RESOLUTION AUTHORIZING THE AWARD OF BIDS FOR THE PURCHASE OF FOUR (4) DUMP TRUCKS FOR THE DEPARTMENT OF PUBLIC WORKS, FLEET SERVICES DIVISION, TO THE FOLLOWING COMPANIES: RAZZARI FORD, MERCED, CA, FOR ONE 3-4 YARD DUMP TRUCK FOR AN ESTIMATED COST OF $52,787, AND DELTA TRUCK CENTER, FRENCH CAMP, CA, FOR THREE (3), FOURTEEN YARD DUMP TRUCKS FOR A TOTAL ESTIMATED COST OF $376,861, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE PURCHASE ORDERS FOR A TOTAL ESTIMATED COST OF $429,648

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 11/12 through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The three (3) dump trucks were included in the FY 11/12 new vehicles and heavy equipment list authorized by the City Manager. The City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of new vehicles for the Water Division and to come back to Council for award authorization. One new dump truck was included in the authorization, and

WHEREAS, three (3) of the four (4) dump trucks have been subjected to a thorough evaluation and have met or exceeded the replacement criteria before being placed on the replacement list. The three (3) dump trucks fall under the City’s compliance program, approved by the California Air Resources Board, requiring a progressive program to remove older diesel trucks from service, and

WHEREAS, the 3-4 yard dump truck is a replacement for the Wastewater Quality Control Division Secondary Plant. Two (2) of the fourteen yard dump trucks are replacements for the Water Division, and one fourteen yard dump truck is a new vehicle for the Water Division meter program, and
WHEREAS, the Purchasing Division issued RFB No. 1112-01, for the purchase of four (4) dump trucks to twenty-two (22) prospective bidders, posted the bid on the City’s website and formally advertised as required by law. Two (2) of the twenty-two (22) prospective bidders are located within Stanislaus County, none of which is a local vendor, and

WHEREAS, RFB’s were formally opened in the City Clerk’s office. Of the twenty-two (22) prospective bidders, five (5) companies chose to respond to the fourteen yard dump truck specifications; two prospective bidders are located in Stanislaus County. All five (5) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bids, City staff recommends the award of bids for the purchase of one 3-4 yard dump truck to Razzari Ford, Merced, CA, for a total estimated cost of $52,787, and three (3), fourteen yard dump trucks to Delta Truck Center, French Camp, CA, for the total estimated cost of $376,861, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2011-12 in the following appropriation units: 5410-53241-57003 for $304,028 and 4180-100574-CC Equipment Acquisition CCF for $125,620, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bids and contract for the purchase of one 3-4 yard dump truck to Razzari Ford, Merced, CA, and three (3), fourteen yard dump trucks to Delta Truck Center, French Camp, CA, for the Public Works Department, Fleet Services Division, conforms to the Modesto Municipal Code,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bids for the purchase of four (4) Dump Trucks for the Department of Public Works, Fleet Services Division, to the following companies: Razzari Ford, Merced, CA, for one 3-4 yard dump truck for an estimated total cost of $52,797, and Delta Truck Center, French Camp, CA, for three (3), fourteen yard dump trucks for a total estimated cost of $376,861.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue purchase orders for a total estimated cost of $429,648.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of October, 2011, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Hawn, Marsh, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Lopez

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2011-398

A RESOLUTION ACCEPTING THE 2012 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT IN THE AMOUNT OF $285,000 FROM THE OFFICE OF TRAFFIC SAFETY TO INCREASE ENFORCEMENT FOR SPEED, DUI, AND OTHER SPECIAL TRAFFIC ENFORCEMENT OPERATIONS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS

WHEREAS, the City of Modesto Police Department desires to undertake a certain project designated as the Selective Traffic Enforcement Program (STEP) grant from the Office of Traffic Safety (OTS), and

WHEREAS, the Police Department was awarded a grant in the sum of $285,000 from OTS, and

WHEREAS, acceptance of said $285,000 grant will increase enforcement for speed, DUI, and other special traffic enforcement operations, while also reducing collisions with speed, DUI, and special operations, and

WHEREAS, OTS will pay 100% of the salary for an existing full-time Traffic Unit Community Service Officer, overtime for officers, and equipment to assist in traffic studies and other traffic related enforcement equipment, and

WHEREAS, the term of this grant will be from October 1, 2011, through September 30, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Selective Traffic Enforcement Program Grant in the amount of $285,000 from the Office of Traffic Safety to increase enforcement for speed, DUI, and other special traffic enforcement operations.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary award documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of October, 2011, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Hawn, Marsh, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Lopez

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2011-399

A RESOLUTION AMENDING THE FISCAL YEAR 2011/2012 OPERATING AND MULTI-YEAR GRANT BUDGET TO REFLECT REVENUE AND EXPENSES IN THE AMOUNT OF $285,000 RELATED TO THE SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT TO INCREASE ENFORCEMENT FOR SPEED, DUI, AND OTHER SPECIAL TRAFFIC ENFORCEMENT OPERATIONS

WHEREAS, the Police Department acquired a grant award in the amount of $285,000 from the Office of Traffic Safety (OTS) to increase enforcement for speed, DUI, and other special traffic enforcement operations, and

WHEREAS, the grant will pay 100% of the salary for an existing full-time Traffic Unit Community Service Officer, and overtime for officers for DUI/Driver’s License checkpoints, special enforcement operations, DUI saturation patrols, and other traffic related enforcement supplies, and

WHEREAS, there is no local match required for this grant, and

WHEREAS, the term of this grant will be from October 1, 2011, through September 30, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2011/2012 Operating and Multi-Year Budget is hereby adjusted as indicated on budget adjustment attached.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 4th day of September, 2011, by Councilmember
Muratore, who moved its adoption, which motion being duly seconded by
Councilmember Burnside, was upon roll call carried and the resolution adopted by the
following vote:

AYES: Councilmembers: Burnside, Geer, Hawn, Marsh, Muratore,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Lopez

ATTEST: ____________________________

(STEPHANIE LOPEZ, City Clerk)

(SEAL)

APPROVED AS TO FORM:

By: ______________________________

SUSANA ALCALA WOOD, City Attorney
Request for Budget Adjustment
(Projects and Grants)

Contact Person: Julie Hendee
Telephone: 572-8517
Submitting Department: Police

Project Name: 2012 OTS STEP Grant
Project Fund: 1341 ps. Reimbursed Grants

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Justification for Budget Adjustment
This budget amendment is being made to: 1) Recognize the award of Office of Traffic Safety Grant (State) revenue in the amount of $285,000 to the Modesto Police Department and; 2) To program offsetting expenses as outlined in the grant program document. These actions will establish a new multi-year operating budget beginning in FY 2011-12.

Authorization
Administrative Services Officer (if needed)
Deputy Director (if needed)
Department Director or Authorized Designee
Financial Analyst
Finance Director
City Manager

To be Completed by Finance Staff
Transfer Number: ___________________ ___________________ ___________________ Completed By: ___________________
MODESTO CITY COUNCIL
RESOLUTION NO. 2011-400

RESOLUTION APPROVING AN AGREEMENT WITH BLACKBURN CONSULTING FOR CONSTRUCTION MANAGEMENT SERVICES OF THE PRIMARY OUTFALL REHABILITATION PROJECT PHASE II IN AN AMOUNT NOT TO EXCEED $493,555.18 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $49,355.52 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $542,910.70, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto’s 6.5 mile 60-inch diameter pipeline transports primary effluent from the Sutter Avenue Primary Water Quality Control Plant (Primary Plant) to the Jennings Road Secondary Plant (Secondary Plant), and

WHEREAS, due to severe internal corrosion and insufficient capacity, this pipeline is required to be rehabilitated, and

WHEREAS, the rehabilitation of the Primary Outfall was divided into three phases due to the length of the pipeline, limited construction period, and the large number of property acquisitions necessary to perform the work, and

WHEREAS, Phase I construction was successfully completed and was accepted by City Council on October 12, 2010, by Resolution No. 2010-444, and

WHEREAS, due to the complexity and amount of staff hours to support construction of the Primary Outfall Rehabilitation Project Phase II, a construction management firm is required for management and inspection of this project, and

WHEREAS, City staff utilized Administrative Directive 3.1, Selection Procedures for Professional Consultants, and

WHEREAS, City staff recommends an agreement with Blackburn Consulting, a local Modesto firm, as the City does not have the staffing level or subject matter expertise to perform construction management and inspection services for the following:

10/04/2011/UP&P/KOhlson/Item 5
constructability review, valued engineering, bid evaluation, construction administration, processing and tracking of submittals and requests for information, coordination associated with inspections, coordination with City staff, documentation of daily and weekly field activities, and project closeout for the Primary Outfall Rehabilitation Project Phase II, 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 Blackburn Consulting for construction management services of the Primary Outfall Rehabilitation Project Phase II in an amount not to exceed $493,555.18 for the identified scope of services, plus $49,355.52 for additional services (if needed), for a maximum total amount of $542,910.70.

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 4th day of October, 2011, by Councilmember Muratore,
who moved its adoption, which motion being duly seconded by Councilmember
Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Hawn, Marsh, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Lopez

ATTEST: [Signature]

STÉPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE JENNINGS WASTEWATER TREATMENT PLANT POTABLE WATER SUPPLY PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH CONCO-WEST, INC. OF MANTECA, CALIFORNIA, IN THE AMOUNT OF $322,105 FOR THE JENNINGS WASTEWATER TREATMENT PLANT POTABLE WATER SUPPLY PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Jennings Wastewater Treatment Plant Potable Water Supply Project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Jennings Wastewater Treatment Plant Potable Water Supply Project were opened at 11:00 a.m. on September 13, 2011, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $322,105 received from Conco-West, Inc. of Manteca, California, be accepted as the lowest responsible bid and the contract be awarded to Conco-West, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Jennings Wastewater Treatment Plant Potable Water Supply Project, accepts the bid of Conco-West, Inc. of Manteca, California, in the amount of $322,105, and awards Conco-West, Inc. the contract for the Jennings Wastewater Treatment Plant Potable Water Supply Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of October, 2011, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Hawn, Marsh, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Lopez

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING APPOINTMENTS TO FILL FOUR (4) POSITIONS ON THE AIRPORT ADVISORY COMMITTEE FOR THE MODESTO CITY-COUNTY AIRPORT

WHEREAS, the City of Modesto operates the Modesto City-County Airport (Airport) for the benefit of all businesses, industries, visitors, and residents in the City of Modesto, Stanislaus County, and the surrounding areas, and

WHEREAS, the Modesto City Council and the Stanislaus County Board of Supervisors seek to ensure that the Airport is maintained and developed in such a manner that it will continue to be a high-quality aviation facility for its users and a good neighbor in the community, recognizing that both the users and community may change as the surrounding area continues to grow and develop, and

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

WHEREAS, the Economic Development Committee met on September 12, 2011, and recommended forwarding this item to the City Council for consideration,

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

SECTION 1. Jeffrey R. Darnell, representing the Public-at-Large, is hereby appointed to the Airport Advisory Committee with a term expiration of June 30, 2012.

SECTION 2. John D. Ruley, representing a commercial carrier/service provider, is hereby appointed to the Airport Advisory Committee with a term expiration of June 30, 2013.
SECTION 3. Ralph Andrew Saucedas, representing a business owner/service provider, is hereby appointed to the Airport Advisory Committee with a term expiration of June 30, 2014.

SECTION 4. Allan Ramsay, representing a small aircraft owner, is hereby appointed to the Airport Advisory Committee with a term expiration of June 30, 2015.

SECTION 6. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed members of the Airport Advisory Committee and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of October, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Hawn, Lopez, Marsh, Muratore
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

(S SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH YOSEMITE AND CREEKWOOD, INC., CYPRESS EQUITIES GROUP III, L.P., AND BEARDEN FAMILY LIMITED TO ABANDON A PORTION OF ACCESS WAYS RELATING TO PROPERTY LOCATED ON THE NORTH SIDE OF YOSEMITE BOULEVARD EAST OF MCCLURE ROAD; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on March 16, 1988, the City of Modesto Planning Commission, by Resolution No. 98-22, approved a vesting tentative parcel map for property located at the northwest corner of Yosemite Boulevard and Creekwood Drive, and

WHEREAS, Condition No. 6 of Resolution No. 98-22 required the subdivder to execute a reciprocal access agreement for vehicular and pedestrian access for the parcels being created by the parcel map, and

WHEREAS, a Reciprocal Parking and Access Agreement ("Reciprocal Agreement"), executed by J-Mar Development Co., was recorded by the City on June 24, 1988, as Document No. 98-0056394-00, in the official records of the office of the Stanislaus County Recorder establishing the access ways as shown in Exhibit “B” of the Reciprocal Agreement, and

WHEREAS, the current owners of the properties covered by the Reciprocal Agreement, Yosemite and Creekwood, Inc., Cypress Equities Group III, L.P., and Bearden Family Limited ("Owners"), desire to abandon a portion of the access ways, and

WHEREAS, Section 10 of the Reciprocal Agreement requires a written agreement between the City and the Owners to abandon access ways, and

WHEREAS, the Owners have submitted an Agreement to abandon a portion of the access ways in a form satisfactory to the City Attorney, and
WHEREAS, City staff recommends an Agreement between the City of Modesto and the Owners be executed to abandon a portion of the access ways,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement between the City of Modesto and the Owners to abandon a portion of the access ways relating to property located on the north side of Yosemite Boulevard east of McClure Road.

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 11th day of October, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Hawn, Lopez, Marsh, Muratore

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 

SUSAN ALCALA WOOD, City Attorney

(SEAL)

APPROVED AS TO FORM:

By: 

SUSAN ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2011-404

RESOLUTION APPROVING THE DEED OF RECONVEYANCE TO REVERT
THE FORMER SOCIAL SECURITY ADMINISTRATION BUILDING
LOCATED AT 1230 12TH STREET BACK TO THE UNITED STATES GENERAL
SERVICES ADMINISTRATION; AND AUTHORIZING THE CITY MANAGER,
OR HIS DESIGNEE, TO EXECUTE ANY AND ALL RELATED DOCUMENTS

WHEREAS, on January 6, 2004, the City Council, by Resolution No. 2004-019,
approved submission of an application to the Department of Health and Human Services
(DHHS) for the surplus property located at 1230 12th Street, Modesto, and

WHEREAS, on September 13, 2004, the City received a letter and Quitclaim
Deed from the DHHS, Division of Property Management, approving the application, and

WHEREAS, the Quitclaim Deed was signed by the City acknowledging
acceptance of the property for the provision of homeless services, and

WHEREAS, since that time the City has worked with local homeless service
providers to occupy and provide services out of this building, and

WHEREAS, efforts to provide homeless services from this location have been
unsuccessful, and the City has advised the United States General Services Agency (GSA)
of the City’s intent to return the property back to the federal government, and

WHEREAS, the GSA has announced their intent to sell the property located at
1230 12th Street through an online auction which will commence on October 3, 2011,
and

WHEREAS, if an acceptable bid is received by the GSA, a three-way escrow will
be opened transferring the property from the City of Modesto to the GSA and from the
GSA to the new buyer,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Deed of Reconveyance to revert the former Social Security Administration Building located at 1230 12th Street back to the United States General Services Administration.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of October, 2011, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Hawn, Lopez, Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Ridenour

ATTEST: [Signature]

(Seal)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE STRENGTHEN AND REPLACE WATER SYSTEM – SOUTH MODESTO PHASE 1 PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH ROLFE CONSTRUCTION OF ATWATER, CALIFORNIA IN THE AMOUNT OF $1,365,626, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Strengthen and Replace Water System – South Modesto Phase 1 project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Strengthen and Replace Water System – South Modesto Phase 1 project were opened at 11:00 a.m. on September 13, 2011, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $1,365,626 received from Rolfe Construction of Atwater, California be accepted as the lowest responsible bid and the contract be awarded to Rolfe Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Strengthen and Replace Water System – South Modesto Phase 1 project, accepts the bid of Rolfe Construction of Atwater, California in the amount of $1,365,626, and approves the contract.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of October, 2011, by Councilmember Lopez, 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: Burnside, Geer, Hawn, Lopez, Marsh, Muratore

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION GRANTING A ONE-TIME EXCEPTION TO THE VILLAGE ONE SPECIFIC PLAN TO CONSTRUCT A 5,496+- SQUARE FOOT ADDITION TO AN EXISTING RETAIL NURSERY BUILDING LOCATED AT 1612 CLAUS ROAD, MODESTO, CA AND NOT REQUIRE THE PARCEL TO FORM OR ANNEX TO A COMMUNITY FACILITIES DISTRICT

WHEREAS, Government Code Section 65450 et. seq. permits cities and counties to adopt specific plans for the systematic implementation of the General Plan and to provide for a greater level of detail in planning sites or areas of special interest or value, and

WHEREAS, on October 16, 1990, the City Council, by Resolution No. 90-828A, adopted the Village One Specific Plan, to guide the development of 1,780 acres located in northeast Modesto, and

WHEREAS, Westurf Nursery (“Applicant”) contacted the City to construct a 5,496+- square foot retail building expansion located at 1612 Claus Road, Modesto, CA (“Parcel”), and

WHEREAS, said Parcel resides within the Village One Specific Plan Area, Precise Plan Area 35 (commonly known as the “Industrial Triangle”), and

WHEREAS, the Village One Specific Plan states that no precise plan, final map, final development plan, building permit or other development entitlement for currently unvested property shall be consistent with this Specific Plan until and unless the affected parcel is required to form or annex to the Village One CFD, and

WHEREAS, the Village One Specific Plan does allow City to defer the requirement to form or annex to the Village One CFD if it meets the following criteria:
1) Residential properties of less than ten acres, until there is a land division, addition of any dwelling unit or change of use, or

2) The existing commercial properties in Precise Plan Area No. 2 unless there is a change of use, physical expansion of the existing buildings, construction of new buildings, or division of property, and

WHEREAS, since Applicant does not meet above-referenced deferral criteria, staff recommends Council approve an exception to the Village One Specific Plan for the following reasons:

1) Applicant does not trigger the need for preparation of a Precise Plan,

2) The existing business was operating on the site before the Parcel was annexed into the City limits,

3) Circumstances have changed since the Village One CFD #2 was formed in 2004. Reprioritization of the projects occurred last year. The infrastructure in CFD #2 that will avail the subject parcel is intended to be part of a separate and distinct financing mechanism to be developed and implemented in the future, and

WHEREAS, upon future development, the Parcel will be required to adhere to the Village One Specific Plan as amended,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that is hereby approves a one-time exception to the Village One Specific Plan to construct a 5,496+/- square foot addition to an existing retail nursery building located at 1612 Claus Road, Modesto, CA and not require the Parcel to form or annex to a Community
Facilities District.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE REJECTION OF ALL BIDS FOR THE PURCHASE OF ONE TRANSFER TRUCK WITH TRAILER, FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, AND AUTHORIZING THE PURCHASING MANAGER TO RE-ISSUE FORMAL REQUEST FOR BIDS FOR A TOTAL ESTIMATED COST OF $195,000

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

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

WHEREAS, RFB’s were formally opened for the transfer truck and trailer, and based on providing the lowest responsive and responsible bid for RFB 1112-01, staff recommended the award of bid for the purchase of one transfer truck with trailer to Pape Trucks, French Camp, CA, for a total estimated cost of $166,423, and

WHEREAS, Bonander Truck, Turlock, CA issued a letter suggesting the motor being proposed by Pape Trucks, French Camp, CA, would not provide the performance and warranty required for the application, and
WHEREAS, due to the gray area of the protest question, Pape Trucks, French Camp, CA, retracted their proposed bid for the medium size engine and requested to price a heavy duty engine, and

WHEREAS, in the best interest of the City, and to provide all vendors a fair and competitive process, staff recommends rejection of all bids and re-issue a formal Request for Bid with revised specifications,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the rejection of all bids for the purchase of one transfer truck with trailer, for the Public Works Department, Fleet Services Division.

