUSING SET-ASIDE FUNDS FOR THE 118 UNIT PROJECT

WHEREAS, the Redevelopment Agency of the City of Modesto (the “Agency”) is carrying out the Redevelopment Plan for the Modesto Redevelopment Project (the “Redevelopment Project”), and

WHEREAS, in conformance with Health and Safety Code Section 33490, the Agency adopted a five-year Implementation Plan (the "Implementation Plan") for the Redevelopment Project, and

WHEREAS, on April 28, 2009, by Resolution No. 10-2009, the Agency approved a Purchase Agreement to acquire three (3) of four (4) parcels (the "Site") needed for the development of an affordable housing apartment complex, also referred to as Archway Commons (the "Housing Project"), and by Resolution No. 11-2009, the Agency approved an Agreement to Negotiate Exclusively ("ANE") with EAH, Inc. ("Developer") to negotiate the terms and provisions of an agreement for the development of the Housing Project, and

WHEREAS, a Purchase Agreement was approved on June 2, 2009, by Resolution No. 13-2009, for the acquisition of the fourth (4th) and final parcel needed for the Housing Project, and

WHEREAS, the Agency closed escrow on the first three (3) parcels of the Site on May 21, 2009, and closed escrow on the fourth parcel on July 1, 2009, and
WHEREAS, the Agency previously entered into a Disposition and Development Agreement ("Existing DDA"), dated June 2, 2009, with Developer providing an option for the Developer to either purchase or ground lease from the Agency the Site for the development of a 150-unit affordable Housing Project, and

WHEREAS, on August 11, 2009, the Agency approved an Amended and Restated Disposition and Development Agreement (the "Amended DDA") to clarify that the Developer would purchase the Site from the Agency, and make other conforming changes related thereto, and

WHEREAS, the proposed Amended DDA further provided that the Developer would develop the Housing Project on the Site, consisting of approximately 150 affordable housing units, and

WHEREAS, the Amended DDA also provided for Agency assistance for the Housing Project in an amount not to exceed $6,749,000.00 (the "Agency Loan"), which consists of three elements, including a Predevelopment Loan in the amount of $900,000; a Development Loan, not to exceed $1,869,900; and a Purchase Loan for the purchase price in the amount of $3,980,000, which amounts are consistent with the Agency Assistance provided for under the Existing DDA, and

WHEREAS, in order to improve the financial feasibility of the project, on March 23, 2010, the Council approved a recommendation from the Developer to phase the 150-unit affordable housing complex into two phases with the first phase consisting of 102 units with a second phase of 48 units, and

WHEREAS, this strategy was ineffective in gaining approval of the Tax Credits needed to make the 150-unit project viable, and
WHEREAS, it continues to be in the City’s best interest to enhance the viability of the Housing Project.

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

1. The City Council agrees to a single phased project of 118 units.

2. The City Council reasserts its commitment of financial support for the Housing Project and hereby authorizes the use of all commitment funds for Phase I from both the Agency and HOME funds.

BE IT FURTHER RESOLVED that the City Manager and City Clerk are authorized to undertake such actions and execute such documents as are necessary to carry out the provisions of this Resolution and to complete the obligations of the Agency under the Amended DDA on behalf of the Agency, including without limitation, the execution of deeds trust agreement, and all other actions and documents necessary for the sale of the Site to the Developer, and funding of the remainder of the Agency Assistance, all as provided for in the Amended DDA.
The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Hawn, who moved its adoption, which motion is being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Olsen, 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. 2010-300

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO CALLING A SPECIAL MUNICIPAL ELECTION AND DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS A MEASURE SEEKING A VOTE ON THE QUESTION OF WHETHER THE CITY OF MODESTO SHOULD ELIMINATE RUN-OFF ELECTIONS FOR COUNCIL DISTRICTS AND CONTINUE A RUN-OFF ELECTION FOR MAYOR, IF NECESSARY, IN FEBRUARY OF EVEN NUMBERED YEARS AND DELETING IRRELEVANT DATES; CONSOLIDATING THE SPECIAL ELECTION WITH THE STATEWIDE ELECTION TO BE HELD NOVEMBER 2, 2010; APPROVING THE FORM OF THE BALLOT QUESTION; SETTING FORTH PROCEDURES FOR BALLOT ARGUMENT; AND DIRECTING THE CITY CLERK TO SUBMIT THE MEASURE TO THE CITY ATTORNEY FOR AN IMPARTIAL ANALYSIS

