RESOLUTION REAPPOINTING PATRICIA GILLUM AS THE 2011 PLANNING COMMISSION REPRESENTATIVE TO THE CITIZENS REDEVELOPMENT ADVISORY COMMISSION FOR THE REMAINDER OF CALENDAR YEAR 2011

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

WHEREAS, the Planning Commission met on May 16, 2011, and recommended the reappointment of Patricia Gillum as its representative to the Citizens Redevelopment Advisory Commission,

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

SECTION 1. Patricia Gillum is hereby reappointed as the 2011 Planning Commission representative to the Citizens Redevelopment Advisory Commission, with a term expiration of January 1, 2012.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Citizens Redevelopment Advisory Commission, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 14th day of June, 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,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSAN ALCALA WOOD, City Attorney
RESOLUTION REAPPOINTING STEVE CARTER AS THE 2011 PLANNING COMMISSION REPRESENTATIVE TO THE CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE FOR THE REMAINDER OF CALENDAR YEAR 2011

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

WHEREAS, on May 16, 2011, the Planning Commission recommended Steve Carter as its representative to the Citizens Housing & Community Development Committee,

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

SECTION 1. Steve Carter is hereby reappointed as the 2011 Planning Commission representative to the Citizens Housing & Community Development Committee, with a term expiration of January 1, 2012.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Citizens Housing & Community Development, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 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, Mayor Ridenour

NOES: Councilmembers:

ABSENT: Councilmembers:

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2011-205

RESOLUTION APPROVING THE REAPPOINTMENT OF TED BRANDVOLD
AS THE 2011 PLANNING COMMISSION REPRESENTATIVE TO THE BOARD
OF ZONING ADJUSTMENT FOR THE REMAINDER OF CALENDAR YEAR
2011

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

WHEREAS, the Planning Commission met on May 16, 2011, and recommended
the reappointment of Ted Brandvold as its representative to the Board of Zoning
Adjustment,

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

SECTION 1. Ted Brandvold is hereby reappointed as the 2011 Planning
Commission representative to the Board of Zoning Adjustment, with a term expiration of
January 1, 2012.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this
resolution to the appointed member of the Board of Zoning Adjustment, and the
Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 14th day of June, 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,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ________________________

SUSAN CALA WOOD, City Attorney

(SEAL)

APPROVED AS TO FORM:

By: ________________________

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AMENDING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO TO ESTABLISH THE CLASSIFICATION OF EMPLOYEE BENEFITS MANAGER

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 2.2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

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

SECTION I. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classification:

Employee Benefits Manager

The job specification for the Employee Benefits Manager classification is being created to plan, organize, direct and supervise staff and operations in support of the City’s Employee Benefits Program within the Human Resources Department. The job specification for the classification of Employee Benefits Manager, as shown on the attached Exhibit “A,” which is made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.
SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after June 14, 2011.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 14th day of June, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To plan, organize, direct and coordinate the activities of the Employee Benefits Unit within the Human Resources Department; oversee enrollment and participation in health, dental, vision, LTD, life insurance and retirement benefits; develop and implement program goals, policies, procedures and priorities; and to provide highly complex staff assistance to the Director of Human Resources.

SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the Director of Human Resources.

Exercises direct supervision over assigned professional, technical and administrative support personnel.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS – Essential and other important responsibilities and duties may include, but are not limited to, the following:

Develop and implement divisional goals, objectives, policies and procedures.

Develops recommendations as to the strategic vision for the Employee Benefits Program in conjunction with ongoing evaluation of the input of proposed benefit changes, funding recommendations, cost containment process and plan design; evaluates the advantages and disadvantages of new benefit related initiatives, benefits changes, and plan designs.

Plans, oversees and administers the enrollment and processing procedures for health, dental, LTD, vision, life insurance and retirement benefits; ensures employee premiums are processed appropriately; evaluates utilization, value, costs, and experience information pertaining to employee benefits programs, and makes recommendations.

Oversees all communication with employees concerning benefit issues; provides employees with information concerning actual costs of benefits.

Analyzes and evaluates legislation, government codes, ordinances, and other regulations to determine the impact on the various programs.

Serves as a member of the management team in benefits review discussions with broker representatives and negotiations with recognized employee associations.

Monitors the performance and contracts of all benefits related vendors and consultants.

EXHIBIT "A"
Essential Functions: (Continued)

Direct, oversee and participate in the development of the Employee Benefits Unit work plan; assign work activities, projects and programs; monitor work flow; review and evaluate work products, methods and procedures.

Prepare, administer, review and evaluate the division budget. Monitor budget expenditures; participate in the forecast of additional funds needed for staffing, equipment, materials and supplies.

Recommend the appointment of personnel; provide or coordinate staff training, conduct performance evaluations; implement discipline procedures as required; maintain discipline and high standards necessary for the efficient and professional operation of the Department.

Evaluate and act on opportunities for improvement in service delivery or operations for the division.

Build and maintain positive working relationships with co-workers, other City employees and the public using principles of good customer service.

Represent the department to outside agencies and organizations; participate in outside community and professional groups and committees; provide technical assistance as necessary.

Research and prepare technical and administrative reports; prepare written correspondence.

Marginal Functions:

Perform related duties as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:

Principles, practices, policies and procedures related to benefits administration.

Method of evaluating contracts, plans, policies, and benefit claims processing systems.

Regulations and requirements related to COBRA, FMLA, CFRA and other mandated benefit programs.

EXHIBIT "A"
Knowledge of: (Continued)

Pertinent local, State and Federal rules, regulations and laws.

Principles of public administration, organization and management.

Modern office procedures and computer equipment.

Budgeting procedures and techniques.

Principles and practices of leadership, motivation, team building and conflict resolution.

Principles and practices of supervision, training and personnel management.

Ability to:

Organize and direct the operations of the Employee Benefits Unit.

Research, evaluate, and recommend policies and programs to comply with Federal, State, and local laws and regulations.

Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals.

Gain cooperation through discussion and persuasion.

Interpret and apply City and department policies, procedures, rules, regulations and memoranda of understanding.

Prepare and administer a budget.

Supervise, train and evaluate personnel.

Establish and maintain cooperative working relationships with those contacted in the course of work.

Communicate clearly and concisely, both orally and in writing.

EXHIBIT "A"
Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Four years of increasingly responsible professional benefits administration experience within a public agency; including one year providing technical and functional supervision over assigned personnel.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in business or public administration or a related field.

License or Certificate:

Possession of, or ability to obtain, an appropriate, valid California driver's license.

PHYSICAL AND MENTAL REQUIREMENTS

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. Lifting: frequently up to 10 pounds; occasionally up to 25 pounds. Vision: constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. Dexterity: frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. Hearing/Talking: frequent hearing and talking, in person and on the phone. Emotional/Psychological: frequent decision-making and concentration; frequent public and/or coworker contact; occasional working alone. Environmental: frequent exposure to noise.

WORKING CONDITIONS

Work is performed in a typical temperature controlled office environment subject to typical office noise and environment. Some positions may be assigned to remote locations. Positions require occasional overtime or weekend work and the ability to travel.