BE IT FURTHER RESOLVED that the Purchasing Manager is authorized to re-issue formal Request for Bids for a total estimated cost of $195,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

10/25/2011/Finance/MTorres/Item 8  2  2011-407
RESOLUTION APPROVING THE REVISED CITY OF MODESTO HOMEBUYER’S ASSISTANCE PROGRAM GUIDELINES, AND RESCINDING RESOLUTION NO 2005-291

WHEREAS, since 1994, the City of Modesto, through the Parks, Recreation and Neighborhoods Department, has been offering a Down Payment Assistance Program to assist low and moderate-income households purchase a home in Modesto, and

WHEREAS, based on the current housing market, staff revised the current guidelines which include a program name change to Homebuyer’s Assistance Program, and

WHEREAS, these guidelines were approved by the Citizens’ Housing & Community Development Committee at its August 24, 2011, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the revised City of Modesto Homebuyer’s Assistance Program guidelines as described in Attachment 1, which is attached to this resolution and a copy of which is on file in the Office of the City Clerk.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2005-291 is hereby rescinded.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 25th day of October, 2011, by Councilmember Lopez,
who moved its adoption, which motion being duly seconded by Councilmember
Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: [Signature]
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
SUSANA ALCALA WOOD, City Attorney
City of Modesto
Parks, Recreation & Neighborhoods Department

HOMEBUYER’S ASSISTANCE PROGRAM (HAP)

For More Information Please Call:
(209) 577-5311

TABLE OF CONTENTS

Introduction 2
Terms and Conditions 2
Participant Eligibility Requirements 3
Property Eligibility Requirements 4
Combining the HAP loan with other Programs 5
Assets Limits 5
Closing Cost and 1st Mortgage Loan Type Limitations 5
Co-signer Restrictions 6
Homebuyer Counseling Workshop 6
Professional Home Inspection 6
Application Process 7
Conditions for Disbursing Funds 8
Recertification 8
Violations and Penalties 8
Debt Ratio Guidelines 8
Determining Annual Income 9
Equal Credit Opportunity Act 10
Conflict of Interest 10
INTRODUCTION

The City of Modesto Parks, Recreation & Neighborhoods Department offers a Homebuyer Assistance Program (HAP) to assist low-income families purchase a home. Through funding from the Community Development Block Grant (CDBG) Program and partnerships with local lenders we can make homeownership dreams a reality for low and moderate-income families.

The HAP is designed to assist families that have adequate incomes to afford monthly mortgage payments, but have not been able to save enough money for the down payment and closing costs associated with buying a home. eligible homes must be located within Modesto city limits and can be either new or existing homes. The program helps homebuyers by providing financial assistance in way of a low interest loan toward down payment and closing costs.

The City of Modesto believes that affordable homeownership opportunities can provide the foundation whereby individual families, and entire neighborhoods, can achieve a sense of stability and community pride.

For more information please contact:

City of Modesto, Parks, Recreation and Neighborhoods Department
1010 10th Street, Suite # 4300
Modesto, CA 95354
Phone Number (209) 577-5311,
Fax Number (209) 544-3982.
housing@modestogov.com

TERMS AND CONDITIONS

Purchase Price

The purchase price of the home shall not exceed 115% of the Median Sales Price for Stanislaus County as determined by HUD. This amount is adjusted annually.

The current sales price limit under the program is $177,100.

Terms

1. The maximum loan amount is $10,000.
2. The loan shall accrue interest at the rate of 3% simple interest.
3. No monthly payments are required during the 30-year term.
4. The total amount of the loan, plus accrued interest, becomes due and payable at the time of sale or transfer of ownership; refinancing of the property (subordinations are not allowed), upon death of owner(s), or upon change of use of the property (if applicant moves out and rents the property).
5. No prepayment penalty. There is no charge or penalty for making full or partial payments on the loan.
6. The HAP loan is generally not assumable. However, if the subsequent purchaser of the home is otherwise eligible for the Homebuyer's Assistance Program, the applicant may apply to the City for a waiver of the non-assumption of the loan.
PARTICIPANT ELIGIBILITY REQUIREMENTS

Household Income Limits

<table>
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<tr>
<th>HOUSEHOLD SIZE</th>
<th>INCOME LIMIT</th>
<th>HOUSEHOLD SIZE</th>
<th>INCOME LIMIT</th>
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<td>1 Person</td>
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<td>$51,450</td>
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<td>8 Person</td>
<td>$62,850</td>
</tr>
</tbody>
</table>

(Effective March 2010 and updated annually)

1. Participant(s) must qualify as a low or moderate-income household. To qualify under these criteria, participant(s) must be household(s) whereby total annual income does not exceed 80 percent (80%) of the Median Area Income (MAI). This is adjusted for family size for Modesto at the time the household initially occupies the property, or at the time the City funds are invested, whichever is later. CDBG funds can only be used to assist households at or below 80% of MAI.

Section 8 income guidelines are used to determine annual income, which is defined as the gross amount of income of all adult household members that is anticipated to be received during the coming twelve-month period. Income recertification will be required if more than 180 days have elapsed from the date of the original certification and the date of loan closing or occupancy of the property.

2. Participant must have:
   - Resided in the City of Modesto, including unincorporated areas, with a Modesto address, for the past six (6) consecutive months, or
   - been employed in the City of Modesto for the past six (6) consecutive months.

3. The applicant must obtain the maximum loan amount from the first mortgage loan. Participant(s) must have sufficient income and credit to qualify for a mortgage loan through a reputable lender.

4. Participant(s) must complete an eight hour homebuyer-counseling workshop from a HUD certified agency, prior to participating in the program.

5. Participant(s) or any household member cannot have owned a home during the three-year period prior to the purchase of a home with CDBG assistance. (Exceptions are: death of spouse, recorded dissolution of marriage and relocation due to employment)

6. Eligible participant(s) must contribute 1.75% of the sales price to the transaction.

7. Applicant's middle credit score must be 610 or higher, based on the following credit agencies: Equifax, Experian, and TransUnion.

8. There are some credits issues that applicants must allow for certain time to pass before they can qualify for a HAP loan. These exceptions are as follows:
   - Two years from the date of discharge for a Bankruptcy, Chapter 7 or Chapter 13. (Applicant should have good credit since to qualify for the program)
   - Three years from the date of foreclosure. (Applicant should have good credit since to qualify for the program).

9. Participant(s) must occupy the property as a principal residence. This means that the participant(s) household must use the property as its primary place of residence.
**Note:** Use of the property for rental purposes, including temporary leases, is not allowed and, if at any time during the loan term, the property is no longer the principal residence of the participant(s), the loan will become immediately due and payable in full. The loan documents (loan agreement, deed of trust, promissory note) executed by the City and the participant(s) will incorporate this requirement. The property must be occupied within 60 days of loan closing.

When making eligibility decisions, only the household composition, employment data, or other relevant information as presented in the original HAP application will be considered. Applicants will not be allowed to make any material changes in the HAP application in an attempt to reverse a City loan denial.

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**PROPERTY ELIGIBILITY REQUIREMENT**

1. The property must be located in a residentially zoned area within Modesto City limits.
2. The unit must be a single-family residence, condominium unit, cooperative unit, or manufactured housing on its own lot and affixed to a permanent foundation.
3. Properties with built-in pools are not eligible for the program.
4. Bank owned homes and bank approved short sales are eligible for the program.
5. The home to be purchased must be owner-occupied, vacant or occupied by the tenant making the purchase.
6. If the property was a rental (non-owner occupied), the following rules apply:

   - Owner sales, including short sales—the current tenant may be the purchaser or the rental unit must have been vacant for six months. Acquisition of a house must not result in the displacement of any tenants residing in the unit. The seller must provide proof the unit has been vacant for six months.
   - Foreclosed properties—the financial institution that foreclosed on and owns the property will be required to sign a certification that the financial institution has complied with the Protecting Tenants at Foreclosure Act of 2009. (Public Law 111-22)

7. The following inspection reports are required. These reports will be at the buyer’s risk and expense, unless negotiated with the seller.
   - Termite inspection.
   - Home inspection by a qualified property inspector.
   - If the home was built prior to 1978, a Lead Based Paint inspection by a state certified Risk Assessor/Inspector is required. Properties with chipping or peeling paint in the interior or exterior will not pass.
   - These three reports are reviewed by City staff. The City will identify any items that are potential health and safety risks to the buyers and, if the loan is approved, the City will require those repairs prior to the buyer being allowed to sign City loan documents.
   - If the participant pays for any required inspection reports or appraisal outside of escrow, the cost may be considered as part of the 1.75% required contribution. Proof of payment must be provided to the City.
The City can refuse to participate in the purchase of homes that are clearly not in good repair, determined to contain illegal additions or conversions, or if lead-based paint is found on the property (common in homes built before 1978) and the hazard is not properly abated.

COMBINING THE HAP LOAN WITH OTHER PROGRAMS AND SUBSIDIES

The HAP loan may also be combined with other homebuyer programs and subsidies, such as approved sweat-equity programs, FHA 203K loans, HUD homes, Stanislaus County Public Facilities Fees (PFF) waivers/deferrals, City of Modesto Capital Facilities Fee waivers/deferrals, and California Housing Financing Agency (CalHFA) down payment loans. The City of Modesto loan may be in third position.

ASSET LIMITS

A household's assets (i.e., cash or non-cash items that can be converted to cash) are recognized when determining program eligibility and need for assistance. Households can have no more than $15,000 in liquid assets to be eligible for the program. Should the household's assets be greater than $15,000, the household is not eligible to participate. Also, ownership of any real estate asset will disqualify an applicant from participating in the program. Examples of assets to be considered include:

1. Savings account and the average 6-month balance of checking account(s).
2. Stocks, bonds, certificates of deposit, money market funds, and other investment funds.
3. Mortgages or deeds of trust held by the applicant.
4. Inheritance, lump-sum insurance payments, capital gains already received.
5. Settlements for personal or property damage already received.
6. Cash value of trusts that are available to the household.
7. Marketable securities, stocks, bonds and other forms of capital investment, including tax-exempt securities other than an Individual Retirement or Keogh plans.
8. Individual Retirement Account, 401(K), and Keough accounts that can be withdrawn without retiring or terminating employment.
9. Assets that, although owned by more than one person, allow unrestricted access by the applicant.
10. Personal property held as investment such as gems, jewelry, coin collections, etc.
11. Cash value of life insurance policies.

CLOSING COST AND FIRST MORTGAGE LOAN TYPE LIMITATIONS

HAP loans may be used to cover all reasonable closing costs the buyer is responsible for paying. Examples (list not inclusive) include:

1. Loan origination fee
2. Loan discount fee
3. Appraisal fee
4. Title report/insurance, escrow
5. Credit report
6. Pre-paids (upfront reserves for taxes, insurance, and homeowners association dues)
7. Other normal settlement charges.

Reimbursement for loan origination fee should not exceed 1 percent (of base loan) and reimbursement for loan discount fee is limited to actual cost. Overage can be allowed but at the discretion of the Housing Rehabilitation Loan Committee. HAP loans cannot be used to payoff previous debts incurred by the buyer.

HAP loans cannot be used with variable rate loans (first mortgage) or used to pay discount points on 3-2-1 interest-rate buy-downs. The only buy-downs allowed under the HAP program are (1) one-year to (3) three-year interest rate buy-downs under the CalHFA program, and (2) interest-rate buy-downs that offer a permanent rate reduction for the life of the first mortgage loan. Lenders must submit a copy of the buy-down agreement and calculation showing the actual cost of the interest rate buy-down.

CO-SIGNER RESTRICTIONS

The City loan shall not be used to assist in the purchase of any home in which ownership in the property is granted to any party other than the borrower(s) (participant) approved by the City loan. In some instances, the first mortgage lender may require a co-signer as a condition of the participant’s loan approval. When co-signers are required, such co-signers cannot hold title to the property being purchased with HAP assistance. Co-signers must sign the City’s Promissory Note, as they, along with the borrower(s), will be held equally responsible for repayment of the City loan. Co-signers, as used in this section, are non-household members. As such, co-signers’ income and other criteria (e.g., real estate ownership) are not considered in determining the household’s eligibility. The City reserves the right to request co-signer information supplied to the first mortgage lender as part of the loan application.

HOMEBUYER COUNSELING WORKSHOP

Program participants will be required to complete an eight hour homebuyer-counseling workshop from a HUD certified agency.

The purpose of the workshop is to provide the homebuyer with step-by-step guidance to successfully purchase and maintain ownership of a home. The workshop also helps homebuyers by educating them on how to obtain mortgage financing they can afford. Subjects covered include shopping for a mortgage loan, finding a realtor, shopping for a home, home maintenance, budgeting, and on-going financial costs.

Upon the participant’s completion of the class, the workshop provider will issue a certificate of completion. Participant must submit the certificate to the first mortgage lender for inclusion in the City’s HAP loan application. The workshop provider may charge participants a nominal fee. This fee is non-refundable and is not reimbursable as an eligible closing cost.

PROFESSIONAL HOME INSPECTION

To give homebuyers a better understanding of the quality and condition of their future home, the City requires that all existing homes considered for purchase have a professional home inspection.

Real estate purchase agreements must contain a right of rescission to review the results of the home inspection.
Professional home inspections generally cover the inspection of items such as the home's foundation, drainage, attic, crawl space, electrical systems, walls, heating, floors, roof, tiling, painting, siding, plumbing, insulation, porches, patios, decks, hot water heaters, fireplaces, kitchens, appliances, garages, baths, overview of the site, landscaping, retaining walls, and fences.

Participants will be required to select and pay for the home inspection up front.

APPLICATION PROCESS

1. Participant may contact the City of Modesto, Parks, Recreation and Neighborhoods, at (209) 577-5311 to see if they meet basic program qualifications.

2. Participant completes homebuyer-counseling and receives a certificate of completion from the workshop provider.

3. Participant may wish to pre-qualify for a first mortgage loan. Any reputable lender can participate in the program. For the benefit of the participant, the lender should be located in Stanislaus County.

4. Participant shops for a home. A real estate agent can assist participant in selecting a home, and will execute a purchase contract. The purchase offer must allow for a review of the home inspection report.

5. Participant works with first mortgage lender for completion of the City HAP loan application package. The City provides the lender with a checklist of the documents that must be submitted to the City. Those documents include the credit package, the first mortgage loan approval, and the accepted sales contract for the property. Other documents, such as inspections, can be submitted later, but must be submitted prior to the loan being prepared for submission to the Housing Rehabilitation Loan Committee.

6. Staff will review initial loan application package for eligibility and notify the lender of additional documents that are required.

7. Upon receipt of appraisal and inspections reports, City staff will review the reports and submit a written list of any repairs that will be required.

8. A report is submitted to the Housing Rehabilitation Loan Committee for loan approval.

9. After the loan is approved, any City required repairs will be inspected by City staff.

10. Staff will prepare the necessary loan documents for the HAP loan and will schedule an appointment and will meet with buyer(s) to sign loan documents.

11. The funds will be provided to escrow or Title Company for the home purchase.

12. Escrow agent shall record the City's Deed of Trust, the Declaration of Conditions, Covenants and Restrictions and send original documents to the City of Modesto within seven (7) working days from the date of closure.

13. If there are any cancellations or disqualifications of the first mortgage loan the lender shall immediately notify the City in writing and shall include the reason for this action.

14. Any material change in income, assets, household composition, or other eligibility determination occurring after application, but prior to closing, shall be immediately reported to the lender and the City for review.
CONDITIONS FOR DISBURSING FUNDS

Before disbursing any funds the homebuyer must:

1. Meet all the Homebuyer Assistance Program eligibility requirements.
2. Execute City loan documents (loan agreement, promissory note, subordinate trust deed) assuring compliance with the applicable requirements of the program.
3. Meet all the conditions outlined in the City conditional loan approval letter.
4. Submit all the documents required by the City of Modesto.
5. Secure permanent financing (first mortgage).

RECERTIFICATION

Periodically or annually, the City will request proof from the borrower that they continue to occupy the property as their principal residence.

VIOLATIONS AND PENALTIES

The acceleration clause shall be invoked if the borrower willfully and knowingly makes a false statement or representation, or knowingly fails to disclose a material fact for the purpose of qualifying for the program, or, in completing certifications, affidavits, or recertification documents. The City shall demand full repayment of principal and interest due on the loan.

DEBT RATIO GUIDELINES

Following are the two types of debt ratios the City of Modesto will use:

1. Front-End Ratio (housing expense): The standard guideline is 31%. The front-end ratio is the new principal, interest, taxes and insurance (PITI), mortgage insurance, and Homeowners Association dues divided by the gross income. The typical debts used to determine the qualifying front-end ratio is the future housing expense.

2. Back-end Ratio: The standard guideline is 43%. This is the new housing expense and the minimum monthly payments from the applicant's liabilities divided by the gross income. The typical debts used to determine the qualifying back-end ratio are the minimum required monthly payments on all of the following:
   - Auto loans
   - Student loans
   - Personal loans
   - Charge cards
   - Child Support
   - Alimony
   - Federal Tax Lien Repayment Schedules
Ratios in excess of 43% will be considered on an exception basis depending upon the overall strength of the application.

**DETERMINING ANNUAL INCOME**

Section 8 income guidelines are used to calculate annual income to determine program eligibility. Annual income is defined as the "gross" amount of income of all adult household members, which are anticipated to be received during the coming 12-month period. The following definitions are key to understanding the requirements for calculating Annual Income:

1. **Gross amount.** For those types of income counted, gross amounts (before any deductions have been taken) are used.

2. **Income of all adult household members.** The definition of Annual Income contains income "inclusions"—types of income to be counted—and income "exclusions"—types of income that are not considered (e.g., income of minors); and

3. **Anticipated to be received.** Annual income is used to determine eligibility and a household’s expected ability to pay, rather than past earnings, are used to estimate housing assistance needs.

Annual gross income shall be determined in accordance with the Code of Federal Regulations (CFR), Title 24, Part 5, Section 5.609(b).

The following items shall be **included** in determining Annual Income:

1. All wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services (before any payroll deduction);

2. Net income from the operation of a business or profession;

3. Interest, dividends, and other net income of any kind from personal property. Income shall include the greater of the actual income derived from all assets or a percentage of such assets based on the current passbook saving rate, as determined by HUD.

4. Lottery winnings paid in periodic payments.

5. All gross periodic payments received from Social Security, annuities, insurance policies, retirement funds, pension, disability or death benefits, and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment (except Social Security).

6. Payments in lieu of earnings such as unemployment, worker’s compensation and severance pay;

7. Welfare assistance;

8. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;

9. All regular pay, special pay, and allowances of a member of the Armed Forces.

The following items shall be **excluded** in determining Annual Income:

1. Income from employment of children (including foster children) under the age of 18 years.

2. Payment received for the care of foster children.

3. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers compensation), capital gains and settlement for personal or property losses.
4. Amounts received by the family that are specifically for, or in reimbursement of the cost of medical expenses for any family member.

5. Income of a live-in aide.

6. Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran, for use in meeting the costs of tuition, fees, books, equipment, material, supplies, transportation, and miscellaneous personal expenses of the student.

7. The special pay to a family member serving in the armed forces who is exposed to hostile fire.

8. Amounts received under training programs funded by HUD.

9. Temporary, nonrecurring, or sporadic income (including gifts).

10. Lump sum payment of SSI and Social Security benefits.

11. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act.