WHEREAS, under the provisions of the Modesto City Charter, if, at a regular municipal election held on the first Tuesday after the first Monday in November of each odd numbered year, no candidate for any of the elected offices of the City of Modesto receives a majority of the votes cast, a second regular municipal election shall be held for said office or offices on the second Tuesday in December of each odd numbered year;

WHEREAS, the City Council of the City of Modesto established an Ad Hoc Committee on Run-Off Elections ("Committee");

WHEREAS, there have been problems related to the timing of run-off elections and disputes over definitions which resulted in run-offs that arguably were not necessary; and

WHEREAS, the Committee met and considered these and other various issues pertaining to such run-off elections;

WHEREAS, the Committee made certain recommendations to the Modesto City Council; and
WHEREAS, the City Council considered said recommendations at the Council meeting of July 6, 2010;

NOW, THEREFORE, the City Council of the City of Modesto, does resolve, declare, determine and order as follows:

SECTION 1: Pursuant to Article 11 of section 3 of the California Constitution, and section 9255(a)(2) of the California Elections Code, and California Government Code section 34458, the City Council of the City of Modesto proposes, and does hereby, on its own motion, submit to the qualified electors of the City of Modesto and hereby calls a Special Municipal Election of the qualified voters of the City of Modesto, to be held November 2, 2010, to submit to the voters an amendment to the City Charter to eliminate run-off elections for City Council districts and continue, if necessary, run-off elections for Mayor to be held on the first Tuesday in February of each even numbered year, commencing in the year 2012 and delete irrelevant dates.

SECTION 2. The measure is to appear on the ballot as follows:

| Shall Section 300 of the Modesto City Charter be amended to eliminate run-off elections for Council districts and continue, if necessary, run-off elections for the position of Mayor, to be held on the first Tuesday in February of each even numbered year, commencing with the year 2012 and delete irrelevant dates? | YES | NO |

The complete text of the proposed Charter Amendment is attached as Exhibit A.

SECTION 3. Pursuant to the provisions of the Elections Code of the State of California, the City Council of the City of Modesto hereby requests that the Special Municipal Election of the City of Modesto to consider this measure be held on November 2, 2010, in conjunction with, and to be consolidated with, the Statewide Election to be
held in the City of Modesto on that same date, and further requests that the Board of Supervisors of the County of Stanislaus to make its order of consolidation and thereafter call said consolidated election, and direct the Stanislaus County Registrar to conduct all necessary services related to said election including but not limited to the canvas of returns of the election and the certification of the results to the City Council of the City of Modesto.

SECTION 4. That pursuant to California Elections Code section 9282, the City Council authorizes the members of the City Council, or any of them, to file written arguments (not to exceed 300 words) in favor of or in opposition to said measure and to change such arguments until and including the date and time after which no arguments may be filed with the City Clerk.

SECTION 5. That the City Clerk of the City of Modesto is directed, pursuant to Elections Code section 9280, to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure.

SECTION 6. That in all particulars not recited in this resolution, the election shall be conducted as provided by law for holding municipal elections.

SECTION 7. That the City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors in the County Election Department of the County of Stanislaus.

SECTION 8. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.
SECTION 9. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law and take all steps necessary to place the measure on the ballot.

The foregoing Resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the Resolution adopted by the following votes:

AYES: Councilmembers: Geer, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: Hawn, Lopez, Marsh

ABSENT: Councilmembers: None

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: 

(SEAL)

SUSANA ALCALA WOOD, City Attorney
Section 300 of the City of Modesto Charter is proposed to be amended as follows (with strike out indicating deletion and underlined text indicating addition)

**SECTION 300. REGULAR MUNICIPAL ELECTIONS**

Regular Municipal Elections for the election of officers and for such other purposes as the Council may prescribe shall be held biennially on the first Tuesday after the first Monday in November of each odd-numbered year until the year 1985. Thereafter they shall be held biennially on the first Tuesday after the first Monday in November of each odd-numbered year commencing with the year 1985.