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EXHIBIT "A"
RESOLUTION AMENDING EXHIBIT “A” OF RESOLUTION NO. 2008-688 TO REVISE THE CLASS RANGE TABLE FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO ADD EMPLOYEE BENEFITS MANAGER

WHEREAS, the City Council desires to amend Exhibit “A” of Resolution No. 2008-688, which approved the Class Range Table for Unrepresented Management and Confidential Non-Sworn Classes,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2008-688. Exhibit "A" entitled, "City of Modesto Class Range Table Unrepresented Management and Confidential Non-Sworn Classes," attached to Resolution No. 2008-688, is hereby amended as shown on the amended Exhibit "A" entitled “City of Modesto Class Range Table Unrepresented Management and Confidential Non-Sworn Classes Effective June 14, 2011,” which is attached hereto and made a part hereof as though set forth in full herein. Said Exhibit “A” adds Employee Benefits Manager to salary range 2439.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after June 14, 2011.
The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 14th day of June, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
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<td>Executive Assistant to the City Manager</td>
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<td>Deputy Director of Recreation and Neighborhoods</td>
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<td>Senior Deputy City Attorney</td>
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<td>2462</td>
<td>Assistant City Attorney</td>
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Exhibit "A"
RESOLUTION AUTHORIZING THE CITY TO EXTEND THE RETIREMENT INCENTIVE PROGRAM TO ELIGIBLE EMPLOYEES; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN IMPLEMENTATION DOCUMENTS

WHEREAS, the City has projected a budget shortfall for Fiscal Year 2011-12 as a result of the economic downturn, and

WHEREAS, in order to address the budget shortfall, and in an effort to reduce the number of employees impacted due to budget reductions, the City desires to offer eligible employees, as authorized by the City Manager, and who have been employed by the City for at least five (5) full years of continuous service in a regular position, the option of electing to participate in a Retirement Incentive Program, and

WHEREAS, the City Manager is authorized to extend an employee’s retirement date, after consulting with the employee, under the Retirement Incentive Program to meet the needs and objectives of the City.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City to extend the Retirement Incentive Program to eligible employees upon retirement as outlined in Exhibit A, entitled, "City of Modesto Retirement Incentive Program." The approved Retirement Incentive formula shall be as set forth therein.

The City Manager is authorized to extend Employee’s retirement date, after consulting with the Employee, under the Retirement Incentive Program to meet the needs and objectives of the City. No appeal of the City Manager’s decision shall be permitted.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to sign implementation documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
City of Modesto

2011 Retirement Incentive Program

1. Employees in identified classifications as set forth herein as Attachment A, who have completed at least five (5) full years of continuous service in a regular position are eligible to participate.

2. Any eligible employee who has been approved by the City Manager to voluntarily retire from the City between July 12, 2011 and August 1, 2011 shall receive a cash incentive based on years of service with the City to a maximum of $30,000. The employee's last day on payroll shall be on or after July 12, 2011 and no later than August 1, 2011.

Any eligible employee who has been approved by the City Manager to voluntarily retire from the City after August 1, 2011 shall receive a cash incentive based on years of service with the City to a maximum of $15,000. The employee’s last day on payroll shall be on or after August 2, 2011 and no later than December 31, 2011.

3. The employee must notify the Human Resources Department, in writing no later than 4:30 p.m. on June 24, 2011, of his/her election to take this option.

4. The City Manager is authorized to accept or reject these elections, based on the needs of the City. There is no appeal of the City Manager’s decision, nor is the City Manager’s decision subject to the Grievance Procedure.

5. The City Manager is authorized to extend an employee’s retirement date under the Incentive Program, with the employee’s agreement, to meet the needs of the City.

6. The actual incentive amount shall be calculated by multiplying the employee’s number of completed years of continuous City of Modesto service, as of the employee’s retirement effective date, by the employee’s base hourly rate multiplied by forty (40) hours or fifty-six (56) hours for Fire Department shift employees. For employees whose regular work schedule is less than 40 hours, the 40 hour calculation shall be reduced proportionally. Only continuous years of service in regular benefited positions will be qualifying. In no event shall the Incentive amount exceed $30,000 for employees retiring between July 12, 2011 and August 1, 2011 and not to exceed $15,000 for employees retiring between August 2, 2011 and December 31, 2011.

7. The method of distributing the Incentive must be on a bargaining unit-wide basis. No individual employee elections regarding the method of distribution will be permitted. (The City Manager shall determine the method of distribution for the Unrepresented group.) If no method of distribution is designated by any given employee Association, the distribution for that Association’s bargaining unit shall be in cash and subject to all applicable taxes.

8. Distribution options may include Health Reimbursement Arrangements (HRA’s) or cash.

9. The employee shall execute the Separation Agreement and Release of All Claims which is set forth herein as Attachment B.

10. Any employee who receives this Incentive and is currently “opting out” of health coverage will have a one-time opportunity to opt-in during open enrollment, with coverage effective January 1, 2012.

Exhibit A
CITY OF MODESTO
MEMORANDUM

To: All City Employees
From: Dee Williams-Ridley, Deputy City Manager
Re: Retirement Incentive Programs for Eligible City Employees
Date: June 10, 2011

The City of Modesto announces a voluntary program that will provide eligible employees with a cash incentive for a voluntary retirement from City service. This offer is contingent upon City Council approval at its June 14, 2011 meeting. This memorandum provides important information regarding eligibility for participation. All interested employees should review the information provided below as soon as possible.

ELIGIBILITY
Retirement Incentives will be offered to employees in specific classifications as a means of reducing the number of employees to be laid off due to budget reductions. Only employees in the eligible classifications and who have completed at least five full years of continuous service as of August 1, 2011 in a regular position are eligible to participate.

Eligible classifications include:

NON-SWORN

Associate Civil/Traffic Engineer
Associate Engineer
Assistant Engineer
Engineering Assistant I/II
Environmental Compliance Inspector
Environmental Compliance Technician
Maintenance Worker I/II
Parks Maintenance Mechanic
Senior Environmental Compliance Inspector

SWORN

Fire Division Chief
Fire Battalion Chief
Fire Captain
Fire Engineer
Fire Fighter

PROCESS FOR APPROVAL
By 4:30 p.m. on Friday, June 24, 2011, interested employees should review this information and, if eligible, must notify the City's Human Resources Department by submitting the attached mandatory letter to retire to Jill Peltier in Human Resources. All participation requests and applications will be reviewed by Human Resources to verify employment eligibility as set forth above. Any applicant who does not meet these requirements will be notified in writing.

- 1 -
Attachment A
Participation in the program will be subject to the approval of the City Manager based on the City’s needs and objectives stated in the criteria below. The City Manager is authorized to extend Employee’s retirement date, after consulting with the Employee, under the Retirement Incentive Program to meet the needs and objectives of the City. No appeal of the City Manager’s decision shall be permitted. The City Manager’s decision is final and is not appealable. Once the City Manager has made this determination, participating employees will be notified and will be required to sign a Separation Agreement and Release of All Claims provided by the City.

Each application will be evaluated on a case by case basis, including but not limited to the following criteria: (1) current budget reductions, (2) staffing needs to meet operational priorities, (3) impacts to service levels, (4) the number of employees in a given job classification that submit applications. Decisions will be based on seniority in any cases where the number of applicants exceeds the number of positions in that classification that Departments deem appropriate for long term vacancy, with the most senior having priority to participate in this program.

Employees who are approved will be prohibited from directly working full-time for the City in any capacity for twelve (12) months. This includes working as a regular employee, extra help, working retiree, independent contractor, consultant, or any other similar relationship. Some positions may be subject to rehire or backfill as temporary part-time only with City Manager approval on a case by case basis.

**RETIREMENT INCENTIVE PROGRAM**

Any eligible employee who has been approved by the City Manager to voluntarily retire from the City between July 12, 2011 and August 1, 2011 shall receive a cash incentive. The cash incentive is calculated based upon the employee’s base salary and years of continuous service, with one (1) week’s base pay per completed year of service, up to a maximum of $30,000. A method of distribution for cash incentives will be determined on a unit by unit basis. Retirements shall be effective no later than August 1, 2011. Employees approved for the Retirement Incentive after August 1, 2011 will be subject to a maximum of $15,000 using the same formula.

If you have questions, please contact Jill Peltier at 577-5209 or Kimberly Murdaugh at 577-5409.