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**EQUAL CREDIT OPPORTUNITY ACT**

This Homebuyer Assistance Program will be implemented in ways consistent with the City of Modesto’s commitment to Fair Housing. No person shall be excluded from participation in, denied the benefits of, or be subjected to discrimination under the program on the basis of race, color, ancestry, religion, sex, marital status, physical or mental disability (including AIDS and HIV diagnosis), national origin, familial status (children), age, sexual orientation, source of income or other arbitrary reason.
RESOLUTION APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO IRRIGATION DISTRICT FOR THE USE AND IMPROVEMENT OF THE “BRIGGS DITCH” EASEMENT FOR THE DEVELOPMENT OF THE HELEN WHITE WALKING TRAIL; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Stanislaus Multi-Cultural Community Health Coalition and the West Modesto/King Kennedy Neighborhood Collaborative (WMKKC) have been working to create a safe walking trail between Maze Boulevard and California Avenue, also known as “Briggs Ditch”, and

WHEREAS, this pathway will be used by all residents but will be particularly beneficial to area school children, and

WHEREAS, the Modesto Irrigation District holds an easement along the ditch, and

WHEREAS, entering into a license agreement with the Modesto Irrigation District will allow access to this easement and facilitate the envisioned trail improvements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a License Agreement between the City of Modesto and Modesto Irrigation District for the use and improvement of the “Briggs Ditch” easement for the Development of the Helen White Walking Trail.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the License Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 25th day of October, 2011, by Councilmember Lopez,
who moved its adoption, which motion being duly seconded by Councilmember
Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSAN ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2011-410

RESOLUTION ACCEPTING AN AWARD IN THE AMOUNT OF $1,826.84
FROM THE U.S. DEPARTMENT OF JUSTICE, BULLETPROOF VEST
PARTNERSHIP PROGRAM, FOR ARMOR VESTS

WHEREAS, on June 23, 2011, City staff submitted an application to the U.S.
Department of Justice (DOJ) for award funding as part of the Bulletproof Vest
Partnership (BVP) Program, and

WHEREAS, on September 21, 2011, City staff received notification of award
funding approval in the amount of $1,826.84, and

WHEREAS, through the BVP Program federal award funds were made available
for the purchase of armor vests for law enforcement officers, and

WHEREAS, the BVP Program pays up to 50% of the cost of vests purchased and
requires that each applicant jurisdiction be responsible for matching the cost of each
qualifying vest purchased, and

WHEREAS, the reimbursable program term is April 1, 2011 through August 31,
2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby accepts an award in the amount of $1,826.84 from the U.S. Department of
Justice, Bulletproof Vest Partnership Program, for armor vests.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby
authorized to execute any necessary documents.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto, held on the 25th day of October, 2011, by Councilmember Lopez,
who moved its adoption, which motion being duly seconded by Councilmember
Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST:  

(S SEAL)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2011-411

RESOLUTION AMENDING THE FISCAL YEAR 2011/12 MULTI-YEAR BUDGET TO ESTIMATE REVENUE OF $1,826.84 FROM THE U.S. DEPARTMENT OF JUSTICE, BULLETPROOF VEST PARTNERSHIP PROGRAM, AND APPROPRIATE FUNDS FOR THE PURCHASE OF BULLETPROOF VESTS

WHEREAS, the City of Modesto Police Department was awarded funding in the amount of $1,826.84 from the U.S. Department of Justice, Bulletproof Vest Partnership Program, and

WHEREAS, the funds were made available for the purchase of armor vests for law enforcement officers, and

WHEREAS, the program pays up to 50% of the cost of vests purchased, and requires that each applicant jurisdiction be responsible for matching the cost of each qualifying vest purchased, and

WHEREAS, the Council of the City of Modesto authorized the City Manager, or his designee, to accept the Bulletproof Vest Partnership program funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2011/12 Multi-Year Budget is hereby amended as shown in Exhibit A attached.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 25th day of October, 2011, by Councilmember Lopez,
who moved its adoption, which motion being duly seconded by Councilmember
Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: [Signature]
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

The Bulletproof Vest allocation for Fiscal Year 2011/2012 will be applied to:

**Revenues:**

<table>
<thead>
<tr>
<th>To:</th>
<th>Increase/(Decrease)</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>MY-1341-19999-42090-100667</td>
<td>$1,826.84</td>
<td>FY 2011 DOJ Armor Vests</td>
</tr>
</tbody>
</table>

**Expenses:**

<table>
<thead>
<tr>
<th>To:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>MY-100667- Tools &amp; Equipment &lt;$5,000</td>
<td>3,653.68</td>
<td>FY 2011 DOJ Armor Vests</td>
</tr>
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**Request for Transfer:**

Transfer between Fiscal Year Cost Centers (Expense) and Projects (Revenue)

<table>
<thead>
<tr>
<th>From:</th>
<th>To:</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>MY-0100-70100-71341</td>
<td>MY-1341-19999-60100-100667</td>
<td>$1,827 Transfer from General Fund to 1341</td>
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</tbody>
</table>


RESOLUTION APPROVING AN INCREASE IN PAYMENTS TO MODESTO AREA EXPRESS (MAX) BUS PASS OUTLETS FOR MONTHLY BUS PASS SALES FROM $0.50 PER PASS SOLD TO $1.00 PER PASS SOLD

WHEREAS, in October 1989, Council approved the plan to establish outlets to sell monthly bus passes, and

WHEREAS, there are currently five (5) outlets that have executed agreements with the City to sell these monthly passes, and

WHEREAS, these outlets are strategically located around Modesto, and

WHEREAS, the current amount paid per bus pass sold is $0.50, which has not been increased since 2007, and

WHEREAS, it is necessary to increase the payment from the current $0.50 to $1.00 per pass sold to encourage businesses to continue participation in the program, and

WHEREAS, current executed agreements with the pass outlets allows the Council, by resolution, to change the rate paid per monthly bus pass sold from time to time, and

WHEREAS, this recommended increase will cost approximately $1,800.00 annually and funds are budgeted in Account 4540-53472-53300 to cover this increase,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an increase in payment to bus pass outlets for monthly bus pass sales from $0.50 per pass sold to $1.00 per pass sold.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

10/25/2011/PW/Cavanah/Item 12
RESOLUTION APPROVING A SUPPORT SERVICES AGREEMENT WITH ENVIROGEN TECHNOLOGIES, INC. FOR WELL #100 IN THE SOUTH MODESTO AREA OF THE WATER SYSTEM AND WELL #274 AND WELL #295 WITHIN THE GRAYSON COMMUNITY WATER SYSTEM, IN AN AMOUNT NOT TO EXCEED $349,000 FOR TWO (2) YEARS WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto provides water services utilizing Well #100 in South Modesto and Well #274 and Well #295 in the Grayson community, and

WHEREAS, Wells #100, #274 and #295 have high nitrate levels above the State Maximum Contaminant Level, and

WHEREAS, in August of 2002, the Department of Public Health issued a Compliance Order directing the City to have a reliable treatment system in place by April of 2003, and

WHEREAS, Basin Water, Inc. was awarded a contract to reduce nitrate levels by using an ion exchange treatment process, and

WHEREAS, Basin Water, Inc. was purchased by Envirogen Technologies, Inc. and the City has been on a month-to-month lease with Envirogen for the last two years, and

WHEREAS, staff seeks a more permanent contract to reduce and stabilize the lease and service costs over several years,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Support Services Agreement with Envirogen Technologies, Inc., for Well #100 in the South Modesto area of the water system and Well #724 and Well #295 within the Grayson community water system, in an amount not to exceed $349,000
for two (2) years, with three (3) one-year extension options, at the sole discretion of the City.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: 

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING AN EQUIPMENT LEASE AGREEMENT WITH ENVIROGEN TECHNOLOGIES, INC. FOR WELL #100 IN THE SOUTH MODESTO AREA OF THE WATER SYSTEM, IN AN AMOUNT NOT TO EXCEED $66,000 FOR TWO (2) YEARS, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto provides water services utilizing Well #100 in the South Modesto area and that well has high nitrate levels, and

WHEREAS, Basin Water, Inc. was awarded a contract to reduce nitrate levels by using an ion exchange treatment process, and

WHEREAS, Basin Water, Inc. was purchased by Envirogen Technologies, Inc. and the City has been on a month-to-month lease with Envirogen Technologies, Inc. for the last two years, and

WHEREAS, staff seeks a more permanent contract to reduce and stabilize the lease and service costs over several years,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Equipment Lease Agreement with Envirogen Technologies, Inc., for Well #100 in the South Modesto area of the water system, in an amount not to exceed $66,000 for two (2) years with three (3) one-year extension options

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 25th day of October, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING AN EQUIPMENT LEASE AGREEMENT WITH ENVIROGEN TECHNOLOGIES, INC. FOR WELL #274 AND WELL #295 WITHIN THE GRAYSON COMMUNITY WATER SYSTEM, IN AN AMOUNT NOT TO EXCEED $60,000 FOR TWO (2) YEARS, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto provides water services utilizing Well #274 and Well #295 in the Grayson community that have high nitrate levels, and

WHEREAS, in August of 2002, the Department of Public Health issued a Compliance Order directing the City to have a reliable treatment system in place by April of 2003, and

WHEREAS, Basin Water, Inc. was awarded a contract to reduce nitrate levels by using an ion exchange treatment process, and

WHEREAS, Basin Water, Inc. was purchased by Envirogen Technologies, Inc., and the City has been on a month-to-month lease with Envirogen Technologies, Inc. for the last two years, and

WHEREAS, staff seeks a more permanent contract to reduce and stabilize the lease and service costs over several years,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Equipment Lease Agreement with Envirogen Technologies, Inc., for Well #274 and Well #295 within the Grayson community water system, in an amount not to exceed $60,000 for two (2) years, with three (3) one-year extension options at the sole discretion of the City.
BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby
authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 25th day of October, 2011, by Councilmember Lopez,
who moved its adoption, which motion being duly seconded by Councilmember
Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING AN EXTENSION OF THE MODESTO AREA EXPRESS OPERATIONS AGREEMENT WITH MV TRANSPORTATION, INC., FROM JUNE 29, 2012 TO SEPTEMBER 28, 2012

WHEREAS, the City of Modesto entered into an agreement with MV Transportation, Inc. (MV) on June 5, 2007 to operate the Modesto Area Express (MAX) transit system through June 29, 2012, and

WHEREAS, the Agreement allows the City to require MV to continue to operate the service under the terms and conditions of the Agreement for an additional three months if directed to do so by the City, and

WHEREAS, the City believes it to be in the best interest of the MAX transit service to extend the Agreement through September 28, 2012, and

WHEREAS, a letter from the City’s Transit Manager to MV requiring them to continue operating under the terms and conditions of the Agreement through September 28, 2012, is sufficient to extend the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an extension of the Modesto Area Express operations Agreement with MV Transportation, Inc., from June 29, 2012 to September 28, 2012.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2011-417

RESOLUTION ACCEPTING THE WORK BY CHAMPION INDUSTRIAL CONTRACTORS, INC., FOR THE “ARRA HVAC UPGRADES FOR VARIOUS CITY OWNED BUILDINGS” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $158,068.35

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the ARRA HVAC Upgrades for Various City Owned Buildings project has been completed by Champion Industrial Contractors, Inc., in accordance with the contract agreement dated March 22, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the ARRA HVAC Upgrades for Various City Owned Buildings project is hereby accepted as complete from said contractor Champion Industrial Contractors, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling $158,068.35 is authorized as provided in the contract.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 25th day of October, 2011, by Councilmember Lopez, 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, Lopez, Marsh, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside, Hawn

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE
JOHN THURMAN FIELD STORM DRAIN OUTFALL PROJECT, ACCEPTING
THE BID, AND APPROVING A CONTRACT WITH ROLFE CONSTRUCTION
OF ATWATER, CALIFORNIA, IN THE AMOUNT OF $112,250, AND
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE
THE CONTRACT

WHEREAS, plans and specifications have been prepared for the John Thurman
Field Storm Drain Outfall project, and City staff recommends approval by the City
Council, and

WHEREAS, the bids received for the John Thurman Field Storm Drain Outfall
project were opened at 11:00 a.m. on September 27, 2011, and later tabulated by the
Director of Utility Planning and Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning and Projects has recommended that
the bid of $112,250 received from Rolfe Construction be accepted as the lowest
responsible bid and the contract be awarded to Rolfe Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the plans and specifications for the John Thurman Field Storm
Drain Outfall project, accepts the bid of Rolfe Construction, of Atwater, California in the
amount of $112,250, and approves the contract.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby
authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 OPERATING BUDGET IN THE AMOUNT OF $56,072 IN ORDER TO FULLY FUND THE WASTEWATER FUNDED COST SHARE PORTION OF THE CONSTRUCTION, CONTINGENCY, AND CONSTRUCTION ADMINISTRATION PLUS ENGINEERING CONSTRUCTION SUPPORT BY CITY STAFF FOR THE JOHN THURMAN FIELD STORM DRAIN OUTFALL PROJECT

WHEREAS, certain budgetary transactions are necessary in the amount of $56,072, in order to fully fund the wastewater funded cost share portion of the construction, contingency, and construction administration plus engineering construction support by City staff for the John Thurman Field Storm Drain Outfall project, and

WHEREAS, the Fiscal Year 2011-2012 Operating Budget must be amended as shown in Exhibit A, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2011-2012 Operating Budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

Due to the required wastewater funded cost share portion of the estimated cost of project from #54212 (6210-480-5212) “PW-Sewer Collections” bid and awarded with the John Thurman Field Storm Drain Outfall project, the total project cost needs to be increased by $56,072. This would be done by adjusting Primary CIP Account 100373 (6210-480-B574) “Collection System Rehab” by <$56,072>, and the Operating Account #54212 (6210-480-5212) “PW-Sewer Collections” Repair and Maintenance Services by $48,262, and Services City Forces-Interfund by $7,810.

A check in the amount of $21,239.75 was receipted on August 20, 2008 for Cannery Seg Line Repair Delay Reimbursement, and the budget will now be increased. Therefore, an adjustment will be made to increase budget in Primary CIP Account 100373 (6210-480-B574) “Collection System Rehab” by $21,239.71.
MODESTO CITY COUNCIL
RESOLUTION NO. 2011-420

A RESOLUTION ACCEPTING THE STATE SUPPLEMENTAL LAW ENFORCEMENT GRANT, IN THE AMOUNT OF AT LEAST $100,000, FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND FOR POLICE OVERTIME AND TECHNOLOGY UPGRADES; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

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

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

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

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

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

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

WHEREAS, the allocation to the City of Modesto, for Fiscal Year (FY) 2011/2012, of at least $100,000, to be made in four installments of $25,000 each, and

WHEREAS, the City Council is required to hold a public hearing to consider and approve the SLESF Expenditure Plan,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that after holding a public hearing, it hereby accepts the Chief of Police’s Expenditure Plan for the FY 2011/2012 State Supplemental Law Enforcement Services Fund, allocation of at least $100,000 for police overtime and technology upgrades.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2011, 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: None

ABSENT: Councilmembers: Burnside

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2011/2012 MULTI-YEAR OPERATING BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES OF AT LEAST $100,000 FOR THE CITY OF MODESTO’S ALLOCATION FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND; AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

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

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

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

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

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

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

WHEREAS, the allocation to the City of Modesto for Fiscal Year (FY) 2011/2012 of at least $100,000, to be made in four installments of $25,000 each, and

WHEREAS, the City Council is required to hold a public hearing to consider and approve the SLESF Expenditure Plan, and
WHEREAS, the adopted FY 2011/2012 Police SLESF allocation in the amount of at least $100,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 2011/2012 Multi-Year Operating Budget to appropriate revenues and expenditures of at least $100,000 for the City of Modesto’s allocation from the State Supplemental Law Enforcement Services Fund for police overtime and technology upgrades, as shown in Exhibit A attached hereto.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2011, 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: None

ABSENT: Councilmembers: Burnside

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
Exhibit A

The SLESF allocation for Fiscal Year 2011/2012 will be applied to:

<table>
<thead>
<tr>
<th>Revenues:</th>
<th>Increase/(Decrease)</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>To:</td>
<td></td>
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<tr>
<td>MY-1340-19999-42140-100666</td>
<td>$100,000</td>
<td>2011 SLESF Grant Revenue</td>
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</tbody>
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Expenses:

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<tbody>
<tr>
<td>MY-100666-Appr. Unit A</td>
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<td>MY-100666-Appr. Unit C</td>
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<td>Technology Upgrades</td>
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<tr>
<td></td>
<td></td>
<td>$100,000</td>
</tr>
</tbody>
</table>
A RESOLUTION APPROVING THE 2012 CITY COUNCIL MEETING CALENDAR

BE IT HEREBY RESOLVED by the Council of the City of Modesto that 2012 City Council Meeting Calendar, attached hereto as Exhibit “A”, is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
## City Council Calendar 2012

**January 2012**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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</thead>
<tbody>
<tr>
<td>3rd</td>
<td>CANCELLED*</td>
</tr>
<tr>
<td>10th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>17th</td>
<td>NO MEETING</td>
</tr>
<tr>
<td>24th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>31st</td>
<td>NO MEETING – 5th Tuesday</td>
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**February 2012**

<table>
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<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
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<td>Council Meeting (regular)</td>
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<tr>
<td>14th</td>
<td>Council Meeting (regular)</td>
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<tr>
<td>21st</td>
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<tr>
<td>28th</td>
<td>Council Meeting (regular)</td>
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**March 2012**

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<tbody>
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<td>6th</td>
<td>Council Meeting (regular)</td>
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<tr>
<td>13th</td>
<td>Council Meeting (regular)</td>
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<tr>
<td>20th</td>
<td>NO MEETING</td>
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<tr>
<td>27th</td>
<td>Council Meeting (regular)</td>
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**April 2012**

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<th>Date</th>
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</thead>
<tbody>
<tr>
<td>3rd</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>10th</td>
<td>CANCELLED**</td>
</tr>
<tr>
<td>17th</td>
<td>NO MEETING</td>
</tr>
<tr>
<td>24th</td>
<td>Council Meeting (regular)</td>
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**May 2012**

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<th>Date</th>
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<tbody>
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<td>1st</td>
<td>Council Meeting (regular)</td>
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<tr>
<td>8th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>15th</td>
<td>NO MEETING</td>
</tr>
<tr>
<td>22nd</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>29th</td>
<td>NO MEETING – 5th Tuesday</td>
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**June 2012**

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<tr>
<td>5th</td>
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<td>12th</td>
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<tr>
<td>19th</td>
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<tr>
<td>26th</td>
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**July 2012**

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<td>3rd</td>
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<tr>
<td>10th</td>
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<tr>
<td>17th</td>
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<tr>
<td>24th</td>
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<td>31st</td>
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**August 2012**

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**September 2012**

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<td>18th</td>
<td>NO MEETING</td>
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<td>25th</td>
<td>Council Meeting (regular)</td>
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**October 2012**

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<td>16th</td>
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<tr>
<td>23rd</td>
<td>Council Meeting (regular)</td>
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**November 2012**

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<td>20th</td>
<td>NO MEETING</td>
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<td>27th</td>
<td>Council Meeting (regular)</td>
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**December 2012**

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<tr>
<td>11th</td>
<td>Council Meeting (regular)</td>
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<tr>
<td>18th</td>
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</tr>
<tr>
<td>25th</td>
<td>CANCELLED per MMC 2-1.01</td>
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*January 3rd due to Winter Break  
**April 10th due to Spring Break  
***August 8th Wednesday Meeting due to National Night Out on August 7th  
****November 7th Wednesday Meeting due to Election Day on November 6th  

CC Mtg Calendar for 2012
RESOLUTION APPROVING THE SUBMITTAL TO THE FEDERAL AVIATION ADMINISTRATION (FAA) OF AN UPDATED PASSENGER FACILITY CHARGE APPLICATION, WHICH AUTHORIZES THE MODESTO CITY-COUNTY AIRPORT TO COLLECT AND USE PASSENGER FACILITY CHARGES FOR AIRPORT RELATED PROJECTS

WHEREAS, the Passenger Facility Charges (PFC) Program, administered by the Federal Aviation Administration (FAA), allows the collection of PFC fees for every enplaned passenger at commercial airports controlled by public agencies, and

WHEREAS, Modesto Airport is currently collecting these fees at a rate of $4.50 per person, and

WHEREAS, PFC funds are intended for use on FAA and Air Carrier approved projects that typically enhance airport safety, security or capacity, reduce noise, or increase air carrier competition, and

WHEREAS, authorization must be given by the FAA to actually use these collected fees to fund approved projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal to the Federal Aviation Administration of an updated Passenger Facility Charge Application authorizing the Modesto City-County Airport to collect and use Passenger Facility Charges for airport related projects.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmember: Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: None

(ATTEST:  

(Seal)  

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney

2011-423
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE IRRIGATION WELLS FOR CITY PARKS PROJECT, ACCEPTING THE BID, AND APPROVING AN AGREEMENT WITH HOWK WELL & EQUIPMENT CO. INC., dba HOWK SYSTEMS OF MODESTO, CA. IN THE AMOUNT OF $518,980.00 FOR THE IRRIGATION WELLS FOR CITY PARKS PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Irrigation Wells for the City Parks Project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Irrigation Wells for City Parks Project were opened at 11:00 a.m. on September 13, 2011, and later tabulated by the Director of Parks, Recreation and Neighborhoods for the consideration of the Council, and