If, at a regular municipal election held on the first Tuesday after the first Monday in November of each odd-numbered year, no candidate for one of the elective officers of the City of Modesto receives a majority of the valid votes cast for said office at said regular municipal election, a second regular municipal election shall be held for said office on the second Tuesday in December of each odd-numbered year commencing with the year 1987. At said second regular municipal election, the two (2) candidates receiving the highest number of votes at the first regular municipal election shall have their names placed on the ballot for election to said office.
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-301

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO CALLING A SPECIAL MUNICIPAL ELECTION AND DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS A MEASURE SEEKING A VOTE ON THE QUESTION OF WHETHER THE VOTE REQUIRED FOR A RUN-OFF ELECTION SHALL BE IF ANY CANDIDATE FOR A PARTICULAR POSITION DOES NOT RECEIVE A MAJORITY OF THE VOTES CAST FOR THAT POSITION IN A REGULAR MUNICIPAL ELECTION FOR THAT POSITION AND WHETHER IRRELEVANT DATES SHOULD BE DELETED; CONSOLIDATING THE SPECIAL ELECTION WITH THE STATEWIDE ELECTION TO BE HELD NOVEMBER 2, 2010; APPROVING THE FORM OF THE BALLOT QUESTION; SETTING FORTH PROCEDURES FOR BALLOT ARGUMENT; AND DIRECTING THE CITY CLERK TO SUBMIT THE MEASURE TO THE CITY ATTORNEY FOR AN IMPARTIAL ANALYSIS

WHEREAS, under the provisions of the Modesto City Charter, if, at a regular municipal election held on the first Tuesday after the first Monday in November of each odd numbered year, no candidate for any of the elected offices of the City of Modesto receives a majority of the votes cast, a second regular municipal election shall be held for said office or offices on the second Tuesday in December of each odd numbered years;

WHEREAS, the City Council of the City of Modesto established an Ad Hoc Committee on Run-Off Elections ("Committee");

WHEREAS, there have been problems related to the timing of run-off elections and disputes and uncertainty over definitions as to what constituted the voting outcome that would require a run-off election for a particular council seat which resulted in run-off elections that arguably were not necessary; and

WHEREAS, the Committee met and considered these and other various issues pertaining to such run-off elections;

WHEREAS, the Committee made certain recommendations to the Modesto City Council; and
WHEREAS, the City Council considered said recommendations at the Council meeting of July 6, 2010;

NOW, THEREFORE, the City Council of the City of Modesto, does resolve, declare, determine and order as follows:

SECTION 1: Pursuant to Article 11 of section 3 of the California Constitution, and section 9255(a)(2) of the California Elections Code, and California Government Code section 34458, the City Council of the City of Modesto proposes, and does hereby, on its own motion, submit to the qualified electors of the City of Modesto and hereby calls a Special Municipal Election of the qualified voters of the City of Modesto, to be held November 2, 2010, to submit to the voters an amendment to the City Charter to clarify that any run-off election, if necessary, shall be conducted if any candidate for a particular office does not receive a majority of the votes cast for that office in a regular municipal election and to delete irrelevant dates.

SECTION 2. The measure is to appear on the ballot as follows:

| Shall Section 300 of the Modesto City Charter be amended to clarify that any run-off election, if necessary, shall be conducted if any candidate for a particular office does not receive a majority of the valid votes cast for that office in a regular municipal election and to delete irrelevant dates? | YES | NO |

The complete text of the proposed Charter Amendment is attached as Exhibit A.

SECTION 3. Pursuant to the provisions of the Elections Code of the State of California, the City Council of the City of Modesto hereby requests that the Special Municipal Election of the City of Modesto to consider this measure be held on November 2, 2010, in conjunction with, and to be consolidated with, the Statewide Election to be
held in the City of Modesto on that same date, and further requests that the Board of Supervisors of the County of Stanislaus to make its order of consolidation and thereafter call said consolidated election, and direct the Stanislaus County Registrar to conduct all necessary services related to said election including but not limited to the canvas of returns of the election and the certification of the results to the City Council of the City of Modesto.

SECTION 4. That pursuant to California Elections Code section 9282, the City Council authorizes the members of the City Council, or any of them, to file written arguments (not to exceed 300 words) in favor of or in opposition to said measure and to change such arguments until and including the date and time after which no arguments may be filed with the City Clerk.

SECTION 5. That the City Clerk of the City of Modesto is directed, pursuant to Elections Code section 9280, to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure.

SECTION 6. That in all particulars not recited in this resolution, the election shall be conducted as provided by law for holding municipal elections.

SECTION 7. That the City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors in the County Election Department of the County of Stanislaus.

SECTION 8. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.
SECTION 9. That notice of the time and place of holding the election is given and
the City Clerk is authorized, instructed and directed to give further or additional notice of
the election, in time, form and manner as required by law and take all steps necessary to
place the measure on the ballot.