Attachments:
- Letter of Retirement
- (DRAFT) Separation Agreement and Release of All Claims
CITY OF MODESTO
LETTER OF RETIREMENT

I, ________________________________, intend to retire from the City of Modesto effective on ____________ , 2011.
(last day of employment)

I certify that I meet the eligibility requirements and will meet the participation requirements established by the City for participation in the Retirement Incentive Program.

I understand that: (1) my participation is subject to the City Manager's approval based on the needs of the City, (2) the City Manager’s decision is final and not appealable, (3) the City will notify me of its acceptance of my participation in the Retirement Incentive Program, and (4) if the City rejects my election to participate in the Program, this request will automatically be rescinded.

I understand that if the City accepts my retirement, I will attend a meeting when contacted by Human Resources and must sign the City’s Separation Agreement and Release of All Claims. (A preview document is attached for review purposes, only). I further understand that if I decline to sign the Separation Agreement and Release of All Claims this request will automatically be rescinded. The City Manager will only consider employees who submit this letter by the June 24, 2011 deadline.

Signature ________________________________ Date ________________________________
Print Name ________________________________
Department ________________________________ Classification ________________________________
Address ________________________________
City ___________________________ State ___________________________ Zip Code ___________________________
Phone Number ________________________________

THIS LETTER OF RETIREMENT MUST BE RECEIVED BY JILL PELTIER IN THE HUMAN RESOURCES OFFICE, 1010 TENTH STREET, SUITE 2200, MODESTO, CA NO LATER THAN 4:30 P.M. ON JUNE 24, 2011

- 3 -
Attachment A
CITY OF MODESTO  
Retirement Incentive Program  

SEPARATION AGREEMENT AND RELEASE OF ALL CLAIMS  

This Separation Agreement and Release of All Claims (hereinafter referred to as the “Agreement”) is made and entered into by and between the undersigned “Employee,” his/her heirs, representatives, attorneys, successors and assigns, and anyone claiming through Employee and the City of Modesto, a municipal corporation, and its City Council members, officers, agents, employees, administrators, representatives, executors, successors, assigns, and/or other individuals or entities related thereto (hereinafter referred to collectively as “the City”).  

RECITALS  

WHEREAS,  

1. The City has a projected budget shortfall for fiscal year 2011-12 as a result of the economic downturn.  

2. In order to address the budget shortfall, the City is offering eligible employees who have been employed by the City for at least five (5) full years of continuous service in a regular position the option of electing to participate in the Retirement Incentive Program described herein.  

3. Employee has timely notified the City, in writing by submitting the Letter of Retirement, attached hereto as Exhibit A, of his/her desire to participate in the City’s Retirement Incentive Program and has been accepted for participation by the City Manager.  

4. By opting to participate in the Retirement Incentive Program, Employee agrees to all the terms set forth in this Agreement.  

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth below and for other valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:  

1. Effective Date. This Agreement shall become effective and irrevocable by either party upon the expiration of seven (7) calendar days after this document is signed by both parties, in accordance with the revocation period set forth in paragraph 6(e) below (“Effective Date”).  

2. Terms of Retirement Incentive Program.  

   a. In consideration for voluntarily retiring from the City between July 12, 2011 and August 1, 2011 (last day on payroll to be no later than August 1, 2011),  

Attachment B
Employee shall receive compensation based on full years of service with the City as of the Employee’s retirement effective date. The retirement incentive amount shall be calculated based on the employee’s base salary and years of continuous service, with one week’s base pay per completed year of service, up to a maximum of $30,000. Based on this calculation, employee shall receive an incentive of $\ldots$

b. The City Manager is authorized to extend Employee’s retirement date, after consulting with the Employee, under the Retirement Incentive Program to meet the needs and objectives of the City. Any employee approved for the Retirement Incentive after August 1, 2011 will be subject to a maximum of $15,000 using the same formula set forth in paragraph (a) above.

c. No appeal of the City Manager’s decision shall be permitted.

d. Employee acknowledges that Employee is voluntarily retiring and, therefore, ineligible for unemployment compensation through the California Employment Development Department.

e. Employees shall receive all benefits to which the Employee is normally entitled upon retirement from employment with the City.

3. **Employee Representations Regarding Claims.** Employee represents there are no actions at law or administrative proceedings currently pending which concern allegations based on Employee’s hiring, retention, or compensation by the City, or the termination of Employee’s employment, or based on any act or failure to act by the City affecting, involving, or relating to Employee and his/her employment with the City.

4. **No Admission of Liability.** This Agreement and compliance with this Agreement shall not be construed as an admission of any liability by either Employee or the City of any unlawful or wrongful acts by either party, individually or collectively. The parties disclaim liability as to or for any and all wrongful acts against each other.

5. **Waiver and Release.** In exchange for the valuable consideration and compromises set forth in this Agreement, Employee, on behalf of himself/herself and his/her representatives, family members, heirs, administrators, executives, successors, assigns and anyone claiming through Employee, hereby releases and forever discharges the City, its City Council members, officers, directors, agents, and employees (whether former or current), volunteers, successors, assigns, insurers, attorneys, consultants, affiliates, and/or related organizations or entities (all hereafter referred to singularly and collectively as “the parties hereby released”), from any and all actions, claims, judgments, obligations, damages, and liabilities of whatsoever kind and character with Employee may now have or has ever had arising in any way from or during Employee’s employment with the City, including but not limited to:

   a. Any and all claims for wages, salary, paid leave, and/or benefits;

   b. Any grievance or other administrative remedy deriving from City policy;

   Attachment B
c. Any and all claims for wrongful or constructive discharge and/or reinstatement;

d. Any and all claims relating to any contracts, express or implied, or breach of the covenant of good faith and fair dealing;

e. Any and all tort claims of any nature, including but not limited to, fraud, deceit, misrepresentation, negligent misrepresentation, defamation, invasion of privacy, negligent or intentional infliction of emotional distress;

f. Any and all claims of discrimination, harassment, retaliation or failure to accommodate under federal, state or municipal statute or ordinance, including but not limited to, race, national origin, age, gender, mental or physical disability, medical condition, sexual orientation, marital status, religion, or otherwise, and including any claims under the United States Constitution, California Constitution, California Fair Employment and Housing Act, Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. section 1981, 42 U.S.C. section 1983, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Older Workers’ Benefit Protection Act, the Equal Pay Act, the Family Medical Leave Act, the California Family Rights Act, the Fair Labor Standards Act, the California Labor Code, and any other laws and regulations relating to employment; and

g. Any and all claims for attorney’s fees or costs.

Employee hereby further agrees that this Agreement shall operate as a complete bar against any and all litigation, charges, grievances now pending or contemplated by Employee or which might at any time be filed including but without limiting the foregoing, and any and all matters arising out of or in any manner whatsoever connected with Employee’s employment with and separation of employment from the City up to the date of Employee’s separation from the City.

Employee’s Initials: __________

6. Older Workers Benefit Protection Act. For an Employee 40 years or older and in accordance with the Older Workers Benefit Protection Act, covered Employee acknowledges having been advised by this writing of the following:

a. Employee acknowledges having been advised to consult an attorney of his/her choosing before executing this Agreement.

b. Employee acknowledges that the compensation provided in this Agreement constitutes independent consideration for the said waiver and is in addition to any other payment to which Employee is entitled.

c. Employee acknowledges that this Agreement is written in a manner designed to be understood by Employee and that Employee has read the Agreement carefully and understands its terms.