WHEREAS, the Director of Parks, Recreation and Neighborhoods has recommended that the bid of $518,980.00 received from Howk Well & Equipment Co. Inc., dba Howk Systems of Modesto for the project be accepted as the lowest responsible bid and the contract be awarded to Howk Well & Equipment Co. Inc., dba Howk Systems of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Irrigation Wells for City Parks Project, accepts the bid of Howk Well & Equipment Co. Inc., dba Howk Systems of Modesto in the amount of $518,980.00 for the project and awards Howk Well & Equipment Co. Inc., dba Howk Systems of Modesto the contract for the Irrigation Wells for City Parks Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Lopez, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Muratore

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)
EXHIBIT A
BUDGET ADJUSTMENT

This budget action will appropriate $290,000 from the Parks Fund reserves to CIP project 100295 Agricultural Wells – Community Parks for FY 2011-2012 to fully fund the project to install agricultural wells at seven park locations. These funds are in addition to the $350,000 already budgeted for this project (inter-fund loan from the Water Fund).
RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 CAPITAL
IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE
IRRIGATION WELLS IN CITY PARKS PROJECT

WHEREAS, a budget adjustment is necessary in order to adjust the expense and
revenue budgets in the Parks Capital Improvement Project (CIP) 100295 PRN. Park
Planning and Development “Agricultural Wells – Community Parks,” and

WHEREAS, additional funding of $290,000 from the Parks Fund reserves to the
CIP Project 100295 PRN. Park Planning and Development “Agricultural Wells –
Community Parks,” is necessary to award this bid, and

WHEREAS, the Fiscal Year 2011-2012 CIP budget must be amended as shown in
Exhibit A, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the amendment of the Fiscal Year 2011-2012 Capital
Improvement Program budget as shown in Exhibit A which is attached.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is
hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Lopez, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Muratore

ATTEST: 

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT AND THE PUBLIC WORKS DEPARTMENT TO MEMORIALIZE A $350,000 INTER-FUND LOAN BETWEEN THE WATER FUND AND GENERAL FUND INCLUDING FINANCING AND REPAYMENT TERMS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MEMORANDUM OF UNDERSTANDING

WHEREAS, one of the largest expenses in the parks maintenance budget is for irrigation water, and

WHEREAS, installation of shallow agricultural wells in parks to provide water for irrigation could reduce this on-going expense, and

WHEREAS, using water from these wells to irrigate park land will add approximately 159 acre feet of potable water annually to the City of Modesto’s water capacity, and

WHEREAS, adding potable water capacity is a benefit to the Public Works Department and the City of Modesto, and

WHEREAS, using shallow well water to irrigate these parks could also result in better water system pressure during peak times for other water customers, and

WHEREAS, staff from Parks, Recreation and Neighborhoods (PR&N) and Public Works (PW) recognize and agree that this is a correct approach, and

WHEREAS, on October 27, 2009, the City Council, by Resolution No. 2009-518, established the Capital Improvement Program project ‘Agricultural Wells – Community Parks’ to be funded with a $350,000 inter-fund loan from the Water Fund to the General Fund, and
WHEREAS, staff from PR&N and PW have created a Memorandum of Understanding between their departments that memorializes the $350,000 inter-fund loan, including financing and repayment terms with an interest rate based on the City’s annual combined yield earned on the City’s investment pool at the end of the prior fiscal year, and

WHEREAS, savings in General Fund expenses realized by the PR&N due to the installation of agricultural irrigation wells in community parks will fund repayment of the inter-fund loan and interest,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Memorandum of Understanding between the Parks, Recreation and Neighborhoods Department and the Public Works Department to memorialize a $350,000 interfund loan between the Water Fund and General Fund, including financing and repayment terms with an interest rate based on the annual combined yield earned on the City’s investment pool calculated at the end of the prior fiscal year.

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

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Lopez, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Muratore

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION OF INTENTION
2011-427

TO APPROVE AN AMENDMENT TO CONTRACT

BETWEEN THE

BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

AND THE

CITY COUNCIL
CITY OF MODESTO

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 20475 (Different Level of Benefits). Section 21353 (2% @ 60 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract, and

Section 20475 (Different Level of Benefits). Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local fire members entering membership for the first time in the fire classification after the effective date of this amendment to contract.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

By: ______________________________
Presiding Officer

November 1, 2011
Date adopted and approved

(Mayor)
Title

11/01/2011/HR/RHarless/Item 9 2011-427
This page is attached by City to the Resolution of Intention provided by CalPERS]

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2011, 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: Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING SUBMISSION OF THE CITY’S TRANSPORTATION DEVELOPMENT ACT TRANSIT CLAIM FOR FISCAL YEAR 2011 - 2012 TO THE STANISLAUS COUNCIL OF GOVERNMENTS IN THE AMOUNT OF $8,581,520

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

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

WHEREAS, the City has prepared its TDA claim for Fiscal Year 2011-2012 pursuant to these sections of the California PUC, and

WHEREAS, the City’s Transit TDA Claim for Fiscal Year 2011-2012 is $8,581,520, and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2011-2012 is $14,773,997, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submission of the TDA transit claim for Fiscal Year 2011-2012 to StanCOG in the amount of $8,581,520.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2011, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH DOKKEN ENGINEERING, INC. FOR ADDITIONAL SCOPE OF WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT FOR SUPPORT SERVICES DURING CONSTRUCTION OF THE CARPENTER ROAD BRIDGE SEISMIC RETROFIT PROJECT IN AN AMOUNT NOT TO EXCEED $171,283.87 FOR THE IDENTIFIED SCOPE OF SERVICES NOT INCLUDED IN THE ORIGINAL AGREEMENT, PLUS $31,250 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $202,533.87, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on July 7, 2009, by Resolution No. 2009-297, City Council approved an agreement for consultant services with Dokken Engineering, Inc. for design and environmental services for the Carpenter Road Bridge Seismic Retrofit Project, and

WHEREAS, the original agreement totaled $275,520.56, and

WHEREAS, staff has identified several modifications that need to be made to the Sylvan/Litt Project plans to accommodate the development of Grogan Park, and

WHEREAS, in addition, changes to the plans are required due to the updates in state regulations regarding irrigation and storm water runoff from landscaped areas that have been implemented since the project design began, and

WHEREAS, City staff recommends approving an amendment to agreement with Dokken Engineering, Inc. for $171,283.87 plus an additional $31,250 for contingencies bringing the revised maximum total agreement amount to $477,784.43.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to agreement with Dokken Engineering, Inc. for additional services not included in the original agreement for support services during construction for the Carpenter Road Seismic Retrofit Project, in an amount not to exceed
$171,283.87 for the identified scope of services not included in the original agreement, plus $31,250 for additional services (if needed), for a maximum total amount of $202,533.87.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of November, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2011-430

RESOLUTION FINDING THAT THE SYLVAN AVENUE WIDENING FROM WEST OF LITT ROAD TO CLAUS ROAD AND LITT ROAD WIDENING FROM SYLVAN AVENUE TO 2000 FEET NORTH IS WITHIN THE SCOPE OF THE PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM ENVIRONMENTAL IMPACT REPORT (SCH NO. 90020181), AS AMENDED BY THE VILLAGE ONE 1994 SUPPLEMENTAL EIR AND THE 2003 ADDENDA FOR THE VILLAGE ONE STORM DRAINAGE MASTER PLAN AND VILLAGE ONE FACILITIES MASTER PLAN UPDATE

WHEREAS, Council has received and considered the Written Checklist, Environmental Assessment No. EA/CEDD No. 2011-30, that concludes that the project entitled “Sylvan Avenue Widening from west of Litt Road to Claus Road and Litt Road Widening from Sylvan Avenue to 2000 feet north,” is within the scope of the previously certified Village One Specific Plan Program Environmental Impact Report (SCH No. 90020181), as amended by the Village One 1994 Supplemental EIR and the 2003 addenda for the Village One Storm Drainage Master Plan and Village One Facilities Master Plan Update, and that, pursuant to Sections 15168(c) and 15162 of the CEQA Guidelines, no new environmental review is required,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines:

1. As per Sections 15168(c) and 15162 of the California Environmental Quality Act ("CEQA") Guidelines, this Project is within the scope of the projects covered by the Village One Program EIR, as amended by the 1994 Supplemental EIR and the 2003 Addenda to the EIR ("Program EIR”) and no new environmental document or findings are required by CEQA.
2. There are no substantial changes proposed in the Project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Program EIR are required.

3. No substantial changes have occurred with respect to the circumstances under which the Project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and therefore, no major revisions to the Program EIR, are required.

4. There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Program EIR was adopted which shows any of the following:

   a. one or more significant effects which is not discussed in the Program EIR; or,

   b. significant effects which were previously examined will be substantially more severe than previously shown; or,

   c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the Project proponents decline to adopt the mitigation measure or alternative; or,

   d. mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the Project proponents decline to adopt the mitigation measure or alternative.
The City Council has received and considered the Written Checklist Environmental Assessment EA/CEDD No. 2011-30, which provides the substantial evidence to support findings 1-4 above.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of November, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SIGNATURE)

STEFFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2011-431

RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 AND 2011-2012
ANNUAL OPERATING BUDGETS

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

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

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is
hereby authorized to take the necessary steps to implement the provisions of this
resolution.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of November, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

COMMUNITY AND ECONOMIC DEVELOPMENT
An adjustment is necessary to recognize $14,416 of unbudgeted miscellaneous revenue in the Traffic Engineering Division of CEDD in the Surface Transportation Fund (1700) for rental of additional office space on the 4th floor of Tenth Street Place to the Parks, Recreation and Neighborhoods Solid Waste Management Division. The expense will be paid from existing budget in PR&N’s Solid Waste division.

FINANCE
On May 25, 2010, the City Council, by resolution no. 2010-219 authorized the award of proposal and contract for ERP system implementation services to Applications Software Technology (AST) Corporation for a Supply Chain Module with bar coding in the amount of $122,000. During fiscal year 2011, $24,037 was expended returning $97,963 to the fund balance. An adjustment is necessary to re-appropriate $97,963 from Inventory Purchase Fund (5110) fund balance to Services Professional and Other expense for the remaining expense for licensing and implementation of Oracle’s Supply Chain Module and bar coding hardware.

An adjustment is necessary to appropriate $23,000 from 2006 Wastewater Revenue Bond (4240) fund balance to the 2006 Wastewater Revenue Bond operating budget for unanticipated debt service interest expense. This transaction is for fiscal year 2010/11.

At the time the City Council of the City of Modesto adopted the Fiscal-Year 2011-12 Annual Operating Budget the Tenth Street Place (TSP) Joint Powers Agreement (JPA) board had not adopted their fiscal year 2011-12 budget. Therefore, the City used preliminary numbers to calculate the TSP JPA internal service fund allocation. The TSP JPA board has since adopted their fiscal-year 2011-12 budget. An adjustment is necessary to appropriate a total of $614 from various fund balances to ISF – JPA City Allocation to recognize the difference between the preliminary and adopted budget.

An adjustment is necessary to appropriate $18,810 from the Redevelopment Agency Debt Service reserves to the Redevelopment Agency Debt Service (2902) operating budget for unanticipated Property Tax Administration Fees. This transaction is for fiscal year 2010/11.

FIRE
On June 28, 2011, the City Council, by resolution no.2011-257 approved a Letter of Understanding to implement the 3% wage increase forfeiture by Modesto City Fire Fighters’ Association. An adjustment is necessary to reduce the General Fund (0100) FY 2011-12 operating budget by $460,898.

POLICE
An adjustment is necessary to increase a fiscal year 2010-11 transfer in the amount of $6,136 from the General Fund (0100) to the ARRA Cops Hiring Recovery Program Grant (1345) for additional salary and benefit expense. This transaction is for fiscal year 2010/11.

In prior years, asset forfeiture revenue was not budgeted until funds had been expended. General Fund (0100) would front the cost and would later be reimbursed by asset forfeiture funds. Beginning in FY2011-12 the revenue and expense will be budgeted in new cost centers to track the revenue and expense separately from other Police Department General Fund cost
centers. A budget adjustment is necessary to budget and appropriate the asset forfeiture funds in new cost centers as follows:

**Police Athletics League (PAL)**
- FY 2011-12 Asset Forfeiture Revenue: Increase $15,570
- FY 2011-12 Expenditure: Increase $15,570

**Junior Cadet Program**
- FY 2011-12 Asset Forfeiture Revenue: Increase $9,000
- FY 2011-12 Expenditure: Increase $9,000

**GREAT Camp Program**
- FY 2011-12 Asset Forfeiture Revenue: Increase $7,975
- FY 2011-12 Expenditure: Increase $7,975

**Modesto Police Department Asset Forfeiture Earmark Expenses**
- FY 2011-12 Asset Forfeiture Revenue: Increase $75,000
- FY 2011-12 Expenditure: Increase $75,000

**Stanislaus Drug Enforcement Agency (SDEA) Asset Forfeiture Earmark Expenses**
- FY 2011-12 Asset Forfeiture Revenue: Increase $646,916
- FY 2011-12 Expenditure: Increase $646,916

In 2007 the Beat Health Program, funded through liens on impacted homes, was established within the Modesto Police Department to secure abandoned properties from being inhabited. A budget adjustment is necessary to transfer the remaining fund balance of $5,661 in Fund 0190, and close the fund, to Tools, Shop and Field Supplies in the Field Operations Division of the Police Departments' budget within the General Fund (0100) for accounting purposes.

**SDEA**
An adjustment is necessary to recognize $148,323 in contribution revenue in the Stanislaus Drug Enforcement Agency Fund (6600) and appropriate the revenue for Intergovernmental Services expense.

An adjustment is necessary to recognize additional federal grant revenue awarded to the Stanislaus Drug Enforcement Agency (6600) in the amount of $20,000 and appropriate it to Overtime, Fuel, Oil & Lubricants and Insurance expenses outlined in the grant program document.

**PUBLIC WORKS**
An adjustment is necessary to appropriate from reserves $150,000 within the PCE Litigation Fund (4112) to reimburse Miller, Axline and Sawyer for professional services expense pertaining to the PCE Litigation-Mitigation Trust Accounts.

In 2004, the Legislature passed AB 2572, requiring all water suppliers to install water meters on all customer connections by January 1, 2025. In order to meet this deadline the Mayor and City Manager approved the addition on a new meter & flushing crew. The additional crew is scheduled to commence in January of 2012. An adjustment is necessary to appropriate $442,600 from Water Fund (4100) reserves to the System Maintenance Division within the Water Fund.

An adjustment is necessary to move Allocated Indirect Administration Costs expense in the amount of $287 from a revenue cost center within the Water Fund (4100) to an existing operating cost center.
An adjustment is necessary to reduce the primary Capital Improvement Project 100380, Annual Lift Station Rehabilitation in the amount of $225,500 and reappropriate these funds to an operating budget in the Sewer Fund (4210) to fund Lift Station Pump Replacements and Lift Stations and Dry Well Coating Rehabilitation at various sites.

**UTILITY PLANNING & PROJECTS**

On September 19, 2011, the Capital Improvement Project Task Force approved a new Capital Improvement Project titled Carpenter Road Bridge Waterline, Project #100658 in the Water CIP Fund (4180). An adjustment is necessary for Council approval of the new project and to appropriate funds from Water reserves in the amount of $270,607 to establish the project budget.

An adjustment is necessary to appropriate $50,000 from Water Fund (4100) fund balance for Professional Services and Services City Forces expense for the Urban Water Management Plan cost center. This cost center is related to Project 100484 which was closed during a capital improvement project review. However, due to the Oracle conversion, an encumbrance remained open in the project after the closure. When the encumbrance is released, the remaining project budget will go back into fund balance offsetting this adjustment.

An adjustment is necessary to appropriate $15,000 from the Sewer Operations Fund (4210) for Engineering/Design/Admin expense for Project 100521 – North Valley Regional Recycled Water Feasibility project. While the City of Modesto is fronting the initial costs, the cities of Turlock and Ceres will reimbursement Modesto for their portion of these costs as has been memorialized in an MOU and cost sharing agreement.

**The following budget adjustments relate to Exhibit 5 of the Fiscal Year 2011-12 Proposed Operating Budget Addendum:**

The adjustments shown below were part of the FY 11/12 budget packet adopted on June 7, 2011 (Exhibit 5 – Fiscal Year 2011-12 Proposed Operating Budget Addendum). However, the exhibit was inadvertently not listed in the budget adoption ordinance. Inclusion of these items on the Monthly Budget Adjustment Report will confirm the Finance Committee and City Council’s approval of these actions.

1. Amend the Capital Improvement Services operating budget in the Wastewater Fund to increase salary and benefits by $4,706 for out of class pay for a Senior Administrative Assistant, Confidential position. The out of class pay for this position has been approved by the Director of Human Resources pursuant to Article 17 of the MOU with MCMA and Personnel Administrative Order No. 7.5-84-8 until a classification study can be completed.

2. Amend the Capital Improvement Services operating budget in the Wastewater Fund to increase salary and benefits by $131,000 for a limited term Senior Civil Engineer position to provide project liaison on the Phase 2 Tertiary Treatment project. The City Council previously approved a budget action for the remainder of FY 2010/11 on
03/21/11 (Reso 2011-102) and funding for FY-2011/12 was discussed during the Finance Committee public workshops in May, 2011.

3. Amend the County Aircraft Revenue budget in the Airport Fund to decrease County Airport Capital Contribution revenue by $205,000 and decrease the service credit expense and capitalized maintenance expense in Airport Special Fund Operations in the same fund by $236,099. This adjustment is needed to reflect Stanislaus County’s intent to not contribute their portion of tax revenue to the Airport Fund for FY 2011/12.

4. Amend the County Aircraft Revenue budget in the Airport Fund to decrease Change in Fair Value of Investments by $4,796 which was budgeted in error.

5. Amend the Environmental Compliance Unit budget in the Wastewater Fund to decrease salary and benefits by $66,416 to eliminate a vacant Environmental Compliance Technician position. In identifying operational efficiencies and in light of the addition of a new supervisor position for the unit, Public Works is advocating the elimination of this position.

6. Amend the Construction Administration budget in the Capital Improvement Support Fund to increase salary and benefits by $13,000 to reallocate one Engineering Assistant position to an Assistant Land Surveyor position. This action would allow for technical and functional supervision of field work.

7. Amend the Direct Services Non-Housing budget in the CDBG Direct Program Fund to increase the CDBG Entitlement revenue budget by $60,227 and increase Direct Grant expense by the same amount.

8. Amend the Emergency Shelter Program budget in the Emergency Shelter Program Fund to increase Emergency Shelter Grant revenue by $39,454 and increase Direct Grant expense by $37,481.

9. Amend the HOME-Direct Services budget in the HOME Program Fund to decrease HOME Entitlement revenue by $137,470 and increase Direct Loan Interest revenue by $50,000 and decrease the expense budget for Direct Loans, CHDO Community Housing Development and CHDO Operating Expense by the corresponding $87,470.

10. Amend the CDBG Housing Rehabilitation budget in the CDBG Direct Program Fund to decrease the CDBG Entitlement revenue by $4,956 and increase the Property Enhancement expense budget by $2,000.