The foregoing Resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 6th day of July, 2010, by Councilmember Olsen, who
moved its adoption, which motion being duly seconded by Councilmember Muratore.
was upon roll call carried, and the Resolution adopted by the following votes:

AYES: Councilmembers: Geer, Muratore, Olsen, Mayor Ridenour
NOES: Councilmembers: Hawa, Lopez, Marsh
ABSENT: Councilmembers: None

ATTEST: Stephanie Lopez, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
EXHIBIT A
PROPOSED CHARTER AMENDMENT

Section 300 of the City of Modesto Charter is proposed to be amended as follows (with strike out indicating deletion and underlined text indicating addition)

SECTION 300. REGULAR MUNICIPAL ELECTIONS

Regular Municipal Elections for the election of officers and for such other purposes as the Council may prescribe shall be held biennially on the first Tuesday after the first Monday in March of each odd-numbered year until the year 1983. Thereafter they shall be held biennially on the first Tuesday after the first Monday in November of each odd-numbered year commencing with the year 1985.

If, at a regular municipal election held on the first Tuesday after the first Monday in November of each odd-numbered year, no candidate for one of the elective officers of the City of Modesto receives a majority of the valid votes cast for said office at said regular municipal election, a second regular municipal election shall be held for said office on the second Tuesday in December of each odd-numbered year commencing with the year 1987. At said second regular municipal election, the two (2) candidates receiving the highest number of votes at the first regular municipal election shall have their names placed on the ballot for election to said office.
A RESOLUTION DENYING THE APPEAL BY LEHMBER SINGH, ON BEHALF OF M&B PETROLEUM, FOR CAPITAL FACILITIES FEES PAID IN PROTEST ON BUILDING PERMIT NO. BLD 2009-71699, LOCATED AT 2301 CROWS LANDING ROAD, MODESTO AND AUTHORIZING A REFUND IN THE AMOUNT OF $6,536.71 FOR THE DIFFERENCE BETWEEN THE 2006 CFF PROGRAM RATE PAID IN PROTEST AND THE 2010 CFF PROGRAM RATE EFFECTIVE AUGUST 22, 2010

WHEREAS, on January 24, 2006, the City Council, by Resolution No. 2006-055, updated its Capital Facilities Fee (“CFF”) program for the establishment and collection of fees for future capital facilities, and

WHEREAS Resolution No. 2006-055 defines the categories of uses and rates on which the fees will be collected, and

WHEREAS, the categories identified in the CFF program include a broad range of uses based on square footage to ensure that each use pays its share of CFF based on the anticipated impacts of the development, and

WHEREAS, on May 26, 2010, staff met with Lehmer Singh, on behalf of M&B Petroleum (“Appellant”), to discuss the CFF determination for the construction of a gas station with a convenience store and car wash (“Project”), and

WHEREAS, CFF for Project was calculated at the 2006 CFF Program rate, and

WHEREAS, Appellant was provided with several payment options including paying CFF, paying and deferring CFF, or paying and protesting the payment of CFF to the City Council, and

WHEREAS, Appellant was notified that a reduction in CFF was to be considered by the City Council on June 22, 2010, and
WHEREAS, on June 8, 2010, Appellant pulled Building Permit No. 2009-71699 for the Project and paid the CFF at the 2006 CFF Program rate in protest, and

WHEREAS, on June 8, 2010, Appellant filed a request with the City Clerk’s Office for waiver of the CFF for the Project, and

WHEREAS, said appeal was set for a public hearing before the City Council at its regular meeting place in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, on July 6, 2010, at 5:30 p.m., at which date and time said duly noticed public hearing was held and evidence, both oral and documentary, was received and considered,

WHEREAS, on June 22, 2010, the City Council approved a reduction in CFF effective August 22, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that it has reviewed Lehmer Singh’s request, on behalf of M&B Petroleum, and has determined that the Project is subject to the payment of Capital Facilities Fees as outlined in the CFF program.