3

Attachment B
d. Employee acknowledges that he/she has up to forty five (45) calendar days from the date of receipt of this Agreement to consider whether to accept it, although Employee may accept it at any time within those 45 calendar days. If Employee accepts and signs the Agreement before the end of the 45 day period, Employee acknowledges doing so voluntarily and waives any further period for consideration.

e. Employee has the right to revoke this Agreement within seven (7) calendar days after signing the Agreement. This Agreement shall not become effective or enforceable until the seven (7) day revocation period has expired. In the event that Employee revokes pursuant to this section, the entire Agreement shall be void and ineffective.

Employee’s Initials (40 years or older): __________

7. **Specific Waiver of Section 1542 of the California Civil Code.** Employee acknowledges that he/she has read, and hereby waives the application of Section 1542 of the Civil Code, which provides:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM, MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH DEBTOR.”

Employee understands and acknowledges that the significance and consequence of this waiver of Section 1542 of the Civil Code is that, even if he/she should eventually suffer or discover damages arising out of Employee’s employment with the City, Employee will not be permitted to make any claim for those damages. Furthermore, Employee acknowledges that he/she intends these consequences even as to claims that may exist as of the date of this release but which Employee does not know exist, and which, if known, would materially affect Employee’s decision to execute this release, regardless of whether Employee’s lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

Employee’s Initials: __________

8. **Protected Rights.** Employee and City agree that nothing in this Agreement is intended to or shall be construed to affect, limit or otherwise interfere with any non-waivable right of Employee under any Federal, state or local law, including but not limited to, the right to enforce this Agreement and recover for any breach of it, rights under California Labor Code Sections 2802 and 2804, the right to file a charge or participate in an investigation or proceeding conducted by the Equal Employment Opportunity Commission (“EEOC”) or to exercise any other right that cannot be waived under applicable law. Employee is releasing, however, his/her right to any monetary recovery or other relief should the EEOC or any other agency pursues claims on his/her behalf. Further, should the EEOC or any other agency obtain
monetary recovery or other relief on Employee’s behalf, Employee assigns to City all rights to such monetary recovery or other relief.

Employee’s Initials: __________

9. **Return of Property.** Unless otherwise authorized by the City, on the last day of employment with the City, Employee shall return all City property in Employee’s possession or control, including without limitation any laptop computers, keys, proximity badge, credit cards, cellular telephones, files and documents (and all copies thereof).

10. **No Precedent.** The parties specifically acknowledge and agree that this Agreement is a compromise which shall not operate, nor be considered, as evidence of a practice or past practice of the City or a precedent in the future.

11. **Construction of the Agreement.** The parties agree that in any construction to be made of this Agreement, the same shall not be construed against any party on the basis that the party was the drafter.

12. **Acknowledgement of Voluntary Execution.** Employee has carefully read the Agreement and understands the contents. Employee has been afforded the opportunity to consult with his/her own counsel regarding this Agreement. Employee freely, knowingly, and voluntarily enters into this Agreement without any duress or undue influence on the part of any person released by this Agreement, or by any third party. Employee warrants and represents that he/she has the mental and emotional capacity to understand the provisions of this Agreement and its effects upon his/her legal rights.

Employee’s Initials: __________

13. **Partial Invalidity.** In the event that any of the covenants, duties, or restrictions of this Agreement are found to be illegal, invalid or unenforceable, such provision, if possible, shall be construed so as to render the provision legal, valid and enforceable. In the event such provision cannot be amended or construed to be legal, valid and enforceable, such provision shall be deemed deleted and the remainder of this Agreement shall remain in full force and effect.

14. **Entire Agreement.** This Agreement sets forth the entire agreement between the parties and supersedes any and all prior agreements or understandings, written or oral, between the parties pertaining to the subject matter hereof. No other promises or agreements shall be binding upon the parties with respect to the subject matter of this Agreement unless contained herein or separately agreed to in writing by the parties. This Agreement may not be modified except by a writing signed by Employee and the City Manager.

15. **Applicable Law.** This Agreement shall be governed by the laws of the State of California, and shall in all respects, be interpreted and enforced under the laws of the State of California. Litigation arising out of or connected with this Agreement shall be instituted and maintained in the courts of Stanislaus County in the State of California.
California, and the parties consent to jurisdiction over their person and over the
subject matter of any such litigation in such court, and consent to service of process
issued by such court.

16. **No Assignment.** Employee warrants that he/she has not assigned, transferred, nor
purported to assign or transfer, any claim(s) Employee may have against the City, and
he/she will not assign or transfer, nor purport to assign or transfer, any claim(s) he/she
may have against the City. The City warrants that it has not assigned, transferred nor
purported to assign or transfer any claim(s) it may have against Employee and that it
will not assign nor purport to assign or transfer hereafter any claim(s) it may have
against Employee.

17. **Waiver.** Waiver by either party of any default, breach or condition precedent shall
not be construed as a waiver of any other default, breach or condition precedent or
any other right hereunder.

18. **Section Headings.** The section headings contained in this Agreement are for
reference purposes only and shall not affect in any way the meaning or interpretation
of this Agreement.

19. **Counterparts.** This Agreement may be executed in one or more counterparts, each
of which shall, for all purposes, be deemed an original and all such counterparts,
taken together, shall constitute one and the same instrument.

20. **Attorney’s Fees and Costs.** Each party shall bear all attorney’s fees and costs
arising from and/or in any way related to the actions of its own counsel with regard to
the negotiation and creation of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year
written below.

By: ________________________________ By: ________________________________
   Employee                                               Greg Nyhoff
   Date: ________________________________ Date: ________________________________

   City Manager

APPROVED AS TO FORM:

By: ________________________________
   Susana Alcala Wood
   City Attorney

6

Attachment B
MODESTO CITY COUNCIL  
RESOLUTION NO. 2011-209

RESOLUTION APPROVING THE FINAL MAP FOR NORTH EMERALD SUBDIVISION, AUTHORIZING THE CITY CLERK TO CERTIFY THE FINAL MAP AND RECORD IT WITH THE STANISLAUS COUNTY RECORDER’S OFFICE

WHEREAS, WILLAMETTE CAPITAL MANAGEMENT, LTD., is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 3.23 acres, known as the NORTH EMERALD SUBDIVISION (“SUBDIVISION”), in the Planned Development Zone, P-D 373, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on June 1, 2009, and

WHEREAS, the Secretary of the Planning Commission of the City of Modesto and the City Engineer have certified that the final map of said tract substantially conforms to the approved tentative map, and

WHEREAS, there are no improvements required with this subdivision map, and therefore, no improvement security as provided in Section 4-4.605 of the Modesto Municipal Code is required by WILLAMETTE CAPITAL MANAGEMENT, LTD, and

WHEREAS, the City Engineer of the City of Modesto has certified that the final map of said SUBDIVISION meets all of the provisions of the California Subdivision Map Act and the provisions of the Modesto Municipal Code relating to subdivisions, and that the map is technically correct,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that said Final Map be approved; that the dedications for public easements as shown thereon within the boundaries of said tract be accepted on behalf of the public for public
use; and that the City Clerk be authorized to certify the map of said tract on behalf of the
City of Modesto after the fees and deposits required by the Modesto Municipal Code in
amounts determined by the City Engineer have been paid.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 14th day of June, 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,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(S Seal)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING THE ADDITION OF A DOG PARK IN ELK PARK
AND CERTIFYING THE ENVIRONMENTAL FINDING

WHEREAS, Elk Park was deeded to the City of Modesto in January 1913 by the
Women's Improvement Club to be used as a park, and

WHEREAS, in 1975 improvements to the park included the addition of a parking
lot, landscaping and irrigation, and

WHEREAS, in spring 2010 a group of citizens asked to partner with the City to
develop a dog park in a City facility, and

WHEREAS, in October 2010 the Safety and Communities Committee approved
the concept of adding a dog park to Elk Park, and

WHEREAS, in May 2011 a Master Plan for a dog park in Elk Park was presented
to the City of Modesto for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the addition of a dog park to Elk Park.