11. Amend the CDBG Rehab Revolving Load budget in RLF – Housing Loan Program Fund to increase the CDBG Entitlement revenue by $85,000 and increase the CDBG – EHRP and Direct Grant expense by $50,000.
12. Amend the CDBG Administration budget in the CDBG – Direct Program Fund to decrease the CDBG Entitlement revenue by $117,299.
RESOLUTION APPROVING A PURCHASE AGREEMENT WITH HSQ TECHNOLOGY OF HAYWARD, CALIFORNIA FOR FURNISHING MAINTENANCE/SUPPORT FOR THE SUPERVISORY CONTROL AND DATA ACQUISITION SYSTEM FOR A THREE (3) YEAR AGREEMENT, WITH TWO (2) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY; AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE THE PURCHASE AGREEMENT

WHEREAS, HSQ Technology supplied the City of Modesto SCADA System in 1993, and

WHEREAS, on July 1, 2008, the City Council, by Resolution No. 2008-399, approved an update to the SCADA System, and a large expansion occurred in 2010 with the addition of the Tertiary system at the Jennings Wastewater Treatment Plant, and

WHEREAS, the Wastewater and Water Divisions use the SCADA System to transmit and receive operational data from over 200 remotely located facilities such as wells, storage tanks, and lift stations, and

WHEREAS, the SCADA System provides for the remote control of equipment as well as real-time monitoring to ensure a rapid response to any abnormal system condition and the SCADA System stores data and shares it with other City systems to allow for historical report creation to satisfy regulatory requirements, and

WHEREAS, HSQ Technology is the manufacturer and sole distributor for the City of Modesto SCADA Telemetry System and as such, they are uniquely qualified to provide maintenance and 24 hour a day/7 days a week software and hardware support for the system, and

WHEREAS, HSQ has developed all of the custom software and has provided nearly all of the hardware that together comprises the SCADA System, and
WHEREAS, HSQ has been under contract through purchase orders for the past 13 years to provide SCADA System maintenance, and

WHEREAS, this purchase agreement locks in the cost for maintenance over five years as shown below:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Water 50%</th>
<th>Wastewater 50%</th>
<th>Total Cost of Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY12</td>
<td>$17,502</td>
<td>$17,502</td>
<td>$35,004</td>
</tr>
<tr>
<td>FY13</td>
<td>$17,502</td>
<td>$17,502</td>
<td>$35,004</td>
</tr>
<tr>
<td>FY14</td>
<td>$17,502</td>
<td>$17,502</td>
<td>$35,004</td>
</tr>
<tr>
<td>FY15</td>
<td>$18,222</td>
<td>$18,222</td>
<td>$36,444</td>
</tr>
<tr>
<td>FY16</td>
<td>$18,582</td>
<td>$18,582</td>
<td>$37,164</td>
</tr>
</tbody>
</table>

WHEREAS, the continuous operation of the SCADA System is critical to providing control and monitoring of the Wastewater and Water systems, and

WHEREAS, this HSQ purchase agreement will also allow staff to respond to SCADA System failures with minimal disruption of service,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a purchase agreement with HSQ Technology of Hayward, California for furnishing maintenance/support for the SCADA System for a three (3) year agreement, with two (2) one-year extension options, at the sole discretion of the City.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue the purchase agreement.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of November, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)
RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT, PARKING SERVICES DIVISION, TO PROVIDE FREE PARKING IN CITY-OWNED LOTS AND GARAGES DURING THE FOLLOWING HOLIDAYS: THANKSGIVING DAY (NOVEMBER 24 AND FRIDAY, NOVEMBER 25), CHRISTMAS DAY (DECEMBER 25), AND NEW YEAR'S DAY (JANUARY 1, 2012)

WHEREAS, for a number of years, the City Council has authorized free parking on specified Holidays to encourage shopping in the downtown area, and

WHEREAS, this effort has been well received and has resulted in improved shopping traffic during these important shopping days,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Parking Services Division provide free parking in City-owned lots and garages during the following holidays: Thanksgiving Day, November 24, 2011, Friday, November 25, 2011, Christmas Day, December 25, 2011, and New Year’s day, January 1, 2012.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of November, 2011 by Councilmember Lopez, who moved its adoption, which motion be duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney

WHEREAS, on October 14, 2008, the City Council, by Resolution No. 2008-582, certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, City of Modesto ("Applicant") has proposed annexation of the area bounded by Crows Landing Road on the west, Hatch Road on the south, Union Pacific Railroad on the east, and State Route 99 on the north ("Property") to the City of Modesto, and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto’s Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED 2009-14 ("Initial Study") which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report, and

WHEREAS, in accordance with CEQA guidelines beginning on October 19, 2011, the City caused to be published a 20-day notice of the City’s intent to make a finding that the subsequent project conforms with the Master EIR, and
WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on November 9, 2011, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed Shackelford Annexation, a copy of which is attached hereto as Exhibit A, and incorporated herein by reference, and based on substantial evidence in the Initial Study makes the following findings:

1. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.

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

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

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

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

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community and Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of November, 2011, by Councilmember Marsh, 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: Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(APPROVED AS TO FORM:)

By: SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2009-14
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2009-14

For the proposed:

Shackelford Annexation
(ANX-03-002)

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

August 26, 2011

Updated: October 2008
City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the Shackelford Annexation is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

This finding of conformance relies on the analysis contained in the Urban Area General Plan Master EIR (SCH #200707023), which anticipated the annexation of properties within the Sphere of Influence, including the proposed Shackelford Annexation area (ANX-03-002).

II. PROJECT DESCRIPTION

A. Title: Shackelford Annexation (ANX-03-002)

B. Address or Location: East of Crows Landing Road and west of the Union Pacific Railroad right of way, between State Route 99 and Hatch Road

C. Applicant: City of Modesto, 1010 10th Street, Modesto, CA 95354

D. City Contact Information

Project Manager: Cindy van Empel
Department: Community and Economic Development Department
Phone Number: 209.577.5267
E-mail address: cvanempel@modestogov.com

E. Current General Plan Designation(s): R, Residential (Urban Area General Plan)
F. **Current Zoning Classification(s):** As shown on the attached exhibit, properties generally located along Crows Landing Road are zoned by Stanislaus County for C-2 (general commercial) uses, while the remainder of the area is zoned for R-3 (Multiple Family Residential) uses, and three lots on Broadway Avenue are zoned for C-1 (Neighborhood Commercial) uses.

G. **Location:** The proposed annexation area is bounded by Crows Landing Road on the west, Hatch Road on the south, the Union Pacific Railroad right of way on the east, and State Route 99 on the north. The site is in the vicinity of the southern portion of Modesto and lies west of State Route 99 and south and east of the Tuolumne River.

H. **Surrounding Land Uses:**
   - North: State Route 99
   - South: residential and small-scale commercial
   - East: industrial
   - West: commercial and residential

I. **Project Description,** including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR:

   The proposed annexation area comprises approximately 153 acres and is developed as both residential and commercial land. There are structures on most of the existing parcels. The City further proposes to redesignate properties generally along the Crows Landing Road frontage from R, Residential, to C, Commercial. Most of the commercial development lies along Crows Landing Road, although there is a small amount of commercial development on Broadway Avenue at the intersection with Boulder Avenue on property zoned by Stanislaus County as R-3. There are also two properties zoned by Stanislaus County as C-1 on Broadway Avenue between Alamo Avenue and Boulder Avenue. The City proposes to prezone the area C-2, General Commercial, generally along the Crows Landing Road frontage, and R-1, Low-Density Residential on the remainder of the site.

   In order to effect the annexation, the entire area will be:

   - detached from Stanislaus County and attached to the City of Modesto;
   - attached to City of Modesto Sewer District No. 1;
   - the Landscape and Lighting District will be detached from Stanislaus County and attached to the City of Modesto; and,
   - a tax-share agreement will be established between the City of Modesto and County of Stanislaus

H. **Other Public Agencies Whose Approval is Required:**

   Stanislaus County Local Agency Formation Commission
III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

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

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

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

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

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

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

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

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

   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. ___ Focused EIR Required - On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

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

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

   C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Original signed copy on file with CEDD

Project Manager ___________________________ Title ___________________________ Date ___________________________

City of Modesto
General Plan Master EIR

Initial Study EA No. 2009-14
August 26, 2011
4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any “No” response must be discussed.

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

Discussion:

(1) If annexation is approved, all development applications or other land use approvals will fall under the jurisdiction of the City of Modesto.

(2) Residential development as anticipated in the proposed Housing Element is consistent with residential development anticipated elsewhere in the Urban Area General Plan. Therefore, policies/mitigation measures contained in the Urban Area General Plan and its Master EIR would mitigate impacts resulting from the updated Housing Element to the levels disclosed in the Master EIR.

(3) No changes in federal, state, regional, or county regulations are proposed as part of this project.

(4) The Modesto Urban Area General Plan Master EIR does not identify any significant natural resources in the project area.

(5) The Shackelford area is identified in the Urban Area General Plan as lying wholly within the Sphere of Influence.

(6) The Shackelford annexation area was developed primarily during the 1940s and 1950s, although some properties were developed in the decades since then. A small number of lots are vacant today. Following annexation, all new development will be required to comply with the policies contained in the Urban Area General Plan and with City standards.
5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "no" response must be explained.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.</td>
<td>X</td>
</tr>
<tr>
<td>This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:</td>
<td>X</td>
</tr>
<tr>
<td>(a) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.</td>
<td>X</td>
</tr>
<tr>
<td>(b) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.</td>
<td>X</td>
</tr>
<tr>
<td>(c) Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.</td>
<td>X</td>
</tr>
</tbody>
</table>

Discussion:

(1) The Master EIR was certified in October 2008.

(2) The Urban Area General Plan states the City’s intent to annex this area by its inclusion in the Modesto Sphere of Influence; the annexation of the site is, therefore, anticipated in the Master EIR. Furthermore, the site is almost fully developed and additional development will have only minor impacts relative to the site as a whole that have been anticipated in the Master EIR.

(a) The physical and regulatory environments creating the circumstances under which the Master EIR for the Urban Area General Plan was certified has not changed appreciably.

(b) No new information that would affect the adequacy of the Master EIR has become available.

(c) All of the policies in the Urban Area General Plan and mitigations in the Master EIR affecting new residential construction remain in effect at this time.

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is “within the scope” of the Master EIR.
Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City's obligation in that situation.

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

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

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

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

   **Direct Impacts**

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

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

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

   **Cumulative Impacts**

   **Effect:** Potential for growth inducement or acceleration of development resulting from highway and local road projects.

   **Effect:** Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

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

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

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

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

   **Discussion:**

   No traffic mitigation measures will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.
c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>TRAFFIC AND CIRCULATION</th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.</td>
<td>X</td>
<td>☐</td>
</tr>
<tr>
<td>(2) The proposed project would substantially increase hazards due to a design feature, such as sharp curves, or the development of incompatible uses in close proximity to one another.</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>(3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>(4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>(5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>(6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>(7) The proposed project would result in an increase in energy consumption associated with the operation on highway project, rail improvements, and aviation facilities (on a per capita basis) in excess of that considered in the Urban Area General Plan.</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:

(1-7) Staff has reviewed the annexation and determined that the project is within the scope of the Master EIR and no further traffic study is required. There are approximately 19 vacant properties zoned for residential development in the annexation area that could be developed. However, development of these sites would be allowed without annexation and would be consistent with both the general plan designation and the proposed zoning and therefore is
consistent with the type and scale of development expected to occur. All of the existing roads will continue to exist and be maintained in approximately their current condition. The 153-acre annexation area is almost fully developed; any new development that occurs following annexation will be required to comply with City codes and standards, therefore, no impacts on traffic different from those disclosed in the General Plan Master EIR are expected to occur.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

Cumulative Impacts

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

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

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

Discussion:

No air quality mitigation measures will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not analyzed in the Master EIR.
Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

### DEGRADATION OF AIR QUALITY

<table>
<thead>
<tr>
<th></th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>X</td>
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<td>3</td>
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<td>□</td>
</tr>
<tr>
<td>4</td>
<td>X</td>
<td>□</td>
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<tr>
<td>5</td>
<td>X</td>
<td>□</td>
</tr>
</tbody>
</table>

**Discussion:**

(1-6) Annexation of the Shackelford area to the City of Modesto is expected to result in no impact greater than that disclosed in the Urban Area General Plan Master EIR because development on the site and future incremental development that may occur would be consistent with the type and level of development in the Urban Area General Plan. All future development that occurs after annexation will be required to comply with existing City codes and standards and with air quality policies. Future residential development would not be expected to create unusual odors.

### GENERATION OF NOISE

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

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

**Direct Impacts**

**Effect:** Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City's noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).
Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

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

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

No noise mitigation measures will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

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

<table>
<thead>
<tr>
<th>GENERATION OF NOISE</th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.</td>
<td>X</td>
<td>□</td>
</tr>
<tr>
<td>(2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.</td>
<td>X</td>
<td>□</td>
</tr>
<tr>
<td>(3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.</td>
<td>X</td>
<td>□</td>
</tr>
<tr>
<td>(4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR.</td>
<td>X</td>
<td>□</td>
</tr>
</tbody>
</table>
Discussion:

(1-4) The proposed annexation is a developed area outside of Modesto’s current city limits, but included in the City’s Sphere of Influence, and is therefore included in the Urban Area General Plan Master EIR analysis. Because the site is almost fully developed and is located in an existing developed area, no mitigation will be applied to the existing development. Future development following annexation will be required to comply with City policies and standards.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

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

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

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

Discussion:

No agricultural mitigation measures will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.
Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>SIGNIFICANT EFFECTS IDENTIFIED IN THE MASTER EIR</th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The proposed project is inconsistent with the Urban Area General Plan’s policies relating to agricultural land.</td>
<td>X</td>
<td>No</td>
</tr>
<tr>
<td>(2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan’s planning area boundary.</td>
<td>X</td>
<td>No</td>
</tr>
<tr>
<td>(3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.</td>
<td>X</td>
<td>No</td>
</tr>
<tr>
<td>(4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.</td>
<td>X</td>
<td>No</td>
</tr>
</tbody>
</table>

Discussion:

(1-4) The Shackelford annexation area began developing in the 1940s. The majority of the site was developed by the late 1950s, although small amounts of development continued to occur until about the 1980s, by which time, the site was considered to be urban and no longer of significant agricultural value. No impacts on agricultural resources are expected to occur as a result of annexation.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

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

**Direct Impacts**

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

**Cumulative Impacts**

**Effect:** Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users’ withdrawals, may result in overdrafting both subbasins.
Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

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

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No water mitigation measures will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES</th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.</td>
<td>X</td>
<td>[ ]</td>
</tr>
<tr>
<td>(2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.</td>
<td>X</td>
<td>[ ]</td>
</tr>
<tr>
<td>(3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.</td>
<td>X</td>
<td>[ ]</td>
</tr>
</tbody>
</table>

Discussion:

(1-3) The Shackelford area is served by the Del Este water system, which is owned and operated by the City of Modesto and governed by the policies of the City of Modesto. No changes to this arrangement will occur following annexation. Water meters have been installed in the Shackelford area and are required for all new development, resulting in lower water use.
6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

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

**Direct Impacts**

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

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

**Cumulative Impacts**

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

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

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

Discussion:

No sewer mitigation measures will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
INCREASED DEMAND FOR SANITARY SEWER SERVICES

<table>
<thead>
<tr>
<th></th>
<th>Additional Mitigation with Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>No</td>
</tr>
<tr>
<td>2</td>
<td>X</td>
</tr>
<tr>
<td>3</td>
<td>X</td>
</tr>
</tbody>
</table>

(1) The proposed project is inconsistent with the policies in the Modesto Urban Area General Plan.

(2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.

(3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.

Discussion:

(1-3) Eight-inch sewer collection lines and a small number of 10-inch collection lines have been installed in the Shackelford area in anticipation of annexation to the City of Modesto. Although extension of new sewer service to the annexation area has occurred, the annexation of the Shackelford area has been anticipated since 2003, when a vote was held to ask the public if it would support the extension of sewer service ("Measure M") to the area with the intention of annexing it to the City of Modesto. The proposed annexation was included in the Urban Area General Plan Master EIR and is consistent with general plan policies and expected sewer flows. The City has already determined that it can serve the area and is currently providing service to more than 320 properties.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.
Discussion:
No mitigation measures for sensitive wildlife and plant habitat will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT</th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.</td>
<td>X</td>
<td>□</td>
</tr>
<tr>
<td>(2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.</td>
<td>X</td>
<td>□</td>
</tr>
<tr>
<td>(3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.</td>
<td>X</td>
<td>□</td>
</tr>
<tr>
<td>(4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.</td>
<td>X</td>
<td>□</td>
</tr>
<tr>
<td>(5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
<td>X</td>
<td>□</td>
</tr>
<tr>
<td>(6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.</td>
<td>X</td>
<td>□</td>
</tr>
</tbody>
</table>

Discussion:

(1-6) The project site lies in an area that has been urbanized for decades. There is no expectation of impacts to sensitive wildlife or plants or to habitats at this location. Furthermore, annexing the property to the City of Modesto is an administrative function that is not expected to result in changes to the development pattern or density of development.
8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

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

**Direct Impacts**

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

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

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

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

**Cumulative Impacts**

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

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

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

**Discussion:**

No archaeological or historical mitigation measures will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
**DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES**

<table>
<thead>
<tr>
<th></th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</th>
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<td>☐</td>
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<tr>
<td>5</td>
<td>X</td>
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</tbody>
</table>

**Discussion:**

(1-5) The project site is not in a riparian zone and lies in an area that has been urbanized for decades. There is no expectation of impacts to historic or other cultural resources. Many buildings in the Shackelford area are older than 50 years, but it is not anticipated that annexation will induce the modification or demolition of any structures.

**9. INCREASED DEMAND FOR STORM DRAINAGE**

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

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

**Direct Impacts**

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

**Cumulative Impacts**

**Effect:** The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel.
Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

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

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No storm water drainage mitigation measures will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

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

Discussion:

(1-3) The annexation area is an existing developed area that contains a storm water drainage system and basin, and it appears that the system adequately handles storm water for the existing developed annexation area. No substantial changes to the existing system are planned.
10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No archaeological or historical mitigation measures will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>FLOODING AND WATER QUALITY</th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.</td>
<td>X</td>
<td>☐</td>
</tr>
<tr>
<td>(2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.</td>
<td>X</td>
<td>☐</td>
</tr>
<tr>
<td>(3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.</td>
<td>X</td>
<td>☐</td>
</tr>
</tbody>
</table>
The proposed project would place structures within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.

The proposed project does not comply with Modesto’s Guidance Manual for New Development Storm Water Quality Control Measures.

The proposed project would violate water quality standards or waste discharge requirements.

The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.

The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.

Discussion:

The proposed annexation is a boundary change for purposes of administering public services. No changes to floodplain boundaries or the pattern of development would occur and the existing and incremental future development of the annexation area is consistent with the Urban Area General Plan and the Master EIR. No portion of the annexation area lies within the 100-year floodplain boundary. Furthermore, prior to the “Measure M” vote in November 2003, every lot in the annexation area used a private septic system for waste disposal, which appears to have caused some groundwater contamination because septic systems are inadequate to treat the large amount of sewage created by number of people living in a relatively small area. Under current standards, the use of septic systems is constrained by lot size; in this area, the minimum lot size for a septic system is approximately one acre. As sewage treatment converts from septic to sanitary sewers, groundwater contamination is expected to be reduced. See also discussion of impacts on the storm drainage system above.

11.  INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

Discussion:

No mitigation measures relating to parks and open space will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>INCREASED DEMAND FOR PARKS AND OPEN SPACE</th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.</td>
<td>No X</td>
<td>☐</td>
</tr>
<tr>
<td>(2) The proposed project would eliminate parks or open space.</td>
<td>X</td>
<td>☐</td>
</tr>
<tr>
<td>(3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.</td>
<td>X</td>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:

(1-3) The annexation area lies within Park Planning Area 39, an area that does not have a public park. In accordance with measure POS-6 in the Urban Area General Plan Master EIR, this area is considered to be adequately served in its existing condition. The annexation area has access to Tuolumne River Regional Park to the north and west. Annexing the Shackelford area would not result in the elimination of parks or open space and would not increase the use of existing parks, since all parks in the City of Modesto are available to be used by the public, both those who reside within city limits and those who do not.
12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

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

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

No special mitigation measures relating to schools will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

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

**Discussion:**

(1-2) The annexation would have no effect on schools policies. All new development must pay school impact fees prior to issuance of a building permit; no impacts on schools are expected to result from annexation.

13. INCREASED DEMAND FOR POLICE SERVICES

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

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

**Direct Impacts**

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

**Cumulative Impacts**

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

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

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

**Discussion:**

No mitigation measures relating to police protection services will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.
Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>INCREASED DEMAND FOR POLICE SERVICES</th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>(2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

Discussion:

(1-2) Annexation of the Shackelford area to the City of Modesto is consistent with general plan police protection policies and is expected as part of general plan implementation. No substantial additional police facilities would be required to serve the annexation area. The number of calls for service received by the Modesto Police Department would likely increase slightly as a result of annexation and the Modesto Police Department has indicated that they could respond to those calls using their existing resources.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

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

**Direct Impacts**

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

**Cumulative Impacts**

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

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

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.
Discussion: No mitigation measures relating to fire protection services will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>INCREASED DEMAND FOR FIRE SERVICES</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.</td>
</tr>
<tr>
<td>(2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.</td>
</tr>
<tr>
<td>(3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services.</td>
</tr>
</tbody>
</table>

Discussion:

(1) The proposed annexation makes no substantial changes in the development pattern or number of potential dwelling units served by the Modesto Regional Fire Authority and is consistent with the assumptions in the Urban Area General Plan. As such, it is consistent with fire protection policies in the Urban Area General Plan and Master EIR.