BE IT FURTHER RESOLVED by the Council of the City of Modesto the appeal of Lehmer Singh for the waiver of Capital Facilities Fees on Building Permit No. 2009-71699 is hereby denied.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that M&B Petroleum be allowed to pay CFF for the Project at the rate effective as of August 22, 2010.
BE IT FURTHER RESOLVED, that M&B Petroleum is entitled to a refund in amount of $6,536.71, the difference between the CFF paid at the 2006 CFF Program rate and the 2010 CFF Program rate.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, 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
A RESOLUTION APPROVING ADJUSTMENTS TO THE MAXIMUM CHARGES SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND COMMUNITY SOLID WASTE COLLECTION SERVICES, TO BECOME EFFECTIVE JULY 1, 2010, AND RESCINDING RESOLUTION NO. 2010-110

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

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

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

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

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

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

WHEREAS, on November 25, 2008, by Resolution No. 2008-650, the Council approved the assessment of an AB 939 Green Waste Diversion fee that would be assessed on a per ton basis on residential, commercial bin, and drop box wastes generated in the City of Modesto, and

WHEREAS, on April 12, 2010, the Economic Development Committee approved sending a recommendation to the Council for a two-step increase in the AB 939 Green Waste Diversion fees in order to purchase green waste collection equipment that complies with the California Air Resources Board’s (CARB) emissions regulations, and

WHEREAS, the Committee recommended that the fee on wastes from residential sources be increased to $1.48 per month, the fee on wastes from commercial bins be increased to $2.64 per cubic yard per month, and the fee on wastes from industrial bins be increased to $8.48 per ton in order to fund the purchase of CARB compliant green waste collection equipment, and

WHEREAS, the Committee further recommended that an additional increase in the fees in the same amounts occur in July 2011, and

WHEREAS, these fee increases would be implemented at the time of the annual maximum rate review, and

WHEREAS, the financial statements submitted by the haulers do not reflect a full year of the AB 939 Green Waste Diversion fees, and an adjustment to this component of the maximum rates is therefore necessary, and
WHEREAS, the City uses an Honor Farm crew to remove litter that has blown from garbage trucks and collection containers onto the major thoroughfares, medians, and planter areas, and

WHEREAS, the litter abatement crew is essential to maintain the appearance of the City, and the cost of this litter abatement currently costs approximately $125,000 annually, and

WHEREAS, it would be impractical and unsafe for the collection companies to remove these materials from the rights of way themselves, and

WHEREAS, on August 5, 2009, by Resolution No. 2009-384, the Council approved a litter abatement fee to recover the cost of litter abatement from the collection companies, and

WHEREAS, the financial statements submitted by the haulers do not reflect this fee, and an adjustment to this component of the maximum rates is therefore necessary, and

WHEREAS, the above noted fees and charges to the collection companies have been incorporated into the recommended schedules of maximum rates shown as Exhibit 1 hereto, and

WHEREAS, a report dated June 15, 2010, from the Parks, Recreation and Neighborhoods Department, a copy of which is on file in the office of the City Clerk, sets forth said recommendations, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on July 6, 2010, in the Tenth Street Place Chambers, located at 1010
Tenth Street, Modesto California, at which date and time a duly noticed public hearing was held at said time and place, at which time evidence, both oral and documentary, was received and considered, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Maximum Charges for Garbage Service as attached hereto, marked Exhibit “1” and incorporated herein by reference. Said Maximum Charges for Garbage Service includes twice-a-year bulky item pickup for residential customers and all other residential services as stipulated in the Service Agreements and shall become effective July 1, 2010, and shall remain in effect until revised by Council.

BE IT FURTHER RESOLVED that any person who has prepaid garbage service charges for residential garbage service shall be entitled to receive garbage service for the balance of said prepaid period at the prepaid rates.

BE IT FURTHER RESOLVED that Resolution No. 2010-110 is hereby rescinded, effective July 1, 2010.
MAXIMUM CHARGES FOR GARBAGE SERVICE

STANDARD CONTAINERS
Maximum Monthly Rates
(Once a Week Pickup Service)

Standard container service shall include the following:
- One, 96-gallon container for garbage
- One, 96-gallon container for green waste, food, paper, and other organics
- Countertop container for kitchen scraps
- Drop-off of old TV and computer tubes
- Two bulky item collections per year by appointment
- Pruned Refuse Collection

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

1. **Standard container service** –
   a. The maximum rate for new sign ups for service or changes in service that occur after July 1, 1996, shall be **$23.67 per month** regardless of size of container. A fuel component of $0.96 per month is included in the maximum rate for the quarter beginning January 1, 2010 and ending March 31, 2010. The fuel component may be adjusted quarterly.
   b. The maximum rate for each additional garbage container shall be **$17.60 per month, and $9.50 per month** for each additional green waste container.