BE IT FURTHER RESOLVED that the Council of the City of Modesto hereby
certifies the environmental finding of a Categorical Exemption under Section 15301, a
minor alteration to an existing facility.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING A REAFFIRMATION AGREEMENT BETWEEN THE CITY OF MODESTO AND STANCOG REAFFIRMING A 1999 AGREEMENT THAT SETS FORTH THE BASIC STRUCTURE FOR COOPERATIVE PLANNING AND DECISION MAKING BETWEEN THE CITY OF MODESTO AND STANCOG

WHEREAS, the Stanislaus Council of Governments (StanCOG) has been designated by the Federal Transit Administration (FTA) to administer federal transit funds, which are made available to the Modesto Urbanized Area, and

WHEREAS, on November 2, 1999, the Council, by Resolution No. 2009-532, approved an Agreement with StanCOG to enable the City of Modesto to apply for FTA funds, and

WHEREAS, the Agreement sets forth the basic structure for cooperative planning and decision-making between the City of Modesto and StanCOG as required by the FTA, and

WHEREAS, the Reaffirmation Agreement is required by the FTA and SAFETEA-LU regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Reaffirmation Agreement between the City of Modesto and StanCOG reaffirming a 1999 Agreement that sets forth the basic structure for cooperative planning and decision-making between the City of Modesto and StanCOG.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Reaffirmation Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION ACCEPTING THE WORK BY D. M. ALEGRE CONSTRUCTION, INC. FOR THE TRAFFIC OPERATIONS BUILDING – TENANT IMPROVEMENTS PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $193,908

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Traffic Operation Building – Tenant Improvements Project has been completed by D. M. Alegre Construction, Inc., in accordance with the contract agreement dated October 12, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Traffic Operation Building – Tenant Improvements Project is hereby accepted as complete from said contractor D. M. Alegre Construction, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, release securities upon expiration of statutory periods, and that payment of amounts totaling $193,908 is authorized as provided in the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING A PURCHASE AGREEMENT WITH SARBJIT
ATHWAL AND SATWANT K. ATHWAL, FOR A 32,043 SQ. FT. (0.74-ACRE)
PERMANENT ACCESS EASEMENT, AND A 3,600 SQ. FT. (0.08-ACRE)
PORTION FOR A PERMANENT SEWER FACILITIES EASEMENT, AND
DAMAGES FOR REMOVAL OF 13 ALMOND TREES OF A PARCEL
LOCATED AT 3713 W. KEYES ROAD (APN 017-058-046 & 047), IN THE
AMOUNT OF $18,500, FOR THE PRIMARY OUTFALL REHABILITATION
PROJECT, PHASE 2, AND AUTHORIZING THE CITY MANAGER, OR HIS
DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED
DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the City of Modesto adopted a Wastewater Master Plan (WWMP) in
2007, which also identified insufficient capacity in the existing Primary Outfall Pipeline
and called for the rehabilitation of the Primary Outfall, and

WHEREAS, due to the length of the system and complexity of the work, the
project was divided into two phases, and

WHEREAS, Phase 1 is completed and these easements are needed for access and
construction of Phase 2 of the project, and

WHEREAS, the property is mainly agricultural located at 3713 W. Keyes Road,
Modesto, California (APN 017-058-046 & 047), and

WHEREAS, the City Council directed staff to proceed with acquiring property to
facilitate the rehabilitation of the Primary Outfall, and

WHEREAS, the property has been appraised and an offer to acquire the property
interests at fair market value has been accepted by Sarbjit Athwal and Satwant K.
Athwal,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the Purchase Agreement with Sarbjit Athwal and Satwant K.
Athwal for a 32,043 sq. ft. (0.74-acre) Permanent Access Easement, and a 3,600 sq. ft. (0.08-acre) portion for a Permanent Facilities Easement, and damages for almond tree removal of a parcel located at 3713 W. Keyes Road, Modesto, California (APN 017-058-046 & 047), in the amount of $18,500, for the Primary Outfall Rehabilitation Project, Phase 2.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN A CERTIFICATE OF ACCEPTANCE FOR THE PERMANENT ACCESS EASEMENT AND PERMANENT SEWER FACILITIES EASEMENT FOR THE ACQUISITION OF PROPERTY INTERESTS LOCATED AT 3713 W. KEYES ROAD, OWNED BY SARBJIT ATHWAL AND SATWANT K. ATHWAL, (APN 017-058-046 & 047) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PRIMARY OUTFALL REHABILITATION PROJECT, PHASE 2

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

WHEREAS, the City of Modesto desires to acquire a 35,643 sq. ft. (0.82-acre) portion of a 154.73-acre parcel of property interests located at 3713 W. Keyes Road within the project area, owned by Sarbjit Athwal and Satwant K. Athwal (APN 017-058-047 & 046) to be purchased by the City of Modesto for the Primary Outfall Rehabilitation Project, Phase 2,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign the Certificate of Acceptance Form for the Permanent Access Easement and Permanent Sewer Facilities Easement for the acquisition of property interests located at 3713 W. Keyes Road owned by Sarbjit Athwal and Satwant K. Athwal, (APN 017-058-047 & 046) to be purchased by the City of Modesto for the Primary Outfall Rehabilitation Project, Phase 2.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2011-215

RESOLUTION APPROVING A PURCHASE AGREEMENT WITH JOE D. MACHADO FOR A 1,750 SQ. FT. (0.04-ACRE) PERMANENT SEWER FACILITIES EASEMENT, A 1.02 ACRE (44,400 SQ. FT.) TEMPORARY CONSTRUCTION EASEMENT, A 1.12 ACRE (48,713 SQ. FT.) TEMPORARY ACCESS EASEMENT AND DAMAGES FOR TEMPORARY LOSS OF ALFALFA FARMING OF A PARCEL LOCATED AT 6431 JENNINGS ROAD (APN 017-062-030), IN THE AMOUNT OF $12,800, FOR THE PRIMARY OUTFALL REHABILITATION PROJECT, PHASE 2, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the City of Modesto adopted a Wastewater Master Plan (WWMP) in 2007, which also identified insufficient capacity in the existing Primary Outfall Pipeline and called for the rehabilitation of the Primary Outfall, and

WHEREAS, due to the length of the system and complexity of the work, the project was divided into two phases, and

WHEREAS, Phase 1 is completed and these easements are needed for access and construction of Phase 2 of the project, and

WHEREAS, the property is located at 6431 Jennings Road, Modesto, California (APN 017-062-030), and

WHEREAS, the City Council directed staff to proceed with acquiring property to facilitate the rehabilitation of the Primary Outfall, and

WHEREAS, the property has been appraised and an offer to acquire the property interests at fair market value has been accepted by Joe D. Machado,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement with Joe D. Machado for a 1,750 sq. ft. (0.04-acre) Permanent Sewer Facilities Easement, a 1.02-acre (44,400 sq. ft.) portion for a Temporary Construction Easement, and a 1.12 acre (48,713 sq. ft.) Temporary Access
Easement, and damages for temporary loss of alfalfa farming of a parcel located at 6431 Jennings Road, Modesto, California (APN 017-062-030), in the amount of $12,800, for the Primary Outfall Rehabilitation Project, Phase 2.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14\textsuperscript{th} day of June, 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, Mayor Ridenour

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

ATTEST: \[Signature\]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: \[Signature\]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN CERTIFICATES OF ACCEPTANCE FOR THE PERMANENT SEWER FACILITIES EASEMENT, TEMPORARY CONSTRUCTION EASEMENT AND TEMPORARY ACCESS EASEMENT FOR THE ACQUISITION OF PROPERTY INTERESTS LOCATED AT 6431 JENNINGS ROAD, OWNED BY JOE D. MACHADO, (APN 017-062-030), TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PRIMARY OUTFALL REHABILITATION PROJECT, PHASE 2

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

WHEREAS, the City of Modesto desires to acquire a 2.18 acre (94,863 sq. ft.) portion of a 76.77-acre parcel of property interests located on Jennings Road within the project area, owned by Joe D. Machado (APN 017-062-030), to be purchased by the City of Modesto for the Primary Outfall Rehabilitation Project, Phase 2,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign Certificates of Acceptance for the Permanent Sewer Facilities Easement and the Temporary Access and Construction Easement for the acquisition of property interests located on Jennings Road owned by Joe D. Machado (APN 017-062-030), to be purchased by the City of Modesto for the Primary Outfall Rehabilitation Project, Phase 2.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING A PURCHASE AGREEMENT WITH LADD RANCH PROPERTIES FOR A 3,310 SQ. FT. (0.08-ACRE) PERMANENT ACCESS EASEMENT OF A PARCEL LOCATED AT 4907 VIVIAN ROAD (APN 017-051-041), IN THE AMOUNT OF $1,026, FOR THE PRIMARY OUTFALL REHABILITATION PROJECT, PHASE 2, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the City of Modesto adopted a Wastewater Master Plan (WWMP) in 2007, which also identified insufficient capacity in the existing Primary Outfall Pipeline and called for the rehabilitation of the Primary Outfall, and

WHEREAS, due to the length of the system and complexity of the work, the project was divided into two phases, and

WHEREAS, Phase 1 is completed and these easements are needed for access and construction of Phase 2 of the project, and

WHEREAS, the property is mainly agricultural located at 4907 Vivian Road, Modesto, California (APN 017-051-041), and

WHEREAS, the City Council directed staff to proceed with acquiring property to facilitate the rehabilitation of the Primary Outfall, and

WHEREAS, the property has been appraised and an offer to acquire the property interests at fair market value has been accepted by Ladd Ranch Properties,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement with Ladd Ranch Properties, for a 3,310 sq. ft. (0.08-acre) Permanent Access Easement of a parcel located at 4907 Vivian Road, Modesto, California (APN 017-051-041), in the amount of $1,026, for the Primary Outfall Rehabilitation Project, Phase 2.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ____________

SUSANA ALOALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2011-218

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE CERTIFICATE OF ACCEPTANCE FOR THE PERMANENT ACCESS EASEMENT FOR THE ACQUISITION OF PROPERTY INTERESTS LOCATED AT 4907 VIVIAN ROAD, OWNED BY LADD RANCH PROPERTIES, (APN 017-051-041), TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PRIMARY OUTFALL REHABILITATION PROJECT, PHASE 2

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

WHEREAS, the City of Modesto desires to acquire a 3,310 sq. ft. (0.08 acre) portion of a 24.04-acre parcel of property interests located on Vivian Road within the project area, owned by Ladd Ranch Properties (APN 017-051-041), to be purchased by the City of Modesto for the Primary Outfall Rehabilitation Project, Phase 2.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign the Certificate of Acceptance Form for the Permanent Access Easement for the acquisition of property interests located on 4907 Vivian Road owned by Ladd Ranch Properties, (APN 017-051-041) to be purchased by the City of Modesto for the Primary Outfall Rehabilitation Project, Phase 2.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 14th day of June, 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,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ____________________________
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ________________________________
SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING A PURCHASE AGREEMENT WITH THE GRACE A. SOUZA LIVING TRUST, LTD, OCTOBER 13, 2006, GRACE SOUZA, TRUSTEE, FOR A 2,000 SQ. FT. (0.05 ACRE) PERMANENT FACILITIES EASEMENT, A 7,500 SQ. FT. (0.17 ACRE) TEMPORARY CONSTRUCTION EASEMENT, A 4,000 SQ. FT. (0.09 ACRE) TEMPORARY CONSTRUCTION EASEMENT, AND A 8,738 SQ. FT. (0.20 ACRE) TEMPORARY ACCESS EASEMENT, LOCATED AT 3548 W. GRAYSON ROAD (APN 017-058-044), IN THE AMOUNT OF $1,581, FOR THE PRIMARY OUTFALL REHABILITATION PROJECT, PHASE 2, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the City of Modesto adopted a Wastewater Master Plan (WWMP) in 2007, which also identified insufficient capacity in the existing Primary Outfall Pipeline and called for the rehabilitation of the Primary Outfall, and

WHEREAS, due to the length of the system and complexity of the work, the project was divided into two phases, and

WHEREAS, Phase 1 is completed and these easements are needed for access and construction of Phase 2 of the project, and

WHEREAS, the property is located at 3548 W. Grayson Road, Modesto, California (APN 017-058-044), and

WHEREAS, the City Council directed staff to proceed with acquiring property to facilitate the rehabilitation of the Primary Outfall, and

WHEREAS, the property has been appraised and an offer to acquire the property interests at fair market value has been accepted by The Grace A. Souza Living Trust, LTD, October 13, 2006, Grace Souza, Trustee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement with The Grace A. Souza Living Trust,
LTD, October 13, 2006, Grace Souza, Trustee, for a 2,000 sq. ft. (0.05-acre) Permanent Sewer Facilities Easement, a 11,500 sq. ft. (0.26-acre) portion for two Temporary Construction Easements, and a 8,738 sq. ft. (0.20-acre) Temporary Access Easement of a parcel located at 3548 W. Grayson Road, Modesto, California (APN 017-058-044), in the amount of $1,581, for the Primary Outfall Rehabilitation Project, Phase 2.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 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, 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 MANAGER, OR HIS DESIGNEE,
TO SIGN CERTIFICATES OF ACCEPTANCE FOR THE PERMANENT
FACILITIES EASEMENT, TWO TEMPORARY CONSTRUCTION
EASEMENTS, AND TEMPORARY ACCESS EASEMENT, FOR THE
ACQUISITION OF PROPERTY INTERESTS LOCATED AT 3548 W. GRAYSON
ROAD, OWNED BY THE GRACE A. SOUZA LIVING TRUST, LTD, OCTOBER
13, 2006, GRACE SOUZA, TRUSTEE (APN 017-058-044), TO BE PURCHASED
BY THE CITY OF MODESTO FOR THE PRIMARY OUTFALL
REHABILITATION PROJECT, PHASE 2

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

WHEREAS, the City of Modesto desires to acquire 17,869 sq. ft. (0.41-acre)
portion of a 23.8-acre parcel of property interests located at 3548 W. Grayson Road
within the project area, owned by The Grace A. Souza Living Trust, LTD, October 13,
2006, Grace Souza, Trustee (APN 017-058-044), to be purchased by the City of Modesto
for the Primary Outfall Rehabilitation Project, Phase 2,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the City Manager, or his designee, is hereby authorized to sign Certificates of
Acceptance for the Permanent Facilities Easement, two Temporary Construction
Easements and Temporary Access Easement for the acquisition of property interests
located at 3548 W. Grayson Road owned by The Grace A. Souza Living Trust, LTD,
October 13, 2006, Grace Souza, Trustee, (APN 017-058-044) to be purchased by the City
of Modesto for the Primary Outfall Rehabilitation Project Phase 2.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 14th day of June, 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,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING A PURCHASE AGREEMENT WITH JON FREDERICK CHRISTIANSEN FOR A 14,323 SQ. FT. (0.33-ACRE) PERMANENT ACCESS EASEMENT, LOCATED AT 2543 JENNINGS ROAD (APN 017-058-052), IN THE AMOUNT OF $4,524, FOR THE PRIMARY OUTFALL REHABILITATION PROJECT, PHASE 2, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the City of Modesto adopted a Wastewater Master Plan (WWMP) in 2007, which also identified insufficient capacity in the existing Primary Outfall Pipeline and called for the rehabilitation of the Primary Outfall, and

WHEREAS, due to the length of the system and complexity of the work, the project was divided into two phases, and

WHEREAS, Phase 1 is completed, and these easements are needed for access and construction of the Phase 2 of the project, and

WHEREAS, the property is mainly agricultural located at 2543 Jennings Road, Modesto, California (APN 017-058-052), and

WHEREAS, the City Council directed staff to proceed with acquiring property to facilitate the rehabilitation of the Primary Outfall, and

WHEREAS, the property has been appraised and an offer to acquire the property interests at fair market value has been accepted by Jon Frederick Christiansen,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement with Jon Frederick Christiansen for a 14,323 sq. ft. (0.33-acre) Permanent Access Easement of a parcel located at 2543 Jennings Road, Modesto, California (APN 017-058-052), in the amount of $4,524, for the Primary Outfall Rehabilitation Project, Phase 2.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2011-222

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE CERTIFICATE OF ACCEPTANCE FOR THE PERMANENT ACCESS EASEMENT, FOR THE ACQUISITION OF PROPERTY INTERESTS LOCATED AT 2543 JENNINGS ROAD, OWNED BY JON FREDERICK CHRISTIANSEN (APN 017-058-052), TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PRIMARY OUTFALL REHABILITATION PROJECT, PHASE 2

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

WHEREAS, the City of Modesto desires to acquire a 14,323 sq. ft. (0.33-acre) portion of a 18.57-acre parcel of property interests located on Jennings Road within the project area, owned by Jon Frederick Christiansen (APN 017-058-052), to be purchased by the City of Modesto for the Primary Outfall Rehabilitation Project, Phase 2,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign the Certificate of Acceptance for the Grant of Permanent Access Easement for the acquisition of property interests located on Jennings Road, owned by Jon Frederick Christiansen (APN 017-058-052) to be purchased by the City of Modesto for the Primary Outfall Rehabilitation Project Phase 2.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING A PURCHASE AGREEMENT WITH JON
CHRISTIANSEN AND ALMA CHRISTIANSEN FOR A 13,252 SQ. FT. (0.30-
ACRE) PERMANENT ACCESS EASEMENT, LOCATED AT 5500 JENNINGS
ROAD (APN 017-058-053), IN THE AMOUNT OF $4,000, FOR THE PRIMARY
OUTFALL REHABILITATION PROJECT, PHASE 2, AND AUTHORIZING
THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT
AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the City of Modesto adopted a Wastewater Master Plan (WWMP) in
2007, which also identified insufficient capacity in the existing Primary Outfall Pipeline
and called for the rehabilitation of the Primary Outfall, and

WHEREAS, due to the length of the system and complexity of the work, the
project was divided into two phases, and

WHEREAS, Phase 1 is completed, and these easements are needed for access and
construction of Phase 2 of the project, and

WHEREAS, the property is mainly agricultural located at 5500 Jennings Road,
Modesto, California (APN 017-058-053), and

WHEREAS, the City Council directed staff to proceed with acquiring property to
facilitate the rehabilitation of the Primary Outfall, and

WHEREAS, the property has been appraised and an offer to acquire the property
interests at fair market value has been accepted by Jon Christiansen and Alma
Christiansen,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the Purchase Agreement with Jon Christiansen and Alma
Christiansen, for a 13,252 sq. ft. (0.30-acre) Permanent Access Easement of a parcel
located at 5500 Jennings Road, Modesto, California (APN 017-058-053), in the amount
of $4,000, for the Primary Outfall Rehabilitation Project, Phase 2.

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

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 14th day of June, 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,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA A. VALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE CERTIFICATE OF ACCEPTANCE FOR THE PERMANENT ACCESS EASEMENT FOR THE ACQUISITION OF PROPERTY INTERESTS LOCATED AT 5500 JENNINGS ROAD, OWNED BY JON CHRISTIANSEN AND ALMA CHRISTIANSEN (APN 017-058-053), TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PRIMARY OUTFALL REHABILITATION PROJECT, PHASE 2

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

WHEREAS, the City of Modesto desires to acquire a 13,252 sq. ft. (0.30-acre) portion of a 20-acre parcel of property interests located on Jennings Road within the project area, owned by Jon Christiansen and Alma Christiansen (APN 017-058-053), to be purchased by the City of Modesto for the Primary Outfall Rehabilitation Project, Phase 2.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign the Certificate of Acceptance for the Permanent Access Easement for the acquisition of property interests located at 5500 Jennings Road owned by Jon Christiansen and Alma Christiansen, (APN 017-058-053) to be purchased by the City of Modesto for the Primary Outfall Rehabilitation Project, Phase 2.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

(SIGNATURE)

SUSANA M. CALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2011-225

RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO
THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING
$11,272,768 IN FTA SECTION 5307 FUNDS

WHEREAS, the Federal Transit Administration (FTA) has been delegated
authority to award federal financial assistance for transportation related projects, and

WHEREAS, the City of Modesto has provided all annual certifications and
assurances required by the FTA for Section 5307 funding, and

WHEREAS, the projects for the City of Modesto shown in the attached Program
Of Projects are eligible to receive 100% of federally reimbursable expenses from Section
5307 funds, and

WHEREAS, the bus purchase for the City of Ripon shown in the attached Program Of Projects is eligible to receive 83% of federally reimbursable expenses from Section 5307 funds, and

WHEREAS, the design and engineering of a Bus Maintenance Facility for the
City of Ripon shown in the attached Program Of Projects is eligible to receive 80% of
federally reimbursable expenses from Section 5307 funds, and

WHEREAS, the projects shown in the attached Program of Projects are included
in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

WHEREAS, there is an existing MOU between the City of Modesto and the City
of Ripon that requires Ripon to meet FTA obligations, and

WHEREAS, Ripon has agreed to provide the local share of Ripon’s project costs,
and
WHEREAS, Modesto is eligible to use federally approved Transportation Development Funds known as Toll Credits in lieu of a local match, and

WHEREAS, the grant for Federal assistance will impose certain obligations on the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of an application with the Federal Transit Administration for $11,272,768 in Section 5307 funds for projects included in the attached Program of Projects.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute and file the annual certifications and assurances and other documents the FTA requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents with the FTA on behalf of the City of Modesto.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 2011, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
**2010-2011 Federal Transit Administration**

**Program of Projects**

**FTA Section 5307 Program of Projects**

**FTA Fund Availability**

<table>
<thead>
<tr>
<th>Description</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11</th>
</tr>
</thead>
<tbody>
<tr>
<td>5307 Carryover Apportionment</td>
<td>$3,006,392</td>
<td>$4,166,376</td>
<td>$4,187,089</td>
</tr>
</tbody>
</table>

**Total** $11,359,857

**MODESTO URBANIZED AREA SECTION 5307 PROJECTS**

**FTA Project Description**

<table>
<thead>
<tr>
<th>Description</th>
<th>Total</th>
<th>Local</th>
<th>Federal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase New Buses</td>
<td>$800,000</td>
<td>$0</td>
<td>$800,000</td>
</tr>
<tr>
<td>Preventive Maintenance</td>
<td>$5,406,392</td>
<td>$0</td>
<td>$5,406,392</td>
</tr>
<tr>
<td>Transit Enhancements</td>
<td>$81,663</td>
<td>$0</td>
<td>$81,663</td>
</tr>
<tr>
<td>Capital Cost of Contracting</td>
<td>$8,440,000</td>
<td>$4,220,000</td>
<td>$4,220,000</td>
</tr>
<tr>
<td>Administrative Office Lease</td>
<td>$160,000</td>
<td>$0</td>
<td>$160,000</td>
</tr>
<tr>
<td>Technology Improvements</td>
<td>$309,713</td>
<td>$0</td>
<td>$309,713</td>
</tr>
<tr>
<td>Construction Transit Structures</td>
<td>$95,000</td>
<td></td>
<td>$95,000</td>
</tr>
<tr>
<td>Employee Training &amp; Education</td>
<td>$20,000</td>
<td></td>
<td>$20,000</td>
</tr>
</tbody>
</table>

**Ripon Projects**

<table>
<thead>
<tr>
<th>Description</th>
<th>Total</th>
<th>Local</th>
<th>Federal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design Ripon Bus Maintenance Facility</td>
<td>$150,000</td>
<td>$0</td>
<td>$150,000</td>
</tr>
</tbody>
</table>

**Total** $15,462,768

**Congestion Mitigation and Air Quality Project Awarded to the City of Modesto by StanCOG (Match Required)**

**FTA Project Description**

<table>
<thead>
<tr>
<th>Description</th>
<th>Total</th>
<th>Local</th>
<th>Federal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase 4 Replacement Buses</td>
<td>$1,579,931</td>
<td>$162,571</td>
<td>$1,417,360</td>
</tr>
</tbody>
</table>

**Total** $1,579,931

**Congestion Mitigation and Air Quality Project Awarded to the City of Ripon by San Joaquin Council of Governments (100% Federal)**

**FTA Project Description**

<table>
<thead>
<tr>
<th>Description</th>
<th>Total</th>
<th>Local</th>
<th>Federal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase bus for new service and participate in</td>
<td>$653,236</td>
<td>$0</td>
<td>$653,236</td>
</tr>
<tr>
<td>the purchase of a second bus</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operate New Service for 3 years</td>
<td>$208,400</td>
<td>$0</td>
<td>$208,400</td>
</tr>
</tbody>
</table>

**Total** $861,636
WHEREAS, the Federal Transit Administration (FTA) has been delegated authority to award federal financial assistance for transportation related projects, and

WHEREAS, the City of Modesto has provided all annual certifications and assurances required by the FTA for CMAQ funding, and

WHEREAS, the CMAQ Projects for the City of Modesto shown on the attached Program Of Projects are eligible to receive 88.53% of federally reimbursable expenses from CMAQ funds, and

WHEREAS, the projects shown in the attached Program of Projects are included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

WHEREAS, the grant for Federal assistance will impose certain obligations on the City of Modesto and may require the City to provide the local share of the project costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of an application on behalf of the City of Modesto with the Federal Transit Administration for $1,417,360 in CMAQ funds.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute and file the annual certifications and assurances and other documents the FTA requires for awarding a federal assistance grant.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents with the FTA on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 2011, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALÁ WOOD, City Attorney
2010-2011 Federal Transit Administration
Program of Projects

FTA Section 5307 Program of Projects

FTA Fund Availability

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<td>$0</td>
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<td>$11,359,857</td>
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MODESTO URBANIZED AREA SECTION 5307 PROJECTS

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<td>$4,220,000</td>
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Congestion Mitigation and Air Quality Project Awarded to the City of Modesto by StanCOG (Match Required)

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<td>$1,417,360</td>
</tr>
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Congestion Mitigation and Air Quality Project Awarded to the City of Ripon by San Joaquin Council of Governments (100% Federal)

<table>
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<td>Operate New Service for 3 years</td>
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<td>$0</td>
<td>$208,400</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$861,636</td>
<td>$0</td>
<td>$861,636</td>
</tr>
</tbody>
</table>
RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $753,000 IN FTA CONGESTION MITIGATION AND AIR QUALITY (CMAQ) FUNDS

WHEREAS, the Federal Transit Administration (FTA) has been delegated authority to award federal financial assistance for transportation related projects in the Modesto Urbanized Area, and

WHEREAS, the City of Ripon is in the Modesto Urbanized Area, and

WHEREAS, there is an existing MOU between the City of Modesto and the City of Ripon that requires Ripon to meet FTA obligations, and

WHEREAS, the City of Modesto has provided all annual certifications and assurances required by the FTA for CMAQ funding, and

WHEREAS, Ripon has agreed to provide the local share of project costs, and

WHEREAS, the bus purchase for the City of Ripon is eligible to receive 88.53% of its federally reimbursable expenses from CMAQ funds, and

WHEREAS, the first three years of operating costs of a new fixed route public transit service provided by the City of Ripon is eligible to receive 88.53% of its federally reimbursable expenses from CMAQ funds, and

WHEREAS, the projects shown in the attached Program of Projects are included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

WHEREAS, the grant for Federal assistance will impose certain obligations on the City of Modesto,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of an application on behalf of the City of Modesto with the Federal Transit Administration for $753,000 in CMAQ funds for the attached Program of Projects.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute and file the annual certifications and assurances and other documents the FTA requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents with the FTA on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 2011, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(STEPHANIE LOPEZ, City Clerk)

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
2010-2011 Federal Transit Administration
Program of Projects

FTA Section 5307 Program of Projects

FTA Fund Availability

<table>
<thead>
<tr>
<th>Description</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11</th>
</tr>
</thead>
<tbody>
<tr>
<td>5307 Carryover Apportionment for 2008-09</td>
<td>$3,006,392</td>
<td>$4,166,375</td>
<td>$4,187,089</td>
</tr>
<tr>
<td>5307 Federal Apportionment for 2010-11</td>
<td>$-</td>
<td>$-</td>
<td>$-</td>
</tr>
<tr>
<td>Total</td>
<td>$11,359,857</td>
<td>$11,359,857</td>
<td>$11,359,857</td>
</tr>
</tbody>
</table>

MODESTO URBANIZED AREA SECTION 5307 PROJECTS

**FTA Project Description**

| Purchase New Buses                        | $600,000 | $0  | $600,000 |
| Preventive Maintenance                    | $5,406,392| $0  | $5,406,392|
| Transit Enhancements                      | $81,663  | $0  | $81,663  |
| Capital Cost of Contracting               | $8,440,000| $4,220,000| $4,220,000|
| Administrative Office Lease               | $160,000 | $0  | $160,000 |
| Technology Improvements                   | $309,713 | $0  | $309,713 |
| Construction Transit Structures           | $95,000  | $0  | $95,000  |
| Employee Training & Education             | $20,000  | $0  | $20,000  |
| Total                                      | $15,462,768| $4,220,000| $11,242,768|

Ripon Projects

| Design Ripon Bus Maintenance Facility      | $150,000 | $0  | $150,000 |
| Total                                      | $15,612,768| $4,220,000| $11,242,768|

Congestion Mitigation and Air Quality Project Awarded to the City of Modesto by StanCOG (Match Required)

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Total</th>
<th>Local</th>
<th>FEDERAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase 4 Replacement Buses</td>
<td>$1,579,931</td>
<td>$162,571</td>
<td>$1,417,360</td>
</tr>
<tr>
<td>Total</td>
<td>$1,579,931</td>
<td>$162,571</td>
<td>$1,417,360</td>
</tr>
</tbody>
</table>

Congestion Mitigation and Air Quality Project Awarded to the City of Ripon by San Joaquin Council of Governments (100% Federal)

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Total</th>
<th>Local</th>
<th>FEDERAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase bus for new service and participate in the purchase of a second bus</td>
<td>$653,236</td>
<td>$0</td>
<td>$653,236</td>
</tr>
<tr>
<td>Operate New Service for 3 years</td>
<td>$208,400</td>
<td>$0</td>
<td>$208,400</td>
</tr>
<tr>
<td>Total</td>
<td>$861,636</td>
<td>$0</td>
<td>$861,636</td>
</tr>
</tbody>
</table>