(2), (3) Because the proposed project makes no changes to the development pattern assumed in the Urban Area General Plan, and because the Modesto Regional Fire Authority already provides fire protection services to the Shackelford area, there will be no increase in the demand for fire protection facilities and no impact on response times or other performance standards.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:
Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures relating to solid waste will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-15.8 of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>GENERATION OF SOLID WASTE</th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.</td>
<td>X</td>
<td>□</td>
</tr>
<tr>
<td>(2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County’s disposal capacity.</td>
<td>X</td>
<td>□</td>
</tr>
</tbody>
</table>

Discussion:

(1-2) The Shackelford area is almost fully developed and has been for many years. No new impacts on solid waste disposal capacity are expected to occur following annexation. The area will receive service from Bertolotti consistent with the residential service provided by that firm elsewhere within the City of Modesto.
16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

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

**Direct Impacts**

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

**Cumulative Impacts**

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

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

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

**Discussion:**

No mitigation measures relating to hazardous materials will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>GENERATION OF HAZARDOUS MATERIALS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Additional Mitigation needed</strong></td>
</tr>
<tr>
<td>No X</td>
</tr>
</tbody>
</table>

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

2. The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

3. The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.
The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.

Discussion:

Annexing the subject properties to the City of Modesto creates no conflicts with the City's hazardous materials policies. The use, storage, and emission of hazardous materials on these existing developed sites are not expected to change following annexation, as compared to pre-annexation conditions and are expected to be completely consistent with the use, storage, and emission of hazardous materials that occurs on residential and commercial properties in the area. The State of California's contaminated sites list does not include any sites within the annexation area.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures relating to geology, soils, or mineral resources will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.
Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>GEOLOGY, SOILS, AND MINERAL RESOURCES</th>
<th>Additional Mitigation</th>
<th>Significant Impact with Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) The proposed project would expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Discussion:

(1-2) This is a developed area. Annexation of the Shackelford area to the City of Modesto will not result in development patterns or densities different than those anticipated in the Urban Area General Plan or those disclosed and analyzed in the General Plan Master EIR. Any resources lying below or hazards that would affect the site are not new and would not be created or exacerbated by annexation to the City of Modesto.

18. ENERGY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:
No mitigation measures relating to energy use will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>ENERGY</th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.</td>
<td>X</td>
<td>□</td>
</tr>
<tr>
<td>(2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.</td>
<td>X</td>
<td>□</td>
</tr>
</tbody>
</table>

Discussion:
(1-2) Annexation of the Shackelford area to the City of Modesto will not result in development patterns or densities different than those anticipated in the Urban Area General Plan or those disclosed and analyzed in the General Plan Master EIR. Annexation would not result in changes to travel patterns or household energy use.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

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

Discussion:
No mitigation measures relating to visual resources will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>EFFECTS ON VISUAL RESOURCES</th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.</td>
<td>No X</td>
<td>□</td>
</tr>
</tbody>
</table>

X □ □

Discussion:
(1-3) Annexation of the Shackelford area to the City of Modesto will not result in development patterns or densities different than those anticipated in the Urban Area General Plan or those disclosed and analyzed in the General Plan Master EIR. While the area is not developed to its existing zoned capacity, the site is not close enough to the Tuolumne River to affect views of or from the river, even if the site were developed to its maximum entitlement.
20. **LAND USE AND PLANNING**

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

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

**Direct Impacts**

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

**Cumulative Impacts**

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

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

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

**Discussion:**

No mitigation measures relating to land use will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. **Project-Specific Effects**

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

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

<table>
<thead>
<tr>
<th>LAND USE AND PLANNING</th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.</td>
<td>X</td>
<td>☐</td>
</tr>
<tr>
<td>(2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.</td>
<td>X</td>
<td>☐</td>
</tr>
<tr>
<td>(3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.</td>
<td>X</td>
<td>☐</td>
</tr>
</tbody>
</table>
(4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.

Discussion:

(1-4) Annexation of the Shackelford area to the City of Modesto is consistent with land use and Sphere of Influence policies in the Urban Area General Plan. The area currently has a Residential (R) land use designation over the entire site; the City intends to amend the land use designation for properties generally along the Crows Landing Road frontage from Residential (R) to Commercial (C) to be consistent with the existing development. The area would be annexed in its current condition and there are no proposals for development that would divide or create barriers within the annexation area. There are neither habitat areas nor natural community conservation plans in the area.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures relating to climate change will be applied to the proposed annexation. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.
Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

### CLIMATE CHANGE

<table>
<thead>
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</tr>
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<tr>
<td>3</td>
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</tbody>
</table>

**Discussion:**

(1-3) The Stanislaus Council of Governments has not yet developed a Sustainable Communities Strategy, and because the Shackelford area is a significantly developed area, annexation would not result in substantial new development. Furthermore, the area is consistent with land use policies in the Urban Area General Plan, which have been evaluated with respect to greenhouse gas emissions. Neither local nor regional travel patterns would change as a result of the proposed annexation. Because no substantial new development would occur as a result of the annexation and because new development would be consistent with the pattern and density of development disclosed in the Urban Area General Plan, the General Plan’s climate change policies are not applicable to this project.
V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

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

A. Master EIR Mitigation Measures Applied to the Project

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

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

B. New or Additional Mitigation Measures or Alternatives Required

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

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

Traffic and Circulation:
None

Degradation of Air Quality:
None

Generation of Noise:
None

Effects on Agricultural Lands:
None

Increased Demand for Long-Term Water Supplies:
None

Increased Demand for Sanitary Sewer Services:
None
Loss of Sensitive Wildlife and Plant Habitat:
None

Disturbance of Archaeological/Historic Sites:
None

Increased Demand for Storm Drainage:
None

Flooding and Water Quality:
None

Increased Demand for Parks and Open Space:
None

Increased Demand for Schools:
None

Increased Demand for Police Services:
None

Increased Demand for Fire Services:
None

Generation of Solid Waste:
None

Generation of Hazardous Materials:
None

Geology, Soils, and Mineral Resources:
None

Energy:
None

Effects on Visual Resources:
None

Land Use and Planning:
None

Climate Change:
None
RESOLUTION AMENDING A PORTION OF THE MODESTO URBAN AREA GENERAL PLAN BOUNDED BY CROWS LANDING ROAD ON THE WEST, HATCH ROAD ON THE SOUTH, UNION PACIFIC RAILROAD ON THE EAST, AND STATE ROUTE 99 ON THE NORTH FROM RESIDENTIAL (R) TO COMMERCIAL (C) (CITY OF MODESTO)

WHEREAS, on October 14, 2008, the City Council, by Resolution No. 2008-582, certified the Final Master Environmental Impact Report (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, a new General Plan for the City of Modesto entitled “City of Modesto Urban Area General Plan,” as recommended by the Modesto City Planning Commission, was approved by the City Council by Resolution No. 95-409 on August 15, 1995, and


WHEREAS, Government Code Section 65358 permits the amendment of General Plans by the legislative body, and

WHEREAS, the City of Modesto Community and Economic Development Department (“Applicant”) has applied for an amendment to the General Plan to redesignate a portion of the Urban Area General Plan bounded by Crows Landing Road on the west, Hatch Road on the south, Union Pacific Railroad on the east, and State
Route 99 on the north, from Residential (R) to Commercial (C) as shown on Exhibit A, attached hereto and incorporated herein by reference, and

WHEREAS, the Community and Economic Development Department has analyzed the proposed amendment and concluded it is consistent with the Urban Area General Plan, and

WHEREAS, a Final Master Environmental Impact Report (MEIR) (SCH No. 2007072023) was prepared for the Urban Area General Plan Update which analyzed the potential environmental effects of the proposed Project, and

WHEREAS, on September 19, 2011, the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, relating to this proposed amendment to the Modesto Urban Area General Plan, and

WHEREAS, after said public hearing, the Planning Commission adopted Resolution No. 2011-18, recommending to the City Council an amendment to the Modesto Urban Area General Plan, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on November 9, 2011, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed amendment to the Modesto Urban Area General Plan and adoption of a Finding of Conformance (EA C&ED No. 2009-14) with the MEIR,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that the proposed amendment to the Modesto Urban General Plan as described in Exhibit A, attached hereto and incorporated herein by reference, is required for the public health, safety, and welfare of the citizens of Modesto.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the proposed amendment to the Modesto Urban Area General Plan is consistent with the Final Master Environmental Impact Report for the Urban Area General Plan (SCH No. 2007072023) and has been adequately analyzed by the Master Environmental Impact Report.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the proposed amendment to the Urban Area General Plan as described in Exhibit A, attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community and Economic Development Department Director is hereby authorized and directed to forward certified copies of this resolution and said amendment to the Urban Area General Plan to the Board of Supervisors, and file a Notice of Determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of November, 2011, by Councilmember Marsh, 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: Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: (Seal)

STEVANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
Shackelford Infill Area
Proposed General Plan Amendment
to Add Commercial (C)
RESOLUTION APPROVING THE FILING OF AN APPLICATION WITH THE
STANISLAUS LOCAL AGENCY FORMATION COMMISSION TO ANNEX
APPROXIMATELY 153 ACRES OF PROPERTY BOUNDED BY CROWS
LANDING ROAD ON THE WEST, HATCH ROAD ON THE SOUTH, UNION
PACIFIC RAILROAD ON THE EAST, AND STATE ROUTE 99 ON THE NORTH
(COUNCIL DISTRICT 2); TO ATTACH IT TO MODESTO SEWER DISTRICT
NO. 1; AND TO APPROVE A CITY-COUNTY TAX-SHARING AGREEMENT
(CITY OF MODESTO – INHABITED)

WHEREAS, the City of Modesto ("Applicant") has initiated annexation of
property bounded by Crows Landing Road on the west, Hatch Road on the south, Union
Pacific Railroad on the east, and State Route 99 on the north ("Property"), to the City of
Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000,
California Government Code Section 56000, et seq, and

WHEREAS, the Resolution of Application is proposed pursuant to California
Government Code Sections 56654 and 56700, and

WHEREAS, the Property proposed for reorganization is inhabited, and a
description of the boundaries of the subject Property is set forth in Exhibits A and B,
attracted hereto and by this reference incorporated herein, and

WHEREAS, the Property to be annexed is within Stanislaus County, contiguous
to the existing City limits and within the current Sphere of Influence of the City of
Modesto, as adopted by Stanislaus Local Agency Formation Commission, Resolution No.
97-11, on December 19, 1994, and

WHEREAS, the Property is not subject to a Williamson Act contract, and

WHEREAS, a Measure M advisory vote was held in November 2003 and received
an affirmative outcome, and
WHEREAS, pursuant to Government Code Section 56653, a plan for providing services is set forth in Exhibit C, attached hereto and by this reference incorporated herein, and

WHEREAS, Section 99 of the Revenue and Taxation Code requires the City of Modesto and County of Stanislaus to agree upon an exchange of property taxes that will be derived from the annexed area, and

WHEREAS, an Initial Study Environmental Checklist (Environmental Assessment No. EA/C&ED 2009-14) has been prepared by the City of Modesto that analyzed whether the proposed project may cause any significant effect on the environment that was not examined in the General Plan Master Environmental Impact Report and indicated the degree of impact on public services resulting from annexation, which information will be used to prepare a plan for providing services pursuant to Government Code Section 56653, and

WHEREAS, on September 19, 2011, City of Modesto Planning Commission held a duly noticed public hearing in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which time both oral and documentary evidence were received and considered, and

WHEREAS, after said public hearing, the City of Modesto Planning Commission adopted Resolution No. 2011-19, recommending to the City Council that they adopt the Resolution of Application for an annexation of the Property to the City of Modesto, attach the Property to Modesto Sewer District No. 1, and approve the City-County Tax-Share Agreement, and
WHEREAS, said matter was set for public hearing of the City Council to be held on November 9, 2011, in the Tenth Street Place Chambers, located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed reorganization,

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

The Property proposed to be annexed to the City of Modesto is inhabited, and a description of the boundaries of the Property is set forth in Exhibits A and B, attached hereto and incorporated by reference herein.

The Property is located within Stanislaus County, within the City's adopted Sphere of Influence, is contiguous to the existing City limits and can be most efficiently served with City services.

The proposed annexation will result in planned, orderly, and efficient development, and the most efficient provision of services.

The Property is not subject to a Williamson Act Contract pursuant to Government Code Section 51200, et seq.

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that it approves a Resolution of Application to detach the Property from Stanislaus County and attach the Property to the City of Modesto, and to attach it to City of Modesto Sewer District No. 1.
BE IT FURTHER RESOLVED by the City Council of the City of Modesto that, pursuant to Government Code Section 56653, the City Council shall submit a plan for providing services as set forth in Exhibit C, attached hereto and by this reference incorporated herein.

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that it approves the tax-sharing agreement set forth as Exhibit D, attached hereto and by this reference incorporated herein.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of November, 2011, by Councilmember Marsh, 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: Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(STEPHANIE LOPEZ, City Clerk)

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ACALA WOOD, City Attorney
EXHIBIT A

A portion of Section 4 and 5, Township 4 South, Range 9 East, Mount Diablo Meridian, located in the County of Stanislaus, State of California, and more particularly described as follows:

BEGINNING at the southeast corner of said Section 5; thence along the southerly line of said Section 5, North 88°35'45" West 100.00 feet; thence North 00°07'50" West 86.49 feet to the northerly right-of-way line of Hatch Road; thence along said northerly right-of-way line, North 89°52'10" East 23.07 feet to the beginning of curve being on the general westerly right-of-way line of Crows Landing Road; thence along said general westerly right-of-way line the following 13 courses: northeasterly along said curve concave to the northwest, having a radius of 25.00 feet, through a central angle of 89°27'00", and an arc distance of 39.03 feet; thence North 00°25'10" East 272.29 feet to the beginning of a curve; thence northerly along said curve concave to the west, having a radius of 1989.87 feet, through a central angle of 05°17'03", and an arc distance of 183.52 feet to the point of reverse curvature; thence northerly along said reverse curve concave to the east, having a radius of 2009.87 feet, through a central angle of 2°23'58", and an arc distance of 84.17 feet to the point of reverse curvature; thence northwesterly along said reverse curve concave to the southwest, having a radius of 15.00 feet, through a central angle of 88°02'25", and an arc distance of 23.05 feet to the southerly right-of-way line of Crater Avenue; thence North 01°34'09" West 60.01 feet to a point on the northerly right-of-way line Crater Avenue; thence along a curve concave to the northwest, having a radial line through the beginning of curve which bears South 00°30'20" East, a radius of 15.00 feet, through a central angle of 89°04'30", and an arc distance of 23.32 feet; thence North 00°25'10" East 390.63 feet to the beginning of a curve; thence northwesterly along said curve concave to the southwest, a radius of 15.00 feet, through a central angle of 89°41'00", and an arc distance of 23.48 feet; thence North 00°44'10" East 8.00 feet; thence North 00°08'48" East 47.00 feet to the beginning of a curve; thence northeasterly along said curve concave to the northwest, having a radial line through said beginning of curve which bears South 00°44'10" West, having a
radius of 15.00 feet, through a central angle of 90°19'00" an arc distance of 23.64 feet, thence North 00°25'10" East 430.69 feet to the general southerly line of the Crows Landing Industrial Addition Annexation recorded August 5, 1952 in Volume 110 of Official Record at Page 427, Stanislaus County; thence along the general southerly and easterly line of said Annex the following two courses: 1) South 89°34'50" East 70.00 feet to the easterly line of Section 5; 2) thence along said easterly line, North 00°25'10" East 1193.07 feet to the general southerly right-of-way line of U.S. State Route 99; thence along said generally southerly right-of-way line, easterly 2100 feet to the westerly right-of-way line of South 7th Street; thence along said westerly right-of-way line of south 7th Street, South 41°56'15" East 171.23 feet to the easterly right-of-way line of the Union Pacific Railroad; thence westerly and perpendicular to easterly right-of-way line of the Union Pacific Railroad, South 76°29'20" West 50.00 feet to the westerly right-of-way line of the Union Pacific Railroad; thence southerly along said westerly right-of-way line of the Union Pacific Railroad 2490 feet to the southerly right-of-way line of Hatch Road as shown on the map filed as South Modesto Acres – Tract No. 2 on January 9, 1940 in Volume 11 of Maps at Page 69, Stanislaus County Records; said southerly right-of-way line of Hatch Road being the southerly section line of said section 4; thence along said southerly right-of-way line of Hatch Road, North 89°44'55" West 2611.28 feet to the POINT OF BEGINNING.

EXCEPTING therefrom that portion of the Shackleford School Annexation as approved by City Council by Resolution No. 79-369 and recorded in Instrument No. 70629, Official Records of Stanislaus County.
Shackelford Infill Area
EXHIBIT C

SHACKELFORD REORGANIZATION
PLAN FOR SERVICES

Background

The services plan for the proposed annexation of approximately 153 developed acres south of the Tuolumne River from downtown Modesto evaluates the urban services currently provided to the area and services that Modesto would need to extend to the area following annexation.

The Shackelford area was included in the Stanislaus County Redevelopment Agency’s (Agency) 2000 – 2004 Implementation Plan for Programs and Projects (Plan) as an area to which the Agency planned to extend sewer service. As indicated in the Plan, the area was under a building moratorium due to failing septic systems; the extension of sewer service to this area with the consent of the City of Modesto and the Local Agency Formation Commission was done in order to lift the moratorium and allow affordable housing in this area to be improved and protected.

The project site is part of the Baseline Developed Area, as described in the Modesto Urban Area General Plan, adopted August 15, 1995, as amended (updated most recently October 14, 2008). The Shackelford area was included in Modesto’s 2003 Urban Growth Policy Review Update (2003 UGPR). The 2003 UGPR indicated that Stanislaus County had already begun building sewer lines, curb, gutter, sidewalk, and street paving and that the County intended to build the infrastructure to Modesto’s standards, with the exception of the street paving and the storm water drainage basin. Staff recommended in the 2003 UGPR that the City Council schedule the Shackelford area for a “Measure M” vote if negotiations regarding infrastructure and other fiscal issues were complete prior to completion of the ballot measure. In order to facilitate annexation, the City Council used its discretion to submit a “Measure M” vote for the Shackelford area after an infrastructure agreement was reached with Stanislaus County on July 1, 2003, but before a tax sharing agreement was reached.

Pursuant to Government Code Section 56653, this Plan for Services to be extended to the affected territory has been prepared for the Shackelford Neighborhood Reorganization.

A. As part of the annexation project process, community facilities and services were analyzed in detail in Initial Study / Environmental Assessment C&ED No. 2009-14, included with the annexation application. These services include traffic and circulation, waste water collection, water delivery, storm water drainage, solid waste disposal, schools, parks, fire protection, and police protection. Modesto is a full service city that will provide the following services to the territory upon annexation to the city.
1. **Traffic and Circulation:** The roadway network in the vicinity of the annexation area is already constructed. Stanislaus County has already added curb, gutter, and sidewalk to those streets that lacked such infrastructure, in accordance with the infrastructure agreement between the City and County, dated July 1, 2003, and included with this Plan for Services. The sole exception to this is along the eastern portion of Pecos Avenue on the north side of the street, where there is inadequate space to construct a sidewalk unless one or two houses are demolished. For this reason, and because there is a continuous sidewalk on the south side of Pecos Avenue, the City and County have agreed that no additional sidewalk improvements will be constructed on the north side of the street at this time.

2. **Wastewater Collection:** Eight- and ten-inch sewer collection lines were installed in the Shackelford area pursuant to the infrastructure agreement between Stanislaus County and the City of Modesto, dated July 1, 2003, in anticipation of the November 2003 “Measure M” vote to extend sewer service and annexation to the City of Modesto. Sewer service is now available to every property in the annexation area. Due to safety concerns about unpermitted connections to the system, the territory is already served by Modesto’s Sewer District No. 1, although the area has not been formally reorganized.

The sewer lines have capacity to serve approximately 650 dwellings, 25 percent more than exist today (pers. Comm. Jim Alves, City of Modesto Associate Civil Engineer, April 6, 2011) and about the total number of dwellings that would be expected over the life of the sewer lines. Additional commercial development could be accommodated, as well, since peak sewer flows from commercial and residential development occur during different times of day.

The Shackelford area will be formally included in Sewer District No. 1 when the reorganization is approved by the Local Agency Formation Commission. Extension of service has been funded by Stanislaus County, free of charge to the residents of the annexation area. Sewer connections for every occupied property will be required within five years of annexation, in accordance with City policy.

As of October 2011, 323 of the 496 properties have completed service agreements and have received permits and the paperwork for 14 additional service agreements has been initiated. Agreements have not been initiated for the remaining properties in the annexation area.

3. **Water Delivery:** Water delivery in the Shackelford neighborhood has been provided for many years from the Del Este system, which is owned and operated by the City of Modesto. The Shackelford area is served by four- and six-inch water transmission lines, which are adequate to serve the existing development and can also provide service to additional development. There will be no change or interruption in water service upon reorganization.
The City maintains its water system on an ongoing basis, decommissioning wells as needed and replacing that water with new well water or with surface water, adding tanks and pumps, and so on. Because the City operates the Del Este system, which serves the Shackelford area, system maintenance occurs now, and would continue after annexation. The City of Modesto 2010 Water System Engineer’s Report did not identify any needed improvements in the Shackelford area.

4. Storm Water Drainage: Storm water drainage for this project will be contained in a basin located on the south side of Pecos Avenue. This basin does not meet all City standards, as it has been improved as a retrofit. In accordance with the July 1, 2003, infrastructure agreement between the City of Modesto and Stanislaus County, the City is responsible for ongoing operation and maintenance of the basin and for correcting any deficiencies.

5. Solid Waste Disposal: Weekly waste collection service by Bertolotti will be extended to the annexation area upon the effective date of annexation. Because this service, like the existing service, is provided through fees, the level of service will be adequate to support urban development.

6. Fire Protection: Upon reorganization, the annexation area will remain within the boundaries of the Industrial Fire Protection District. No change to this arrangement is proposed; Modesto’s Fire Station #10 is and will remain the first responding station both before and after annexation, and there will be no change in staffing or response times. Fire Station #10 is located approximately 0.6 miles southwest of the Shackelford annexation area, on Imperial Avenue west of Crows Landing Road.

7. Police Protection: The City currently employs 231 sworn officers. With a population of 201,165, the staffing ratio is 1.15 officers per 1,000 citizens. Approximately 1,467 people are estimated to reside in the Shackelford area (504 dwelling units with 2.9 persons per occupied unit citywide). Annexing Shackelford will bring the total population of Modesto to approximately 202,600 for a staffing ratio of 1.14 officers per 1,000 citizens, compared to the General Plan staffing ratio goal of 1.85 per 1,000.

According to the Modesto Police Department (MPD), as a result of annexation, the number of calls for police service is expected to increase slightly. Adding approximately 1,500 people to the population of Modesto will increase the need for sworn officers by 1.5 officers to maintain current staffing ratios. The Modesto Police Department has indicated that it is able to provide adequate service to the Shackelford neighborhood upon annexation to the City.
8. **Landscape and Lighting District**: Street lights do not fully meet City standards with respect to the fixtures, however, the City of Modesto has verified by study that the lumens cast by the existing street lights do meet City standards. No further improvements are needed.

This area is served by a Landscape and Lighting District, for which the County administers only street lighting and collects an assessment for that service. The City is currently working with Stanislaus County to transfer authority for administering the Landscape and Lighting District from Stanislaus County to the City of Modesto. The transfer of authority will occur as soon after reorganization as possible.

**B. Level and range of services**

The City of Modesto is a full service provider of municipal services and will provide complete services to the Shackelford annexation area, as described above. Because the Shackelford annexation area lies in the unincorporated portion of Stanislaus County, many of the public services provided to the area are provided at a rural level of service, with the notable exception of water, which is currently provided by Modesto through the Del Este system. Services provided by the City of Modesto will be similar to urban service levels provided across incorporated City of Modesto.

**C. When can services be provided?**

Except where services are already being provided, the above-described services will be provided upon the effective date of annexation.

**D. Improvements required as a condition of reorganization**

No improvements are required as a condition of reorganization. All necessary improvements will have been completed prior to annexation.

**E. How will services be financed?**

Services will be financed through applicable utility and service fees, property tax revenues and general fund resources.

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SHACKELFORD ANNEXATION
PROPERTY TAX REVENUE EXCHANGE AGREEMENT

This Shackelford Property Tax Exchange Agreement ("Agreement") is made and executed on August ____, 2011, by and between the County of Stanislaus, a political subdivision of the State of California ("County") and the City of Modesto, a municipal corporation of the State of California ("City").

RECITALS

A. The City has filed [proposes to file] an application with the Stanislaus County Local Agency Formation Commission requesting its approval of annexation of approximately XXXX acres of real property to the City, more particularly described in Exhibit A (the "Shackelford Annexation").

B. Section 99 of the Revenue and Taxation Code requires a city seeking to annex property to its incorporated territory and a county affected by such annexation to agree upon an exchange of property taxes which are derived from the annexed territory and available to the county and city following annexation of the property to the incorporated territory of the city.

C. The County and the City entered into an Agreement, also known and referred to as the Master Property Tax Sharing Agreement, effective April 9, 1996, for the purpose of adjusting the allocation of property tax revenue pursuant to Section 99 of the Revenue and Taxation Code upon a change of organization.

E. Section Seven of the Master Property Tax Sharing Agreement, as amended May 26, 2006 (Amendment No. 2), provides:

"For annexations affecting an entire unincorporated island, the annexing City shall receive 34% of the County's share of property tax including the base year amount or as otherwise separately negotiated. The City shall receive the base year tax and annual tax increments attributable to detached or dissolved special districts."

D. County and City desire to separately negotiate property tax revenue sharing for the Shackelford Annexation, and have negotiated and have reached an understanding as to a rate of exchange of property tax revenues to be made pursuant to Section 99 of the Revenue and Taxation Code in connection with the Shackelford Annexation to the City.

E. County and City agree to the transfer of property tax revenue upon completion of the Shackelford Annexation as set forth in this Agreement.
AGREEMENT

Section 1. Definitions.

(a) "Annexation Area" means that portion of the unincorporated area of the County known as the Shackelford Annexation, as delineated in Stanislaus County Local Agency Formation Commission ("LAFCO") Application No. XXXXX, the annexation of which to the City is subsequently approved and completed by LAFCO as provided in the Cortese-Knox-Hertzberg Local Governmental Reorganization Act of 2000 (Government Code, §56000 et seq.).

(b) "Annexation Date" means the date specified by the Cortese-Knox-Hertzberg Local Governmental Reorganization Act of 2000 as the effective date of the Shackelford Annexation.

Section 2. General Purpose of Agreement. The general purpose of this Agreement is to establish an equitable exchange of property tax revenue between the County and the City for the Shackelford Annexation as required by Revenue and Taxation Code section 99.

Section 3. Exchange of Property Tax Revenue. Notwithstanding any prior or contemporaneous agreement related to the transfer, sharing or exchange of real property taxes, on and after the Annexation Date, the County and City shall exchange property tax revenue from the Annexation Area as follows:

(a) The Stanislaus County Redevelopment Agency shall receive and retain property tax increment from the Annexation Area until the Agency, or successor agency, ceases to exist and all existing debt is paid.

(b) City shall receive 50 percent of the County share of property tax including the base year amount from the Annexation Area, and the City shall receive the base year tax and annual tax increments attributable to detached or dissolved special districts within the Annexation Area.

(c) County shall receive all of the County share of property tax including the base year amount from the Annexation Area remaining after the allocation of the City's share as set forth in subdivision (b) of this section.

Section 4. Exchange by County Auditor. County and City further agree that all of the exchanges of property tax revenue required by this Agreement shall be made by the County Auditor.

Section 5. Effect of Tax Exchange Agreement. This Agreement shall be applicable solely to the Shackelford Annexation and does not constitute either a master tax sharing agreement or an agreement on property tax exchanges which may be required for any other annexation to the City, nor does it alter or enlarge any revenue sharing obligations of the parties pursuant to other revenue sharing agreements.
Section 6. Entire Agreement. With respect to the subject matter hereof only, this Agreement supersedes any and all previous negotiations, proposals, commitments, writings, and understanding of any nature whatsoever between the County and the City related to the Shackelford Annexation.

Section 7. Notices. All notices, requests, certifications or other correspondence required to be provided by the parties to this Agreement shall be in writing and shall be personally delivered or delivered by first class mail to the respective parties at the following addresses:

County
Chief Executive Officer
County of Stanislaus
1010 Tenth Street, Suite 6800
Modesto, CA 95354

City
City Manager
City of Modesto
P.O. Box 642
Modesto, CA 95353

Notice by personal deliver shall be effective immediately upon delivery. Notice by mail shall be effective upon receipt or three days after mailing, whichever is earlier.

Section 8. Construction of Agreement. Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth above.

COUNTY OF STANISLAUS

By: ____________________________
Richard Robinson
Chief Executive Officer
"County"

ATTEST:
Christine Ferraro Tallman
Clerk of the Board of Supervisors of the County of Stanislaus, State of California

CITY OF MODESTO

By: ____________________________
Greg Nyhoff
City Manager
"Contractor"

ATTEST:
Stephanie Lopez
Modesto Clerk Clerk

By: ____________________________
Deputy Clerk

Page 3 of 4
APPROVED AS TO FORM:

By: ________________________________
John P. Doering
County Counsel

Authorized by Resolution No.
adopted August _____, 2011 by the
Stanislaus County Board of Supervisors

APPROVED AS TO FORM:

By: ________________________________
Susana Alcala Wood
Modesto City Attorney

Authorized by Resolution No.
adopted August _____, 2011 by the
Modesto City Council
RESOLUTION APPROVING THE CREATION OF A MULTI-YEAR ENTERPRISE FUND AND BUDGET TO BE USED FOR ABATEMENT OF PUBLIC NUISANCE AND DANGEROUS PROPERTY VIOLATIONS

WHEREAS, over the last 10 years, funding for housing demolition in Building Safety’s budget has been reduced from $100,000 to $2,000 to meet budget reduction requirements, and

WHEREAS, the Neighborhood Preservation Unit does not have a budget for property blight abatements, and

WHEREAS, the average expenditure for dangerous and unsafe building abatements since Fiscal Year 2000 is $21,000, and

WHEREAS, currently these costs are recorded as expenditures in the Building Safety budget, and

WHEREAS, historically, the Neighborhood Preservation Unit did not use abatements as a means to bring properties into compliance, and

WHEREAS, no funding exists in the Neighborhood Preservation Unit’s budget to abate public nuisances and blight issues such as weeds, trash and debris on private properties, and

WHEREAS, upon combining operations in 2009 with Building Safety, the Neighborhood Preservation Unit has adopted a new philosophy of enforcement and has become more aggressive in battling blight, and

WHEREAS, the Neighborhood Preservation Unit has tapped into Building Safety’s housing demolition account to abate the most egregious property blight, and...
WHEREAS, due to the record number of housing mortgage defaults, the Neighborhood Preservation Unit is tracking and registering thousands of vacant properties, many that are in the process of foreclosure, and

WHEREAS, the foreclosure process leaves a "gap" of responsibility for the maintenance of these properties which often become the targets of vagrants and the homeless who frequently cause damage and create dangerous conditions within a neighborhood, and

WHEREAS, there has been very little funding available for property and nuisance abatement, resulting in only the most dangerous situations receiving attention and leaving many properties in very poor condition,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the creation of a Multi-Year Enterprise Fund and budget to be used for abatement of public nuisance and dangerous property violations.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of November, 2011, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2011-12 MULTI-YEAR BUDGET TO APPROPRIATE $50,000 IN EXPENSE BUDGET FOR THE NEW MULTI-YEAR ENTERPRISE FUND FOR ABATEMENTS AND TO CREATE THE INITIAL TRANSFER OF $50,000 FROM THE GENERAL FUND TO THE NEW ENTERPRISE FUND

WHEREAS, over the last 10 years, funding for housing demolition in Building Safety’s budget has been reduced from $100,000 to $2,000 to meet budget reduction requirements, and

WHEREAS, the Neighborhood Preservation Unit does not have a budget for property blight abatements, and

WHEREAS, the average expenditure for dangerous and unsafe building abatements since fiscal year 2000 is $21,000, and

WHEREAS, currently these costs are recorded as expenditures in the Building Safety budget, and

WHEREAS, historically, the Neighborhood Preservation Unit did not use abatements as a means to bring properties into compliance, and

WHEREAS, no funding exists in the Neighborhood Preservation Unit’s budget to abate public nuisances and blight issues such as weeds, trash and debris on private properties, and

WHEREAS, upon combining operations in 2009 with Building Safety, the Neighborhood Preservation Unit has adopted a new philosophy of enforcement and has become more aggressive in battling blight, and

WHEREAS, the Neighborhood Preservation Unit has tapped into Building Safety’s housing demolition account to abate the most egregious property blight, and
WHEREAS, due to the record number of housing mortgage defaults, the Neighborhood Preservation Unit is tracking and registering thousands of vacant properties, many that are in the process of foreclosure, and

WHEREAS, the foreclosure process leaves a “gap” of responsibility for the maintenance of these properties which often become the targets of vagrants and the homeless who frequently cause damage and create dangerous conditions within a neighborhood, and

WHEREAS, there has been very little funding available for property and nuisance abatement, resulting in only the most dangerous situations receiving attention and leaving many properties in very poor condition,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the Fiscal Year 2011-12 multi-year budget to appropriate $50,000 in expense budget for the new multi-year enterprise fund for abatements and to create the initial transfer of $50,000 from the General Fund to the new enterprise fund.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of November, 2011, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING THE PREPARATION OF A REGIONAL NEXUS STUDY FOR THE 2011 REGIONAL TRANSPORTATION IMPACT FEE PROGRAM BY THE CITIES OF MODESTO, CERES, HUGHSON, NEWMAN, OAKDALE, PATTERTON, RIVERBANK, TURLOCK AND WATERFORD, COUNTY OF STANISLAUS AND THE STANISLAUS COUNCIL OF GOVERNMENTS, TO BE ADMINISTERED BY THE STANISLAUS COUNCIL OF GOVERNMENTS; AND AUTHORIZING EXPENDITURES FROM THE CAPITAL FACILITIES FEES FUND FOR THE PREPARATION OF THE REGIONAL NEXUS STUDY

WHEREAS, the Cities of Modesto, Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford, the County of Stanislaus, and the Stanislaus Council of Governments (Collectively “the Agencies”) within the Stanislaus Region have been collaborating on a regional transportation impact fee, and

WHEREAS, the preparation of a Nexus Study is required to further the process, and

WHEREAS, the Regional Transportation Impact Fee working group, composed of members for the Agencies, will seek to retain a consultant (Consultant) to prepare a Nexus Study for a Regional Transportation Impact Fee Program, in an amount not to exceed $100,000, and

WHEREAS, the Stanislaus County Council of Governments (StanCOG) will provide $50,000, and the remaining cost, not to exceed $50,000, will be divided among the nine cities and the County based on population, as follows:

<table>
<thead>
<tr>
<th>City</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Ceres</td>
<td>$4,414.11</td>
</tr>
<tr>
<td>City of Hughson</td>
<td>$645.35</td>
</tr>
<tr>
<td>City of Modesto</td>
<td>$19,551.35</td>
</tr>
<tr>
<td>City of Newman</td>
<td>$993.68</td>
</tr>
<tr>
<td>City of Oakdale</td>
<td>$2,009.42</td>
</tr>
<tr>
<td>City of Patterson</td>
<td>$1,983.95</td>
</tr>
<tr>
<td>City of Riverbank</td>
<td>$2,204.09</td>
</tr>
</tbody>
</table>
WHEREAS, once the contract has been executed, StanCOG will prepare a letter to the Agencies requesting their agreed upon share of the contract, and

WHEREAS, upon receipt of the letter, the Agencies will provide StanCOG with their full share of the contract amount. Should the actual contract be less than $100,000, the Agencies’ contribution will be the final amount minus the $50,000 provided by StanCOG,

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves the preparation of a Regional Nexus Study for the 2011 Regional Transportation Impact Fee Program; and authorizes expenditures from the Capital Facilities Fees Fund for the preparation of the Study in an amount not to exceed $19,551.35.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of November, 2011, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

((SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

(Signature)

ATTEST: (Signature)

STEPHANIE LOPEZ, City Clerk

RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 OPERATING BUDGET FOR THE PREPARATION OF A REGIONAL NEXUS STUDY FOR THE 2011 REGIONAL TRANSPORTATION IMPACT FEE PROGRAM, AND APPROPRIATING $19,551.35 FROM CAPITAL FACILITIES FEES FUND 3480-14130-53300

WHEREAS, the Cities of Modesto, Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford, the County of Stanislaus, and the Stanislaus Council of Governments (collectively “the Agencies”) within the Stanislaus Region have been collaborating on a regional transportation impact fee, and

WHEREAS, the preparation of a Nexus Study is required to further the process, and

WHEREAS, the Regional Transportation Impact Fee working group, composed of members for all Agencies, will seek to retain a consultant (Consultant) to prepare a Nexus Study for a Regional Transportation Impact Fee Program, in an amount not to exceed $100,000, and

WHEREAS, the Stanislaus County Council of Governments (StanCOG) will provide $50,000, and the remaining cost, not to exceed $50,000, will be divided among the nine cities and the County based on population, as follows:

| City of Ceres     | $4,414.11 |
| City of Hughson   | $645.35   |
| City of Modesto   | $19,551.35|
| City of Newman    | $993.68   |
| City of Oakdale   | $2,009.42 |
| City of Patterson | $1,983.95 |
| City of Riverbank | $2,204.09 |
| City of Turlock   | $6,662.32 |
| City of Waterford | $821.84   |
| Stanislaus County | $10,713.90|
WHEREAS, once the contract has been executed, StanCOG will a letter to the Agencies requesting their agreed upon share of the contract, and

WHEREAS, upon receipt of the letter, the Agencies will provide StanCOG with their full share of the contract amount. Should the actual contract amount be less than $100,000, the Agencies’ contribution will be the final amount minus the $50,000 provided by StanCOG,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amendment of the Fiscal Year 2011-2012 operating budget for the preparation of a Nexus Study for the Regional Transportation Impact Fee Program, and appropriate $19,551.35 from the Capital Facilities Fee Administration Fund 3480-14130-53300 for professional services.

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of November, 2011, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE CITY OF MODESTO TO CONTRIBUTE THE PRESENT BASELINE BUDGET TO THE MODESTO REGIONAL FIRE AUTHORITY ON AN ANNUAL BASIS, ASSUME ALL LIABILITIES INCURRED PRIOR TO THE ESTABLISHMENT OF THE JOINT POWERS AGREEMENT AND MEET THE LETTER AND INTENT OF THE JOINT POWERS AGREEMENT, SPECIFICALLY ADDRESSING MEMBER CONTRIBUTION IN SECTIONS 4.1 AND 4.3 OF THE AGREEMENT

WHEREAS, on January 17, 2011, the City of Modesto signed a Joint Powers Agreement (JPA) with Stanislaus County and the Salida Fire Protection District, forming the Modesto Regional Fire Authority, and

WHEREAS, governance for this JPA is provided by a Board of Directors comprised of an elected official from each of the three parent governmental agencies, established and guided by the Joint Powers Agreement, and

WHEREAS, funding for the Modesto Regional Fire Authority is provided by financial contributions from the three parent agencies, and

WHEREAS, an Ad-Hoc Committee composed of elected officials from the three parent agencies foresaw the need to maintain a baseline budget contribution from each agency in order to allow the new organization to maintain the current level of service to our communities, while taking advantage of financial efficiencies for years to come, and

WHEREAS, presently available to the Modesto Regional Fire Authority is the $1,838,454 SAFER grant from FEMA, and

WHEREAS, accepting this grant will allow the Modesto Regional Fire Authority to hire nine (9) firefighters for a two-year period, and
WHEREAS, as a result of being able to accept this grant, the organization would realize a savings of hundreds of thousands of dollars each year of the grant in employee and overtime costs, and

WHEREAS, one of the stipulations of accepting the SAFER grant is that no firefighter may be laid off during the term of the grant, and these savings may then be used to establish “Reserve” and “Capital Projects” funds, as well as begin funding our “Employee Benefits Fund,” and

WHEREAS, if a firefighter is laid off, the Modesto Regional Fire Authority is required to pay the entire amount of the grant back to FEMA, and

WHEREAS, without assurance that the City of Modesto’s budgetary contribution to the Modesto Regional Fire Authority will remain constant, the Board of Directors of the Modesto Regional Fire Authority will not be able to accept the grant, and

WHEREAS, the Joint Powers Agreement states that the City of Modesto will contribute funds based on the Fiscal Year 2010-2011 contribution for emergency operations, associated labor costs, and necessary reserve funds, and

WHEREAS, the realized contribution to the organization was reduced by $1.9 million and did not include any reserve funding, and

WHEREAS, the JPA also states that those liabilities incurred prior to the formation of the Agency and employee transition date shall remain with the parent agency, and

WHEREAS, if a baseline contribution to the organization is not established and maintained, the future efficiencies cannot be realized, and the future success of the JPA is jeopardized,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City of Modesto to contribute the present baseline budget amount of $24,117,952 to the Modesto Regional Fire Authority on an annual basis, and assume all liabilities incurred prior to the establishment of the Joint Powers Agreement and employee transition to the Agency.

BE IT FURTHER RESOLVED that it hereby agrees to meet the intent of the Joint Powers Agreement, specifically addressing Member Contribution in Sections 4.1 and 4.3 of said document.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of November, 2011, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2011-442

RESOLUTION APPROVING A PROFESSIONAL SERVICES CONSULTING CONTRACT IN AN AMOUNT NOT TO EXCEED $214,240 FOR THE RESTRUCTURING AND ENHANCEMENT OF THE NEIGHBORHOOD STABILIZATION, ECONOMIC DEVELOPMENT AND REDEVELOPMENT PROGRAMS OF THE CITY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY AND ALL RELATED DOCUMENTS

WHEREAS, the City has faced significant challenges in the management of its community and business development activities, and

WHEREAS, the City’s Neighborhood Stabilization Program has recently come under intense scrutiny from the public and audit from the Department of Housing & Urban Development, and

WHEREAS, several enterprise funds, such as the Golf Fund and Centre Plaza, continue to be subsidized through the General Fund, and

WHEREAS, the City continues to experience high unemployment and struggles with economic development of businesses within the City limits, and

WHEREAS, the State repeatedly has tried to eliminate the City’s Redevelopment Agency, and

WHEREAS, the City wishes to respond to these challenges with a business minded focus, and

WHEREAS, the City issued a selective Request for Proposal seeking a business development professional to handle the oversight and review of several City business segments, and

WHEREAS, the City also is seeking assistance in fostering a vibrant, competitive and diverse economic environment,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a professional services consulting contract in an amount not to exceed $214,240 for the restructuring and enhancement of the Neighborhood Stabilization, Economic Development, and Redevelopment Programs of the City.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of November, 2011, by Councilmember Burnside, 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: Burnside, Geer, Hawn, Lopez, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh, Muratore

ATTEST: 

(SIGNATURE)

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 GENERAL FUND OPERATING BUDGET TO PARTIALLY FUND A PROFESSIONAL SERVICES CONSULTING CONTRACT FOR THE RESTRUCTURING AND ENHANCEMENT OF THE NEIGHBORHOOD STABILIZATION, ECONOMIC DEVELOPMENT AND REDEVELOPMENT PROGRAMS FOR THE CITY

WHEREAS, certain budgetary transactions are necessary in the amount of $164,240, in order to fully fund a professional services consulting contract for the restructuring and enhancement of the Neighborhood Stabilization, Economic Development and Redevelopment programs for the City, and

WHEREAS, the Fiscal Year General Fund Operating Budget must be amended as shown in Exhibit 3, which is incorporated by reference herein.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year and Multi Year 2012-2012 Operating Budget as shown in Exhibit 1.

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of November, 2011, by Councilmember Burnside, 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: Burnside, Geer, Hawn, Lopez, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh, Muratore

ATTEST: 

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
October 25, 2011

Ms. Dee Williams-Ridley
Deputy City Manager
City of Modesto
1010 10th Street
Modesto, CA 95354

Dear Ms. Williams-Ridley,

In response to the City of Modesto’s Request for Consultant Services, we propose that as a team we can produce the analysis and instigate the changes you need both to restructure your Neighborhood Stabilization Program as an efficient and revenue enhancing operation of your city and also rebuild and refocus your economic development and redevelopment efforts.

In economic development we have experience in creating and managing business organizations, conducting regional economic development marketing, and assisting businesses with a variety of public financing tools.

In housing, our experience ranges from large construction and financing of new multifamily projects and rehabilitation of existing multifamily complexes to rehabilitating and selling single-family homes. From our attached resumes, you can see that we have experience in obtaining and administering local, state, and federal funding. One of our strengths is creatively combining different sources of funding for projects and getting the best leverage of local funds.

We are responding to your Request for Consultant Services in two sections—1) Neighborhood Services and Organizational Structure, and 2) Redevelopment and Economic Development

The following estimates are the expected maximum costs for the various tasks. The tasks will be performed for the not to exceed amount of $214,240. A more detailed budget is attached. Services delivered will be billed at the following hourly rates on a monthly basis.

$160 per hour, Managing Principal
$140 per hour, Senior Principal
Please call me if you have any additional questions at (916) 533-3708. We are looking forward to working with the City of Modesto.

Sincerely,

Cynthia Shallit
Managing Principal
Scope of Work – Outlined (*Neighborhood Services & Organizational Structure*)

Business Needs to be Addressed

*Neighborhood Services Department*

- Review of current NSP program to determine where efficiencies, gaps and opportunities for program capitol exist $14,200
- Protocols/procedures for conflict of interest, compliance, and oversight of Neighborhood Stabilization Programs $13,040
- Readiness to move forward on disbursement of remaining NSP funds $17,040
- Management and oversight of NSP-1,2 & 3 program funding $24,040
- Organizational Structure, staffing levels and competencies $48,000
- Department Strategic Plan and Performance Measures $12,000

**TOTAL** $128,320

Scope of Work – Outlined (RDA & Economic Development)

Business Needs to be Addressed

*Redevelopment Agency and Economic Development Business Growth Strategies*

- Coordinate local annexation efforts $9,600
- Develop growth plans and use of Capacity Bank $24,000
- Develop and expansion assistance program for interested businesses $18,400
- Downtown renewal plans with businesses and supporting partners $24,000
- Champion City processes with developers for business and job growth opportunities $9,920

**TOTAL** $85,920
EXHIBIT 3

Expenses:

0100-02010-53300  Professional Services Expense – CMO  $64,240 increase

WHEREAS, on Tuesday, November 8, 2011, a Regular Municipal Election was held in the City of Modesto (herein called “City”) and in the Modesto High School District (herein called “District”) of Stanislaus County to elect the following:

1. One member to Mayor for a four year term;
2. One Councilmember to District 1 for a four year term;
3. One Councilmember to District 3 for a four year term;
4. One Councilmember to District 5 for a two year term;
5. One Councilmember to District 6 for a four year term;
6. Three Board of Education Members for four year terms; and

WHEREAS, as set forth in Section 4 hereof, Measure N was a proposed Charter Amendment; and Measures P, Q, R and S were Advisory Measures, and were submitted to the qualified electors in the November 8, 2011, City of Modesto election, and

WHEREAS, said election was held on Tuesday, November 8, 2011, in accordance with law and the proceedings of this Council, and the votes thereat received and canvassed, and the returns thereof ascertained, determined, and declared in all respects as required by law, and

WHEREAS, the City Clerk canvassed the returns of said regular municipal election in accordance with law, and certified the results of the election of the Council by a Certificate of Canvass and Statement of Votes dated November 18, 2011, a copy of which is attached hereto marked Exhibit “A” and made a part hereof,
NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto as follows:

SECTION 1. Said canvass by the City Clerk as shown on the Certificate of Canvass and Statement of Votes and the results of the election are hereby ratified, confirmed and approved.

SECTION 2. That in accordance with Section 10264 of the Elections Code, a copy of said Certificate of Canvass and Statement of Votes, which is attached hereto marked as Exhibit “A” and made a part hereof, shows a complete tabulation of the following:

(A) The whole number of votes cast for Mayor and in Districts 1, 3, 5 and 6, in the City.
(B) The whole number of votes cast in the Modesto High School District.
(C) The names of the persons voted for.
(D) For what office each person was voted for.
(E) The number of votes given in the City to each person.
(F) The number of votes given in the City for each Measure.

SECTION 3. That, at said Regular Municipal Election, the following named persons having received a majority of the votes cast for the elective offices, as designated on Exhibit “A”, are hereby declared to be duly and regularly elected to such office, and the City Clerk is hereby directed to issue a Certificate of election to each such persons, certifying his/her election to the office appearing after his/her name, and to administer to each of said persons the oath of office prescribed by the Constitution and laws of the State of California and the Charter of the City, to wit:

John Lane Gunderson Councilmember for a term of four years, District 1, Modesto City Council.
Dave Lopez  
Councilmember for a term of four years, District 3, Modesto City Council.

Stephanie Burnside  
Councilmember for a term of two years, District 5, Modesto City Council.

Dave Cogdill, Jr.  
Councilmember for a term of four years, District 6, Modesto City Council.

Cathy Flores Hallinan  
Member, Modesto Board of Education, for a term of four years.

Steven Grenbeaux  
Member, Modesto Board of Education, for a term of four years.

Amy Elliott Neumann  
Member, Modesto Board of Education, for a term of four years.

SECTION 4. The Charter provides that if no candidate for the office of Mayor of the City of Modesto receives a majority vote at a regular municipal election, a Second Regular Municipal Election shall be held by mail ballot at which the two candidates receiving the highest number of votes at the first election shall have their names on the ballot for election of the office, therefore, the two candidates receiving the highest number of votes for Mayor, Brad Hawn and Garrad Marsh, shall have their names on the ballot for a run-off election to be held on Tuesday, February 7, 2012.

SECTION 5. The following votes were cast for Measures N, P, Q, R and S:
### Measure N:
Utility Users’ Tax Reduction and Fairness Measure: Shall the current Utility Users’ Tax ordinance be amended to reduce the tax on telecommunications users from 6% to 5.8%; modernize the ordinance to reflect changes in federal and state law and to treat taxpayers the same regardless of technology; preserve funding for essential municipal services like law enforcement, gang and drug prevention programs, and fire protection; and all money staying local for services and facilities in Modesto?

<table>
<thead>
<tr>
<th>Total Votes For</th>
<th>Total Votes Against</th>
</tr>
</thead>
<tbody>
<tr>
<td>17,486</td>
<td>5,353</td>
</tr>
</tbody>
</table>

### Measure P:
Shall the City Council provide sewer service to the following described area: “Rouse-Colorado Neighborhood.” The unincorporated area designated “Rouse-Colorado Neighborhood” which is described generally as the area bounded by South Avenue on the north, Sunset Avenue and Colorado Avenue on the east, Robertson Road on the south and Sutter Avenue on the west.

<table>
<thead>
<tr>
<th>Total Votes For</th>
<th>Total Votes Against</th>
</tr>
</thead>
<tbody>
<tr>
<td>13,605</td>
<td>9,201</td>
</tr>
</tbody>
</table>

### Measure Q:
Should the City of Modesto: Seek to move employees from a defined benefit plan to a defined contribution (401k style) plan for retirement benefits?

<table>
<thead>
<tr>
<th>Total Votes For</th>
<th>Total Votes Against</th>
</tr>
</thead>
<tbody>
<tr>
<td>13,369</td>
<td>9,767</td>
</tr>
</tbody>
</table>

### Measure R:
Should the City of Modesto: Seek to avoid "pension spiking" by city employees by moving to an average of the last three year salary as baseline rather than current last single highest year?

<table>
<thead>
<tr>
<th>Total Votes For</th>
<th>Total Votes Against</th>
</tr>
</thead>
<tbody>
<tr>
<td>17,482</td>
<td>5,797</td>
</tr>
</tbody>
</table>

### Measure S:
Should the City of Modesto: Seek retirement formulas that increase employee retirement age to mirror the private sector retirement?

<table>
<thead>
<tr>
<th>Total Votes For</th>
<th>Total Votes Against</th>
</tr>
</thead>
<tbody>
<tr>
<td>14,822</td>
<td>8,581</td>
</tr>
</tbody>
</table>
Measures N, P, Q, R and S. More than a majority of all the votes cast at the

election for Measures N, P, Q, R and S were in favor of said proposed Measures, and said
Measures did carry and were approved and were ratified by a majority of the qualified
voters voting on said Measures.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 29th day of November, 2011 by Councilmember Lopez,
who moved its adoption, which motion being duly seconded by Councilmember Geer,
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
I, Stephanie Lopez, City Clerk of the City of Modesto, do hereby certify that I caused the Stanislaus County Clerk's Office, on November 8, 2011, to publicly canvass the returns of the City of Modesto Regular Municipal Election held on November 8, 2011, in accordance with Modesto City Council Resolution 67-36. The following are the results of said election:

<table>
<thead>
<tr>
<th>CANDIDATES</th>
<th>NUMBER OF VOTES</th>
<th>PERCENTAGE OF VOTE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mayor, Modesto City Council</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brad Hawn</td>
<td>7,505</td>
<td>31.20%</td>
</tr>
<tr>
<td>Armando M. Arreola</td>
<td>1,072</td>
<td>4.46%</td>
</tr>
<tr>
<td>William &quot;Bill&quot; Zoslocki</td>
<td>4,699</td>
<td>19.54%</td>
</tr>
<tr>
<td>Garrad Marsh</td>
<td>10,688</td>
<td>44.44%</td>
</tr>
<tr>
<td>Total Votes Cast for Mayor</td>
<td>24,677</td>
<td></td>
</tr>
<tr>
<td><strong>District 1, Modesto City Council</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>John Lane Gunderson</td>
<td>1,730</td>
<td>54.27%</td>
</tr>
<tr>
<td>Philip W. Moyer</td>
<td>1,447</td>
<td>45.39%</td>
</tr>
<tr>
<td>Total Votes Cast for District 1</td>
<td>3,775</td>
<td></td>
</tr>
<tr>
<td>Non-Qualified Write-in Candidates</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td><strong>District 3, Modesto City Council</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paul D. Tunison</td>
<td>528</td>
<td>11.49%</td>
</tr>
<tr>
<td>Carmen Sabatino</td>
<td>682</td>
<td>14.84%</td>
</tr>
<tr>
<td>Todd Aaronson</td>
<td>1,592</td>
<td>34.64%</td>
</tr>
<tr>
<td>Dave Lopez</td>
<td>1,781</td>
<td>38.75%</td>
</tr>
<tr>
<td>Total Votes Cast for District 3</td>
<td>4,807</td>
<td></td>
</tr>
<tr>
<td>Non-Qualified Write-in Candidates</td>
<td>13</td>
<td></td>
</tr>
<tr>
<td><strong>District 5, Modesto City Council</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jenevieve Kenoyer</td>
<td>1,382</td>
<td>29.64%</td>
</tr>
<tr>
<td>Stephanie Burnside</td>
<td>2,793</td>
<td>59.91%</td>
</tr>
<tr>
<td>Joshua Esteves</td>
<td>475</td>
<td>10.19%</td>
</tr>
<tr>
<td>Total Votes Cast for District 5</td>
<td>5,320</td>
<td></td>
</tr>
<tr>
<td>Non-Qualified Write-in Candidates</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td><strong>District 6, Modesto City Council</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dave Cogdill, Jr.</td>
<td>3,562</td>
<td>76.88%</td>
</tr>
<tr>
<td>Douglas Dyrssen</td>
<td>1,057</td>
<td>22.81%</td>
</tr>
<tr>
<td>Total Votes Cast for District 6</td>
<td>5,154</td>
<td></td>
</tr>
<tr>
<td>Non-Qualified Write-in Candidates</td>
<td>14</td>
<td></td>
</tr>
</tbody>
</table>
MEASURES | NUMBER OF VOTES | PERCENTAGE OF VOTE
--- | --- | ---

Measure N
Utility Users’ Tax Reduction and Fairness Measure: Shall the current Utility Users’ Tax ordinance be amended to reduce the tax on telecommunications users from 6% to 5.8%, modernize the ordinance to reflect changes in federal and state law and to treat taxpayers the same regardless of technology; preserve funding for essential municipal services like law enforcement, gang and drug prevention programs, and fire protection; and all money staying local for services and facilities in Modesto?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>17,486</td>
<td>5,353</td>
</tr>
<tr>
<td>76.56%</td>
<td>23.44%</td>
</tr>
</tbody>
</table>

Measure P
Shall the City Council provide sewer service to the following described area: “Rouse-Colorado Neighborhood.” The unincorporated area designated “Rouse-Colorado Neighborhood” which is described generally as the area bounded by South Avenue on the north, Sunset Avenue and Colorado Avenue on the east, Robertson Road on the south and Sutter Avenue on the west.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>13,605</td>
<td>9,201</td>
</tr>
<tr>
<td>59.66%</td>
<td>40.34%</td>
</tr>
</tbody>
</table>

Measure Q
Should the City of Modesto: Seek to move employees from a defined benefit plan to a defined contribution (401k style) plan for retirement benefits?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>13,369</td>
<td>9,767</td>
</tr>
<tr>
<td>57.78%</td>
<td>42.22%</td>
</tr>
</tbody>
</table>

Measure R
Should the City of Modesto: Seek to avoid "pension spiking" by city employees by moving to an average of the last three year salary as baseline rather than current last single highest year?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>17,482</td>
<td>5,797</td>
</tr>
<tr>
<td>75.10%</td>
<td>24.90%</td>
</tr>
</tbody>
</table>

Measure S
Should the City of Modesto: Seek retirement formulas that increase employee retirement age to mirror the private sector retirement?

CANDIDATES | NUMBER OF VOTES | PERCENTAGE OF VOTE
--- | --- | ---
Member, Modesto Board of Education – 4 year term
Cathy Flores Hallinan | 11,205 | 16.09%
Steven Grenbeaux | 10,128 | 14.55%
Solange G. Altman | 8,789 | 12.62%
Josh Vander Veen | 6,691 | 9.61%
Amy Elliott Neumann | 8,812 | 12.66%
Rickey McGill | 5,724 | 8.22%
<table>
<thead>
<tr>
<th>Candidate</th>
<th>Total Votes</th>
<th>Total Turnout</th>
<th>Turnout Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bill Mussman</td>
<td>6,565</td>
<td></td>
<td>9.43%</td>
</tr>
<tr>
<td>Mylinda Mason</td>
<td>7,903</td>
<td></td>
<td>11.35%</td>
</tr>
<tr>
<td>Brian DuBois</td>
<td>3,707</td>
<td></td>
<td>5.32%</td>
</tr>
<tr>
<td>Non-Qualified Write-in Candidates</td>
<td>94</td>
<td></td>
<td>.14%</td>
</tr>
</tbody>
</table>

**VOTER TURNOUT:** 50,982 100%

<table>
<thead>
<tr>
<th>Location</th>
<th>Total Registered Voters</th>
<th>Total Turnout</th>
<th>Turnout Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Modesto, Mayor</td>
<td>97,252</td>
<td>24,677</td>
<td>25.37%</td>
</tr>
<tr>
<td>City of Modesto Council District 1</td>
<td>16,236</td>
<td>3,775</td>
<td>23.25%</td>
</tr>
<tr>
<td>City of Modesto Council District 3</td>
<td>17,326</td>
<td>4,807</td>
<td>27.74%</td>
</tr>
<tr>
<td>City of Modesto Council District 5</td>
<td>18,114</td>
<td>5,320</td>
<td>29.37%</td>
</tr>
<tr>
<td>City of Modesto Council District 6</td>
<td>19,043</td>
<td>5,154</td>
<td>27.07%</td>
</tr>
<tr>
<td>Measures N, P, Q, R and S</td>
<td>97,252</td>
<td>24,677</td>
<td>25.37%</td>
</tr>
<tr>
<td>Modesto High School District</td>
<td>123,835</td>
<td>29,412</td>
<td>23.75%</td>
</tr>
</tbody>
</table>

STEPHANIE LOPEZ
City Clerk
City of Modesto

November 29, 2011