2. **60-gallon container service (grandfathered customers)** –
   a. The maximum rate for customers with 60-gallon containers who subscribed to service at an address prior to July 1, 1996 and who have not changed their service address shall be **$19.86 per month**. A fuel component of $0.96 per month is included in the maximum rate for the quarter beginning January 1, 2010 and ending March 31, 2010. The fuel component may be adjusted quarterly.
   b. The maximum rate for each additional 60-gallon garbage container shall be **$17.15 per month**.

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

<table>
<thead>
<tr>
<th>Container Size</th>
<th>Regular Container Maximum Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>NUMBER OF COLLECTIONS PER WEEK</td>
</tr>
<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td>1 CY</td>
<td>$35.79</td>
</tr>
<tr>
<td>2 CY</td>
<td>$61.09</td>
</tr>
<tr>
<td>3 CY</td>
<td>$86.36</td>
</tr>
<tr>
<td>4 CY</td>
<td>$111.64</td>
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<tr>
<td>5 CY</td>
<td>$136.93</td>
</tr>
<tr>
<td>6 CY</td>
<td>$162.22</td>
</tr>
</tbody>
</table>

FORK Participants Container Maximum Rates

<table>
<thead>
<tr>
<th>Container Size</th>
<th>NUMBER OF COLLECTIONS PER WEEK</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td>2 CY</td>
<td>$45.82</td>
</tr>
<tr>
<td>3 CY</td>
<td>$64.77</td>
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<tr>
<td>4 CY</td>
<td>$83.73</td>
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<tr>
<td>5 CY</td>
<td>$102.70</td>
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<tr>
<td>6 CY</td>
<td>$121.67</td>
</tr>
<tr>
<td>90-gallon</td>
<td>$17.75</td>
</tr>
</tbody>
</table>

* A detachable container rental rate of $10.00 per month is included in the above schedules.

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

2. **Fuel Component** - A fuel component of $0.83 per cubic yard per month ($0.19 per cubic yard) for a 1 cubic yard container collected once a week is included in the maximum rate for the quarter beginning January 1, 2010 and ending March 31, 2010. The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy.

DROP BOX CONTAINERS

1. **Pick up charge** - $220.21 per pick up
2. **Rental** - $0.85 per day up to 7 day maximum rental
   - $3.00 per day for boxes kept 7 or more days without servicing
   - $10.00 per day for boxes kept 21 or more days without servicing
3. **Disposal charge** - Actual charge to be paid by customer. Garbage company will provide up to 40 CY Drop Box containers for above stated charges subject only to load limit of transfer vehicle. An AB 939 Green Waste Diversion Fee of $8.48 per ton will be added to the disposal charges.
COMPACTORS

Front Loader Type:

<table>
<thead>
<tr>
<th>Container Size</th>
<th>NUMBER OF COLLECTIONS PER WEEK</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td>3 CY</td>
<td>$259.08</td>
</tr>
<tr>
<td>4 CY</td>
<td>$334.92</td>
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<tr>
<td>6 CY</td>
<td>$486.66</td>
</tr>
</tbody>
</table>

Roll-Off Type:
1. 6 CY to 40 CY $220.21 per pickup
2. Medical waste compactors $265.00 per pickup
3. Washing compactor $30.00
4. Disposal Charge: Actual charge to be paid by customer
5. AB 939 Green Waste Diversion Fee $8.48 per ton

EXTRA PICKUPS
1. Standard containers or equivalent $3.50 plus $1.38/container
2. Detachable containers $12.00 plus $2.75/cubic yard

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

DETACHABLE CONTAINER ONLY
REPLACEMENT AND CLEANING SERVICE

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

NOTATIONS
1. The above maximum rates include a $0.25 per month residential recycling fee; a $0.05 per cubic yard ($0.22/cubic yard/month) commercial recycling fee; and a $5.00 per pull ($0.25 per ton) industrial recycling fee, a $0.15 per month residential litter abatement fee, and a $0.05 per cubic yard ($0.22/cubic yard/month) commercial litter abatement fee.
2. The above residential maximum rates include a $1.48 per month per household AB 939 Green Waste Diversion Fee.
3. The above commercial bin and front-loader compactor maximum rates include an AB 939 Green Waste Diversion Fee of $2.64 per yard/month.
4. Pursuant to Section 11-6.16(c)(2) of the Modesto Municipal Code, the garbage company may require a deposit equivalent to two (2) months service charge from customers prior to beginning service. The deposit will be credited back to the customer after 18 months under specified conditions.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Hawn, 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: Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour

NOES: Councilmembers: Olsen

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney