A RESOLUTION APPROVING A CFF RIGHT OF WAY REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO MABLE, LLC, A LIMITED LIABILITY COMPANY, WITH A MAXIMUM REIMBURSEMENT AMOUNT OF $433,862.00 FOR RIGHT OF WAY FOR THE FUTURE PELANDALE/CLARATINA EXPRESSWAY AND RIGHT OF WAY LOCATED ON OAKDALE ROAD NORTH OF MABEL AVENUE, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND FINDING THAT THE AGREEMENT IS WITHIN THE SCOPE OF THE GENERAL PLAN MASTER EIR (SCH NO. 1999082041) AND THE NORTH BEYER PARK SPECIFIC PLAN MND (SCH NO. 9610253)

WHEREAS, the City of Modesto’s General Plan calls for Pelandale Avenue/Claratina Road to be constructed as a Class A expressway, and

WHEREAS, the future Claratina Road will be developed as an expressway and additional right of way is necessary for the future realignment of Claratina Road, and

WHEREAS, Modesto Mable, LLC, a Limited Liability Company, (“Developer”) has a legal interest in a certain tract of land located at the northwest corner of Oakdale Road and Mable Avenue in North Beyer Park Specific Plan area of the City of Modesto, commonly known as the Rose Villas Subdivision (“Subdivision”), and

WHEREAS, as a condition of approval of the Subdivision, the Developer is required to dedicate 73,979 square feet of right of way for the future Pelandale/Claratina Expressway and 4,313 square feet of right of way for the widening of Oakdale Road north of Mable Avenue (collectively “the Dedication”), and

WHEREAS, the Dedication will be made through the recording of the final map for the Subdivision (“Final Map”) and the Dedication will be effective upon recordation of said Final Map, and
WHEREAS, a portion of the Dedication is reimbursable through the City’s Capital Facilities Fees ("CFF") program, and

WHEREAS, the City and the Developer are proposing to enter into a CFF Right of Way Reimbursement Agreement ("Agreement") between the City of Modesto and Developer to provide for reimbursement for (a portion of) the ROW to be dedicated, and

WHEREAS, said Agreement shall have a maximum reimbursement amount of $433,862, which will be allocated from the Streets CFF fund not later than fifteen (15) days after recordation of the Final Map for the Subdivision or July 1, 2007, whichever occurs later, and

WHEREAS, the City Council has received and considered the Written Checklist, Environmental Assessment No. EA/C&ED 2006-66, which concludes that the dedication of the right of way for which the Developer will be reimbursed under the proposed Agreement, is within the scope of the General Plan Master EIR (SCH No. 1999082041) and the North Beyer Park Specific Plan MND (SCH No. 96102053, and that, pursuant to Sections 15168(c) and 15182 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 that:

1. The proposed CFF Right of Way Reimbursement Agreement between the City of Modesto and Modesto Mable, LLC ("Project") is consistent with the North Beyer Specific Plan and the Modesto Urban Area General Plan.
2. The reimbursement for the proposed right of way is included in the 2003 CFF program.

3. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this Project is within the scope of the projects covered by the General Plan Master EIR and the North Beyer Park Specific Plan MND ("Program EIR") and no new environmental document or findings are required by CEQA.

4. 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.

5. 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.

6. 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.

7. The Written Checklist, Environmental Assessment EA/C&ED 2006-66, provides the substantial evidence to support findings 3-7, above.

BE IT FURTHER RESOLVED that the CFF Right of Way Reimbursement Agreement between the City of Modesto and Modesto Mable, LLC is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or designee, is authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 5th day of June, 2007, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen,
       Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  
JEAN MORRIS, City Clerk
(SEAL)

APPROVED AS TO FORM:

By:  
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-320

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN EMPLOYMENT EXTENSION AGREEMENT WITH GEORGE BRITTON TO CONTINUE TO SERVE AS CITY MANAGER OF THE CITY OF MODESTO FOR A LIMITED TERM OF JULY 1, 2007 THROUGH JANUARY 6, 2008 AT A SALARY OF $15,076 PER MONTH

WHEREAS, on April 5, 2005, the City Council appointed then Acting City Manager George Britton as City Manager and entered into an employment agreement with George Britton to serve as City Manager of the City of Modesto until July 1, 2007, at an annual salary of $154,010 per City Council Resolution No. 2005-165, and

WHEREAS, the City Council desires to extend said employment for a fixed limited term, effective July 1, 2007 through January 6, 2008, and

WHEREAS, the extension agreement shall provide for a monthly salary of $15,076.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Mayor to sign an employment extension agreement with George Britton to continue to serve as City Manager of the City of Modesto through January 6, 2008, at a monthly salary of $15,076. Said employment agreement is attached hereto as Exhibit “A” and incorporated herein by this reference.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 5th day of June, 2007, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,
        Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: ____________________________
        JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: ______________________________
    SUSANA ALCALA WOOD, City Attorney
# CITY OF MODESTO - GEORGE W. BRITTON
EMPLOYMENT EXTENSION AGREEMENT FOR A LIMITED TERM

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EMPLOYMENT AGREEMENT

Introduction
This agreement, made and entered into this __________ day of __________, ________, by and between the CITY OF MODESTO, a municipal corporation, (hereinafter called “Employer”), and GEORGE W. BRITTON (hereinafter called “Employee”), an individual who has the California education, training and experience in local government management and who, as a member of ICMA, is subject to the ICMA Code of Ethics, both of whom agree as follows:

Section 1: Limited Term
The term of this Agreement shall be for a limited term from July 1, 2007, through January 6, 2008. The parties understand and agree that the purpose of entering into this limited term agreement is to allow Employer sufficient time to successfully complete its recruitment for a new City Manager. It is in support of this Employer objective that Employee has agreed to postpone his retirement date of June 30, 2007, as properly noticed to the Employer on February 20, 2007. In the event the Agreement is not renewed, all compensation, benefits and requirements of the Agreement shall remain in effect until the expiration of the term of the Agreement unless Employee voluntarily resigns.

Section 2: Duties and Authority
Employer agrees to employ George W. Britton as City Manager to perform the functions and duties specified in the Modesto Charter and the California Government Code, and to perform other legally permissible and proper duties and functions.

Section 3: Compensation
A. Base Salary: Employer agrees to pay Employee a monthly salary of Fifteen Thousand Seventy-Six Dollars ($15,076.00) payable in installments at the same time that the other employees of the Employer are paid. Said monthly salary shall be prorated for one week in January 2008.

B. The parties also expressly acknowledge that Employee shall continue to receive Masters Degree Pay of 1.5% as previously authorized by Council Resolution No. 2003-330.

Section 4: Disability and Life Insurance Benefits
A. The Employer agrees to provide and to pay the premiums for health, hospitalization, surgical, vision, dental and comprehensive medical insurance for the Employee and his/her dependents equal to that which is provided to all other Management and Confidential employees of the City of Modesto or, in the event no such plan exists, to provide coverage for the Employee and dependents.

B. The Employer agrees to put into force and to make required premium payments for long term disability coverage for the Employee.

C. The Employee may elect to submit once per calendar year to a complete physical examination by the City medical provider or by the Employee’s physician under the Employee’s group insurance plan with City reimbursement for Employee’s out-of-pocket costs.
D. The Employer shall pay the amount of premium due for a term life insurance policy of $120,000. The Employee shall name the beneficiary of the life insurance policy.

Section 5: Vacation, Sick, and Management/Executive Leave
A. The Employee shall then accrue sick and vacation leave on an annual basis at the highest rate provided to non-sworn management employees. Employee hereby notifies Employer of Employees intent to utilize at least three continuous weeks of vacation time for a previously planned vacation to take place on or about Fall of 2007.

B. The Employee is entitled to accrue all unused leave, without limit, and in the event the Employee’s employment is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued vacation time, all paid holidays, management/executive leave, and other benefits to date.

C. The Employee shall on January 1st of each calendar year be credited with eighty (80) hours of executive/management leave or the highest amount credited to any non-sworn management employee, whichever is greater.

Section 6: Automobile
The Employer agrees to pay to the Employee, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of $4,800.00 per year, payable in equal monthly installments, as a vehicle allowance to be used to purchase, lease, or own, operate and maintain a vehicle. The Employee shall be responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair, and regular replacement of said vehicle. The Employer shall reimburse the Employee at the IRS standard mileage rate for any business use of the vehicle beyond the greater Modesto area. For purposes of this Section, use of the car within the greater Modesto area is defined as travel to locations within a 75-mile radius of the Modesto City Hall.

Section 7: Retirement
A. The Employer agrees to enroll the Employee into the California Public Employees Retirement System (PERS). Employer shall pay 6.6% and Employee shall pay 0.40% of the total 7% “Employee’s share,” and Employer shall pay 100% of “Employer’s share” on behalf of the Employee.

B. In addition to the Employer’s payment to the state retirement system (as applicable) referenced above, Employer agrees to execute all necessary agreements provided by ICMA Retirement Corporation (ICMA-RC) or other Section 457 deferred compensation plan for Employee’s continued participation in said supplementary retirement plan and, in addition to the base salary paid by the Employer to Employee, Employer agrees to pay an amount equal to one and one-half percent (1.5%) of Employee’s base salary, or greater, into the designated plan on the Employee’s behalf, in equal proportionate amounts each pay period. The parties shall fully disclose to each other the financial impact of any amendment to the term s of Employee’s retirement benefit.
C. The Employer shall continue a qualified 401(a) defined contribution plan offered through ICMA Retirement Corporation for the Employee in the form of a money purchase plan to which the Employer shall contribute five (5%) of salary, previously authorized by Council Resolution No. 2005-602. Employee shall match the Employer’s contribution.

Section 8: General Business Expenses
A. In its discretion, Employer shall budget for and pay travel and subsistence expenses of Employee for professional and official travel, meetings, courses, institutes and seminars to continue his professional development and to adequately pursue necessary official and other functions on behalf of the Employer, including but not limited to the annual conference of the League of California Cities.

B. The Employer acknowledges the value of having Employee, in its discretion, participate and be directly involved in local civic clubs or organizations. Accordingly, Employer shall pay for the reasonable membership fees and/or dues to enable the Employee to become an active member in local civic clubs or organizations.

Section 9: Termination
For the purpose of this Agreement, termination shall occur when:

A. The majority of the governing body votes to terminate the Employee at a duly authorized closed or open meeting.

B. If the Employer, citizens or legislature acts to amend any provisions of the Charter pertaining to the role, powers, duties, authority, responsibilities of the Employee’s position that substantially changes the form of government, the Employee shall have the right to declare that such amendments constitute termination.

C. If the Employer reduces the base salary, compensation or any other financial benefit of the Employee, unless it is applied in no greater percentage than the average reduction of all city employees, such action shall constitute a breach of this Agreement and will be regarded as a termination.

D. If the Employee resigns following an offer to accept resignation, whether formal or informal, by the Employer as representative of the majority of the governing body that the Employee resign, then the Employee may declare a termination as of the date of the suggestion.

E. Breach of contract declared by either party within a 30-day cure period for either Employee or Employer. Written notice of a breach of contract shall be provided in accordance with the provisions of Section 20.

Section 10: Severance
A. Severance shall be paid to the Employee when employment is terminated as defined in Section 9.
B. In the event the Employer terminates this agreement during which time Employee is ready, willing and able to perform the functions and duties set forth herein, then, in that event, Employer agrees to:

1. Provide Employee with ninety (90) days prior written notice of said termination. Provided, however, that as set forth in Section 800 of the City’s Charter no such determination to terminate shall be made during or within a period of ninety (90) days next succeeding the election of a member of the Council.

Section 11: Resignation
In the event that the Employee voluntarily resigns his/her position with the Employer, the Employee shall provide a minimum of ninety (90) days advance notice unless the parties agree otherwise.

Section 12: Performance Evaluation
Employer may review the performance of the Employee subject to a process, form, criteria, and format for the evaluation, which shall be mutually agreed upon by the Employer and Employee. The process at a minimum shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, and (3) present a written summary of the evaluation results. The final written evaluation should be completed and delivered to the Employee within thirty (30) days of the evaluation meeting.

Section 13: Hours of Work
It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule.

Section 14: Outside Activities
The employment provided for by this Agreement shall be the Employee’s sole employment. Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to the Employer and the community, the Employee may elect, with the approval of the City Council, to accept limited teaching, consulting or other business opportunities with the understanding that such arrangements shall not constitute interference with nor a conflict of interest with his responsibilities under this Agreement.

Section 15: Residency
Employee agrees to maintain residence within the corporate boundaries of the City of Modesto.

Section 16: Indemnification
Beyond that required under Federal, State or Local Law, Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee’s duties as City Manager, or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful or wanton conduct. The Employee may request and the Employer shall not unreasonably refuse to provide independent legal representation at Employer’s expense and Employer may not unreasonably withhold approval. Legal representation, provided by Employer for Employee, shall extend until a final determination of
the legal action including any appeals brought by either party. The Employer shall indemnify employee against any and all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings including attorneys fees, and any other liabilities incurred by, imposed upon, or suffered by such Employee in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of his or her duties. Any settlement of any claim must be made with prior approval of the Employer in order for indemnification, as provided in this Section, to be available.

Employee recognizes that Employer shall have the right to compromise or settle a claim or suit. However, if the Employee is a named party to the suit, Employee's written consent must be given for the compromise or settlement. Further, Employer agrees to pay all reasonable litigation expenses of Employee throughout the pendency of any litigation to which the Employee is a party, witness or advisor to the Employer. Such expense payments shall continue beyond Employee's service to the Employer as long as litigation is pending. Further, Employer agrees to pay Employee reasonable consulting fees and travel expenses when Employee serves as a witness, advisor or consultant to Employer regarding pending litigation if those services occur after Employee is no longer an Employee of the Employer.

Section 17: Bonding
Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 18: Other Terms and Conditions of Employment
The Employer, only upon agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Modesto Charter or any other law.

Except as otherwise provided in this Agreement, the Employee shall be entitled to the highest level of benefits that are enjoyed by other non-sworn management employees of the Employer as provided in the Charter, Code, Personnel Rules and Regulations or by practice.

Section 19: Notices
Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, addressed as follows:

EMPLOYER: City Clerk, City of Modesto, P. O. Box 642, Modesto, CA 95353
EMPLOYEE: George W. Britton, 1008 Copper Lake Court, Modesto, CA 95355-8905

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 20: General Provisions
A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer.
Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provisions of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on ____________, 2007.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has authorized the execution of this Agreement in duplicate by its Mayor and attestation by its City Clerk under authority of Resolution No. ______ adopted by the Council of the City of Modesto on the ___ day of _____________, 2007, and CONTRACTOR/EMPLOYEE has caused this Agreement to be duly executed.

CITY OF MODESTO
A Municipal Corporation

______________________________
By: Jim Ridenour, Mayor

______________________________
By: George W. Britton

ATTEST:

By: ___________________________
   Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ___________________________
   Susana Alcala Wood, City Attorney
A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF BULK FUELS AND LUBRICANTS FOR USE CITYWIDE, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $1,567,792

WHEREAS, the Public Works Department, Fleet Services Division and the Fire Department maintain storage tanks for bulk fuels, which are used to fuel buses and fire apparatus, and

WHEREAS, additionally, these departments maintain a stock of lubricants that are used in the maintenance of the City’s fleet, and

WHEREAS, the Public Works Department, Waste Water Division and Water Division use red dyed #2 diesel fuel to fuel non-public roadway diesel powered equipment, and standby diesel powered generators that supply backup power to municipal potable water wells, and

WHEREAS, bulk fuels and lubricants used at these facilities are purchased on an as needed basis throughout the year from annual purchase agreements,

WHEREAS, Annual agreements take advantage of economies of scale, by combining department volumes for long-term procurement commitments with various suppliers, and

WHEREAS, purchase agreements are due to expire in 2007, and by issuing formal RFB’s, the City will achieve the best value possible for bulk fuels and lubricants and will meet Modesto Municipal Code requirements for formal bids, 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, and
WHEREAS, the issuance of a formal RFB for the purchase of bulk fuels and lubricants conforms to the Modesto Municipal Code,

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

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the purchase of bulk fuels and lubricants for use Citywide, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed bids are opened they shall be tabulated and analyzed by the Purchasing Division and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2006-2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2006-2007 budget have been adjusted as shown on the Budget Request form(s).

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

(seal)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO CITY SCHOOLS IN THE AMOUNT OF $465,877 FOR THE PROVISION OF NINE MODESTO POLICE OFFICERS/SCHOOL RESOURCE OFFICERS (SROs) TO PROVIDE DIRECT LAW ENFORCEMENT SERVICES, CAMPUS SUPERVISOR TRAINING, IN SERVICES, AND CONSULTATIONS WITH SITE STAFF AND DISTRICT ADMINISTRATORS, AND ACT AS A LIAISON BETWEEN MODESTO POLICE DEPARTMENT AND MODESTO CITY SCHOOLS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, Modesto City Schools would like to have the services of nine Modesto Police Officers to provide prevention, intervention, and enforcement services to students, their families and staff at Beyer, Davis, Downey, Johansen, Modesto, and Enochs High Schools, and Elliott Alternative Education Center, and Mark Twain, Hanshaw, and Roosevelt Junior High Schools, and

WHEREAS, the Modesto Police Department can provide specially trained, uniformed police officers to provide campus supervisor training, in services, and consultations with site staff and District administrators, and

WHEREAS, the Police Officers can act as a liaison between the Modesto Police Department and Modesto City Schools, and

WHEREAS, the Police Officers can direct law enforcement action at the district school sites, if warranted, and

WHEREAS, the Police Officers’ presence with the students provides mentoring and protection of youth in our community, and

WHEREAS, the term of this Agreement is July 1, 2007, to June 30, 2008, and

WHEREAS, the City shall be compensated by Modesto City Schools in the amount of $465,877 for the services of nine Modesto Police Officers, one 12-month officer at $63,529 and eight 9.5 month officers at $402,348,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement between the City of Modesto and Modesto City Schools in the amount of $465,877 for the provision of nine Modesto Police Officers/School Resource Officers (SROs) to provide direct law enforcement services, campus supervisor training, in services, and consultations with site staff and District administrators, and act as a liaison between the Modesto Police Department and Modesto City Schools.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-324

A RESOLUTION ACCEPTING THE DONATIONS OF $7,500 FROM STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY AND $1,000 FROM FARMERS INSURANCE GROUP FOR AUTO THEFT PREVENTION, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS.

WHEREAS, State Farm Mutual Automobile Insurance Company and Farmers Insurance Group have partnered to donate money for auto theft prevention to the Modesto Police Department, and

WHEREAS, State Farm Mutual Automobile Insurance Company is donating $7,500 to the Modesto Police Department for auto theft prevention, and

WHEREAS, Farmers Insurance Group is donating $1,000 to the Modesto Police Department for auto theft prevention, and

WHEREAS, there is no fiscal impact to the City of Modesto, and

WHEREAS, the money will be deposited in the Auto Theft Trust Account, fund 8600, and balance sheet account 3403,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the donations of $7,500 from State Farm Mutual Automobile Insurance Company and $1,000 from Farmers Insurance Group for auto theft prevention.

BE IT FURTHER RESOLVED that said amount will be deposited in the Auto Theft Trust Account, Fund 8600, Balance Sheet Account 3403:
Balance Sheet:
To: 8600-3403 $8,500  Auto Theft Trust Account

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk
(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-325

A RESOLUTION APPROVING AN ELECTRIC UTILITY POLE RELOCATION AGREEMENT WITH MODESTO IRRIGATION DISTRICT (MID) FOR THE RELOCATION OF UTILITY POLES LOCATED ON FLOYD AVENUE AT FINE AVENUE AND MILLBROOK AVENUE IN THE AMOUNT NOT TO EXCEED $75,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on October 3, 2006, by Resolution 2006-637, the City Council approved CIP Project #X512 “Floyd Avenue between Roselle and Fine” as part of the City’s Capital Improvement Program, which included right-of-way acquisition, design, construction, construction administration, and contingency for the roadway improvements on Floyd Avenue between Roselle Avenue and Fine Avenue, and

WHEREAS, along the south side of Floyd Avenue between Roselle Avenue and Fine Avenue there are high voltage electrical lines, and

WHEREAS, in order for the contractor to complete the improvements the electric utility poles located at the intersections of Floyd/Fine and Floyd/Millbrook must be relocated, and

WHEREAS, utility pole relocation is necessary in order to construct the Floyd Avenue widening project between Roselle Avenue and Fine Avenue per the approved Village One Facilities Master Plan, and

WHEREAS, the current budgeted amount of $75,000 for the Agreement is available in the CIP Account 2691-020-X512 “Floyd Avenue between Roselle and Fine” to cover the cost for these services,

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 Modesto Irrigation District
(MID), for the relocation of electric utility poles located on Floyd Avenue at Fine Avenue and Millbrook Avenue in an amount not to exceed $75,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-326

A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH TRS CONSULTANTS, INC., FOR CONSTRUCTION MANAGEMENT SERVICES OF THE PELANDALE AVENUE 6-LANE WIDENING - DALE ROAD TO MCHENRY AVENUE PROJECT IN THE NOT-TO-EXCEED AMOUNT OF $1,408,633.32, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on February 22, 2005, under Resolution No. 2005-118, City Council approved amending the City’s Capital Improvement Program (CIP) and budget to allow construction of a 6-lane interim facility on Pelandale Avenue between Dale Road and McHenry Avenue, and

WHEREAS, the widening of Pelandale Avenue to full 6-lane expressway status is scheduled to commence fiscal year 2008, and

WHEREAS, the roadway improvements will convert Pelandale Avenue to full expressway status with three (3) new westbound lanes and one (1) new eastbound lane from Dale Road to McHenry Avenue, and

WHEREAS, within the project limits of the Pelandale Avenue widening project, the City plans to install all subsurface infrastructure improvements to avoid future trench excavation in new asphalt pavement, and

WHEREAS, within the project limits of the Pelandale Avenue widening project, the City plans to construct a new detention basin, storm drain piping, appurtenant drainage structures, and a pumping station to handle storm water runoff, and

WHEREAS, the construction of the new detention basin, storm drain piping, appurtenant drainage structures, and a pumping station prior to final pavement installation on Pelandale Avenue will avoid future traffic disruption, eliminate the need to
remove and restore sections of newly constructed asphalt pavement, and will offer the
most effective cost and time alternative for the project, and

WHEREAS, the Pelandale/McHenry Specific Plan proposes to develop a new
housing subdivision requiring the construction of dual storm water detention basins and a
new 10 inch sewer line in Pelandale Avenue, and

WHEREAS, the Pelandale/McHenry Specific Plan dual storm water detention
basins will be required to accept a portion of the Pelandale Avenue on-site storm water
runoff, and

WHEREAS, it is necessary to include construction management services for the
Pelandale 6-lane widening project and infrastructure improvements, including the dual
storm water detention basins pipe connections and the new 10 inch sewer line
construction in the Pelandale Avenue widening project, and

WHEREAS, the construction management services for the storm water detention
basin and the new 10 inch sewer line construction in Pelandale Avenue will be partially
paid for by the Pelandale/McHenry Developer, and

WHEREAS, the firm of TRS Consultants, Inc., was considered to be the most
qualified to provide construction management services for the project, and

WHEREAS, Capital Improvement Services staff recommends that an agreement
with the consulting firm of TRS Consultants, Inc., be approved to perform the
construction management services as current workload levels do not provide for timely
in-house solutions/responses, and

WHEREAS, City desires to enter into an agreement with TRS Consultants, Inc.,
in an amount not-to-exceed $1,408,633.32 to perform construction management services
of the Pelandale Avenue 6-Lane Widening - Dale Road to McHenry Avenue project, and
WHEREAS, TRS Consultants, Inc., will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Consultant Agreement with TRS Consultants, Inc., in the amount not-to-exceed $1,408,633.32, for construction management services of the Pelandale Avenue 6-lane Widening - Dale Road to McHenry Avenue project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana ALCALA WOOD, City Attorney
MODesto City Council
Resolution No. 2007-327

A Resolution Approving and Authorizing Submission of the City’s Transportation Development Act Transit Claim for Fiscal Year 2007/08 in the Amount of $9,167,552 to the Stanislaus Council of Governments (STANCOG) and Authorizing the City Manager to Execute the Transit Claim.

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 Fund (STA) funds, and

WHEREAS, StanCOG has informed the Finance Department that LTF and STA funding has been apportioned by the State to StanCOG for allocation to public transit agencies pursuant to Sections 99233.3 and 99234 of the California Public Utilities Code (PUC), and

WHEREAS, the City has developed an application for Fiscal Year 2007/08 TDA reimbursement pursuant to Section 99233.3 of the California PUC, and

WHEREAS, the City’s Transit TDA Claim for Fiscal Year 2007/08 is $9,167,552, composed of $7,826,645 in LTF funds and $1,340,907 in STA funds, and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2007/08 is $13,244,725, and

WHEREAS, the added Transit Capital Budget for Fiscal Year 2007/08 is $2,820,855, 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 the TDA transit claim for Fiscal Year 2007/08 in the amount of $9,167,552.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute and submit the TDA transit claim to StanCOG for Fiscal Year 2007/08.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Council member Dunbar, who moved its adoption, which motion being duly seconded by Council member Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Council members: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Council members: None

ABSENT: Council members: None

Attest: Jean Morris, City Clerk

APPROVED AS TO FORM:

By ________________
Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-328

A RESOLUTION APPROVING AND AUTHORIZING SUBMISSION OF THE CITY’S TRANSPORTATION DEVELOPMENT ACT TRANSIT CLAIM #2 FOR FISCAL YEAR 2006/07 IN THE AMOUNT OF $7,847,421 TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG) AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE TRANSIT CLAIM.

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 Fund (STA) funds, and

WHEREAS, the claim was first approved on June 6, 2006, and

WHEREAS, the State budget increased the STA amount for 2006/07 by $2,874,445, and

WHEREAS, StanCOG has informed the City it needs to amend the claim to reflect the reapportioned funding for allocation to public transit agencies pursuant to Sections 99233.3 and 99234 of the California Public Utilities Code (PUC), and

WHEREAS, the City’s Transit TDA Claim #2 for Fiscal Year 2006/07 is now $7,847,421 and is composed of $3,271,058 in LTF funds and $4,576,363 in STA funds, and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2006/07 is $12,193,014, and

WHEREAS, the added Transit Capital Budget for Fiscal Year 2006/07 is $2,582,082, 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 the TDA transit claim for Fiscal Year 2006/07 in the amount of $7,847,421.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute and submit the TDA transit claim to StanCOG for Fiscal Year 2006/07.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Council member Dunbar, who moved its adoption, which motion being duly seconded by Council member Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers None

Attest: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING POLICY RECOMMENDATIONS MADE BY THE CITY COUNCIL FINANCE COMMITTEE AS PART OF THE FY 2007-08 BUDGET DEVELOPMENT PROCESS.

WHEREAS, each year the City Council’s Finance Committee makes recommendations regarding the upcoming Fiscal Year operating budget and capital improvement program, and

WHEREAS, from time to time, those recommendations include various policy issues with financial impacts, and

WHEREAS, in the development of the FY 2007-08, the Finance Committee reviewed and recommended for City Council consideration the following:

1. Managed Competition for External Building Custodial Services to be undertaken in FY 2007-08.

2. Funding of New Positions: New positions to be funded at date-of-hire rather than the current practice of funding the position from the date of approval.

3. Other Post Employment Benefit Funding: Maintain current level of funding and defer consideration of additional funding until negotiations with employee groups and other discussions on retiree health are concluded.

4. Proposition 42 Maintenance of Effort Funding: Continuing street maintenance spending from discretionary funds at current level which is $1.3 million above the required Maintenance of Effort.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the policy recommendations of the Finance Committee as follows:
1. Managed Competition for External Building Custodial Services to be undertaken in FY 2007-08.

2. Funding of New Positions: New positions to be funded at date-of-hire rather than the current practice of funding the position from the date of approval.

3. Other Post Employment Benefit Funding: Maintain current level of funding and defer consideration of additional funding until negotiations with employee groups and other discussions on retiree health are concluded.

4. Proposition 42 Maintenance of Effort Funding: Continuing street maintenance spending from discretionary funds at current level which is $1.3 million above the required Maintenance of Effort.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-330

A RESOLUTION APPROVING A FIVE-YEAR AGREEMENT WITH MV TRANSPORTATION INC., TO OPERATE THE MODESTO AREA EXPRESS (MAX) BUS SERVICE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, the existing agreement with MV Transportation to operate the Modesto Area Express (MAX) bus service expires June 29, 2007, and

WHEREAS, the City wishes to continue providing bus service to the citizens of Modesto, and

WHEREAS, the City Council authorized staff to solicit proposals for a new five-year contract to be effective June 30, 2007, and

WHEREAS, four proposals were received for the contract, and

WHEREAS, MV Transportation Inc., received the highest point total in the evaluation and scoring of the proposals, and

WHEREAS, the City Council awarded the contract to MV Transportation Inc., on April 3, 2007, and authorized staff to negotiate an agreement with MV and return to Council for approval of the agreement,

NOW, THEREFORE, BE IT RESOLVED by the City Council that it hereby approves a five-year operations agreement with MV Transportation Inc., on behalf of the City of Modesto, to become effective on June 30, 2007 and expire June 29, 2012.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember O'Bryant, 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: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: ____________________________
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By ____________________________
SUSANA ALCALA WOOD, City Attorney
A RESOLUTION DECLARING SEAT HELD BY GREG DUB ON THE EQUAL OPPORTUNITY/DISABILITY COMMISSION VACANT

WHEREAS, GREG DUB was appointed a member of the Equal Opportunity/Disability Commission on June 13, 2006, and

WHEREAS, GREG DUB has not attended regular Equal Opportunity/Disability Commission meetings since December 2006, and

WHEREAS, Section 1105 of the Modesto City Charter states that if a member of a board or commission is absent from three (3) regular meetings, the member’s office shall become vacant and shall be so declared by the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the seat held by GREG DUB on the Equal Opportunity/Disability Commission is hereby declared vacant.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

ATTEST: JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-332

A RESOLUTION APPROVING AMENDMENT TO A REIMBURSEMENT AGREEMENT WITH STANISLAUS COUNTY AND STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG) TO INCREASE THE CITY'S CONTRACT AMOUNT BY $90,000 FOR PROJECT COORDINATION SERVICES FOR THE SR 219 WIDENING FROM SR 99 TO MCHENRY AVENUE AND DALE/KIERNAN INTERSECTION IMPROVEMENT PROJECTS WITH THE COST TO THE CITY NOT TO EXCEED $150,000, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT.

WHEREAS, on April 4, 2006, the City Council, by Resolution No. 2006-185, approved a reimbursement agreement with Stanislaus County and Stanislaus Council of Governments (StanCOG) for the cost of project coordination services for the SR 219 Widening and Dale/Kiernan intersection improvement projects with the cost to the City not to exceed $60,000, and

WHEREAS, over the last year Gray-Bowen and Company (Gray-Bowen) has provided professional services to help navigate Caltrans’ processes and expedite the delivery of these critical and complex transportation projects, and

WHEREAS, Gray-Bowen lobbied on behalf of the City and Stanislaus County to acquire additional funding for the projects, and

WHEREAS, as a result of the efforts of Gray-Bowen and CTC Commissioner Kirk Lindsey, Stanislaus County received $33.57 million in Proposition 1B Corridor Mobility Improvement Account (CMIA) bond funding, and

WHEREAS, an increase in the scope and budget for the Agreement are necessary due to the addition of Phase 2 of the SR 219 Widening which will widen SR 219 from 2 to 4 lanes from just east of Dale Road to McHenry Avenue,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the reimbursement agreement with Stanislaus County and Stanislaus Council of Governments (StanCOG) to increase the City's contract amount by $90,000 for project coordination services for the SR 219 Widening from SR 99 to McHenry Avenue and Dale/Kiernan intersection improvement projects with the cost to the City not to exceed $150,000.00,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-333

A RESOLUTION APPROVING AN APPROPRIATION TRANSFER OF $90,000 FROM GAS TAX RESERVES (07-0700-800-8000-8003) TO SR 219 PROJECT COORDINATION SERVICES (MY-2370-160-E520-6080) FOR PROJECT COORDINATION SERVICES OF THE SR 219 WIDENING FROM SR99 TO MCHENRY AVENUE AND DALE/KIERNAN INTERSECTION IMPROVEMENT PROJECTS BY GRAY-BOWEN AND COMPANY.

WHEREAS, on April 4, 2006, the City Council, by Resolution No. 2006-185, approved a reimbursement agreement with Stanislaus County and Stanislaus Council of Governments (StanCOG) for the cost of project coordination services for the SR 219 Widening and Dale/Kiernan intersection improvement projects with the cost to the City not to exceed $60,000, and

WHEREAS, an increase in the scope and budget for the Agreement are necessary due to the addition of Phase 2 of the SR 219 Widening which will widen SR 219 from 2 to 4 lanes from just east of Dale Road to McHenry Avenue, and

WHEREAS, staff proposes allocating $90,000.00 from Gas Tax Reserves (07-0700-800-8000-8003) to SR 219 Project Coordination Services (MY-2370-160-E520-6080) for project coordination services of the SR219 Widening from SR 99 to McHenry Avenue and Dale Kiernan intersection improvement projects by Gray-Bowen and Company.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the following appropriation is hereby approved to provide the funding for said fiscal impact analysis:

**Appropriations**

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<thead>
<tr>
<th>FROM:</th>
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<tbody>
<tr>
<td>07-0700-800-8000-8003</td>
<td>MY-2370-160-E520-6080</td>
<td>$90,000</td>
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</tbody>
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BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary budget adjustments in coordination with the Finance Department 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 12th day of June, 2007, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-334

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF A TRIMBLE S6 3" ROBOTIC TOTAL STATION, FOR THE PUBLIC WORKS DEPARTMENT, CONSTRUCTION ADMINISTRATION DIVISION, TO CALIFORNIA SURVEYING & DRAFTING SUPPLY, INC., FRESNO, CA, FOR A TOTAL ESTIMATED COST OF $40,836

WHEREAS, the Public Works Department, Construction Administration Division has a Topcon 802AR Robotic Total Station and a Trimble 5800 GPS Rover and Base Station, and

WHEREAS, the Robotic Total Station is old, worn out and in need of replacement and Construction Administration Division has requested replacing this unit with a new Trimble S6 3" Robotic Total Station, and

WHEREAS, the Trimble S6 3" Robotic Total Station will integrate seamlessly with the existing Trimble 5800 GPS Equipment and Trimble GIS Equipment, and

WHEREAS, by using equipment designed to work together, the Trimble Total Station (S6) with the Trimble GPS Equipment will be more productive and efficient, and

WHEREAS, on January 2, 2007, the City Council approved Resolution No. 2007-032 authorizing the Purchasing Manager to issue informal Request for Bids (RFB) for a three (3) year lease purchase of a Trimble S6 3" Robotic Total Station, for the Public Works Department, Construction Administration Division, and

WHEREAS, on February 9, 2007, the Purchasing Division issued RFB No. INF07-09 for a three (3) year lease purchase of a Trimble S6 3" Robotic Total Station to five (5) prospective bidders, none of which were local companies, posted the bid on the City’s web site, and formally advertised as required by law, and
WHEREAS, on March 9, 2007, RFB's were opened in the Purchasing Division, and of the five (5) prospective bidders, one (1) company chose to respond, and

WHEREAS, California Surveying & Drafting Supply, Inc., provided a Master State Municipal Lease/Purchase Agreement with an amortized rate of 9.45%. The amortized rate was deemed too excessive and the determination was made to fund the piece of equipment as a one-time expenditure, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of a Trimble S6 3" Robotic Total Station, for the Public Works Department, Construction Administration Division, to California Surveying & Drafting Supply, Inc., Fresno, CA, for a total estimated cost of $40,836, and

WHEREAS, Modesto Municipal Code Section 8-3.204 states, "except as otherwise provided by this chapter or when directed by the City Manager, all purchases involving an expenditure of City funds in the amount of fifty thousand dollars $50,000 or less, shall be purchased, when feasible and when in the best interest of the City, in the open market by letter inquiry, informal solicitation, or telephone or facsimile solicitations, with or without newspaper advertisement, and without observation of prescribed formal bid procedures". The award of bid and contract to California Surveying & Drafting Supply, Inc., for the purchase of a Trimble S6 3" Robotic Total Station conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of a Trimble S6 3" Robotic Total Station, for the Public Works Department, Construction Administration
Division, to California Surveying & Drafting Supply, Inc., Fresno, CA, for a total estimated cost of $40,836.

BE IT FURTHER RESOLVED that the Purchasing Manager will issue a purchase order for the purchase of a Trimble S6 3" Robotic Total Station, for the Public Works Department, Construction Administration Division, to California Surveying & Drafting Supply, Inc., Fresno, CA, for a total estimated cost of $40,836.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, 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: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: ________________________________

Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-335

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE FURNISHING OF WATER QUALITY TESTING SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $240,000

WHEREAS, the City of Modesto’s drinking water system is the largest domestic water system in the area, with over 70,000 active water services, and

WHEREAS, during the calendar year 2006, the City of Modesto performed over 7,000 bacteriological and 2,500 Title 22 Compliance samplings to ensure safe drinking water for the City’s approximately 216,000 customers, and

WHEREAS, the size and complexity of the City of Modesto’s water system places the City under the strictest Federal and State regulations for water quality testing. The Federal Environmental Protection Agency (EPA) requires a different set of Unregulated Chemical Monitoring, which falls under strict protocols for testing methods, including special laboratory certification and reporting requirements, and

WHEREAS, some of the general testing requirements are assigned to the City of Modesto Water Quality Control Laboratory, other testing is assigned to various commercial laboratories depending on their certifications and areas of expertise, and

WHEREAS, purchase agreements are due to expire in 2007, and

WHEREAS, by issuing formal RFB’s, the City can achieve the best value for dollars spent and meet Modesto Municipal Code requirements for formal bids, 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, and
WHEREAS, the issuance of a formal Request for Bid for the furnishing of water quality testing services conforms to the Modesto Municipal Code,

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

SECTION 1. The City Clerk is hereby authorized to advertise the call for public formal bids for the furnishing of water quality testing services for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed bids are opened they will be tabulated and analyzed by the Purchasing Division, and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, 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: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-336

A RESOLUTION ESTABLISHING THE CALCULATION FOR THE APPROPRIATION LIMIT FOR THE FISCAL YEAR 2007-2008 ANNUAL BUDGET

WHEREAS, Proposition 4 of the California State Constitution requires the City to establish an appropriation limit calculation each fiscal year, and

WHEREAS, Article XIIIIB of the California Constitution specifies that appropriations made by State and local governments may increase annually by a factor comprised of the change in population combined with either the change in California per capita personal income or the change in the local assessment roll due to local nonresidential construction, and

WHEREAS, the attached schedule shows the preferred price and population factors to be used and the appropriation limit with the recommended factors in calculating the limit are the price factor of "state growth in per capita income" and the population factor of "growth rate in Stanislaus County", and

WHEREAS, a copy of said report is on file in the City of Modesto Finance Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appropriation limit calculation is hereby established as shown on Schedule A, attached hereto, and made a part hereof.

BE IT FURTHER RESOLVED that the Finance Director 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 12th day of June, 2007, 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 votes:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Brien, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By:  
SUSANA ALCALA WOOD, City Attorney
Article XIIIIB places a limit on most, but not all, government revenue sources. The limit applies to appropriations from proceeds of taxes from both the general fund and special funds of government entities. Proceeds of taxes include tax revenues, interest earnings on invested tax revenues, and any revenues collected by a regulatory license fee or user charge in excess of the amount needed to cover the cost of providing the regulation, product, or service.

Appropriations from nontax revenues, including the City’s enterprise funds, are not subject to the limit.
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-337

A RESOLUTION APPROVING AND AUTHORIZING SUBMISSION OF THE FISCAL YEAR 2006-2007 LOCAL TRANSPORTATION FUND (LTF) CLAIM FOR NON-TRANSIT PURPOSES FOR $3,722,276

WHEREAS, on June 6, 2006, the City Council approved the fiscal year 2006-2007 annual claim for Local Transportation Funds (LTF) for transit purposes only, and

WHEREAS, on February 8, 2006, the Stanislaus Council of Governments (StanCOG) pursuant to California State Public Utility Codes (PUC) Section 99401.6 determined that there are no unmet transit needs or that there are no unmet transit needs that are reasonable to meet, and

WHEREAS, StanCOG has informed the Finance Department that it will allocate both the Annual and Supplemental LTF for use on local streets and roads pursuant to PUC Sections 99400 and 99233.11, and

WHEREAS, StanCOG has informed the Finance Department that it has allocated both the Annual and Supplemental LTF for pedestrian and bicycle facilities use pursuant to PUC Sections 99233.3 and 99234, and

WHEREAS, StanCOG has informed the Finance Department that the City of Modesto may claim $3,541,751 of Annual fiscal year 2006-2007 LTF and 2005-06 supplemental for street purposes, and $180,525 for pedestrian and bicycle projects, and

WHEREAS, Council action authorizing the above claim is required by StanCOG pursuant to PUC Section 99261 before LTF can be released to the City of Modesto, and

WHEREAS, the City of Modesto had a $1,934,909 carryover of fiscal year 2005-2006 LTF funded Operations and Capital Improvement Project budget projects to fiscal year 2006-2007, and
WHEREAS, Council action authorizing the carryover claim is required by StanCOG pursuant to PUC Section 99261,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves and authorizes the execution and submission of the claim for apportionment of the fiscal year 2006-2007 Annual ($3,105,680) and fiscal year 2005-2006 Supplemental LTF ($616,596) to StanCOG to obtain non-transit funds in the amount of $3,722,276.

BE IT FURTHER RESOLVED, by the Council of the City of Modesto that it hereby approves and authorizes the execution and submission of the claim for apportionment of $1,934,909 of carryover funds from fiscal year 2005-2006 to fiscal year 2006-2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

Noes: Councilmembers: None

Absent: Councilmembers None

Attest: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Acalde

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF THE FORMAL REQUEST FOR BID AND CONTRACT FOR ROOF REPLACEMENT AT FIRE STATION 5 AND FIRE STATION 10, TO UNIVERSAL COATINGS OF FRESNO, CALIFORNIA, FOR AN ESTIMATED COST OF $120,832.

WHEREAS, Fire Station 5’s roof was last replaced in 1991, and
WHEREAS, at the time of installation the warranty on this roof was 10 years, and
WHEREAS, the roof has been in place for 16 years and has deteriorated to a point where it is no longer cost effective to repair, and
WHEREAS, Fire Station 10’s roof has not been replaced since the Modesto Fire Department moved into the Station in 1993, and
WHEREAS, the roof had been in place some time prior to our arrival, and
WHEREAS, the roof has deteriorated to a point where it is no longer cost effective to repair, and
WHEREAS, on April 24, 2007, by Resolution No. 2007-224 the Council approved the formal solicitation of bids for roof replacement, and
WHEREAS, bids were solicited from fourteen (14) companies, and
WHEREAS, the bid specification was also posted on the City’s web site and formally advertised by the City Clerk’s office, and
WHEREAS, one (1) company responded with a valid bid, and
WHEREAS, Universal Coatings’ bid was for $120,832 for both Fire Station 5 and Station 10’s roof replacement, with a dry rot repair rate of $6.50 per square foot, and
WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases meeting or exceeding $50,000 for materials, equipment or contractual services to be formally bid and awarded to the lowest responsive and responsible bidder, and
WHEREAS, the funds for the roof replacements have been appropriated in account number 0100-180-1810-5900, Non-CIP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:
SECTION 1. The formal Request for Bids for roof replacement at Fire Station 5 and Fire Station 10 is hereby awarded to Universal Coatings, of Fresno, for an estimated cost of $120,832.

SECTION 2. The repair of any dry rot found will be made at a rate of $6.50 per square foot.

SECTION 3. The City Manager, or designee, is authorized to execute the contract for roof replacement to Universal Coatings of Fresno.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, 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:  Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers:  None

ABSENT: Councilmembers:  None

ATTEST:  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:  SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-339

A RESOLUTION AUTHORIZING STAFF TO ENTER INTO NEGOTIATIONS WITH THE WEST MODESTO KING-KENNEDY NEIGHBORHOOD COLLABORATIVE (COLLABORATIVE), FOR TERMS AND CONDITIONS OF A "MANAGEMENT AGREEMENT" FOR THE DAY-TO-DAY OPERATION OF THE KING-KENNEDY MEMORIAL CENTER (KKMC).

WHEREAS, in March 1966, the Westside Neighborhood Center Steering Committee was formed to address some of the social issues which were occurring on the west side of Modesto, and

WHEREAS, the Westside Neighborhood Center, Inc. (WNCI), a non-profit organization, requested that the City of Modesto file an application with the federal Housing and Urban Development Department (HUD) for funds to construct a neighborhood center under the Neighborhood Facilities Grant Program, and

WHEREAS, in March 1968, the City of Modesto entered into an agreement with WNCI, which stated that, WNCI would operate and staff the new facility which was designed to carry out a program of health, recreational, social or similar community services, and

WHEREAS, in January 1969, the City and WNCI entered into another agreement which stated that due to the lack of an anticipated funding source, WNCI did not have the funding to operate the new facility, and according to the application filed with HUD for the building funds, the City of Modesto made a commitment to operate the neighborhood facility, and

WHEREAS, in May 1969, the name of the community center was changed to the King-Kennedy Memorial Center (KKMC), and a dedication ceremony occurred on June 29, 1969, and
WHEREAS, the City of Modesto dedicates $407,890 annually for the facilities, staffing and programming budget at KKMC, and

WHEREAS, On May 23, 2006, by Resolution No. 2006-317, the City Council authorized staff from the Parks, Recreation and Neighborhoods Department (PRND) to invite qualified and involved non-profit 501(c) 3 organizations to submit “Letters of Interest” for consideration to enter into a Management Agreement with the City of Modesto to operate KKMC, and

WHEREAS, in June 2006, a “Request of Interest (RFI)” was sent to non-profit organizations that serve the City of Modesto, and

WHEREAS, only one non-profit organization, the West Modesto King-Kennedy Neighborhood Collaborative (Collaborative), responded to the RFI, and

WHEREAS, the Collaborative stated that they were interested in operating the KKMC on a daily basis and working with the City of Modesto to enter into a management agreement regarding the KKMC facility, and

WHEREAS, the Collaborative submitted responses to questions related to the oversight and management of the facility, which were reviewed by staff and discussed at a King-Kennedy Board of Directors meeting, and

WHEREAS, the King-Kennedy Board voted unanimously for City staff to continue to pursue the management agreement concept with the Collaborative, and

WHEREAS, staff of PRND believes the conditions are right to enter into negotiations with the Collaborative for terms and conditions of a Management Agreement for the day-to-day operations of KKMC, and
WHEREAS, the Safety and Communities Committee met on May 7, 2007, and supported staff's recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to enter into negotiations with the Collaborative, for terms and conditions of a "Management Agreement" for the day-to-day operations of KKMC.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-340

A RESOLUTION APPROVING THE FIRST AMENDMENT TO STANDARD AGREEMENT FOR CONTRACT SERVICES WITH COMMUNITY REINVESTMENT FUND, INC. FOR LOAN SERVICING OF EXISTING AND FUTURE LOANS, EXTENDING THE AGREEMENT FOR AN ADDITIONAL TWO (2) YEAR PERIOD TO JUNE 30, 2009, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE FIRST AMENDMENT TO AGREEMENT.

WHEREAS, the City of Modesto’s (City’s) loan portfolio includes housing rehabilitation loans, down payment assistance loans, HOME loans, Redevelopment Agency loans, and Capital Facilities Fees, and

WHEREAS, in 1994, Community Reinvestment Fund (CRF) began loan servicing the City’s portfolio, and

WHEREAS, in 2004, a new Request for Qualifications for loan servicing was issued and Community Reinvestment Fund was again awarded the City’s loan servicing, and

WHEREAS, the current agreement will expire on June 30, 2007, and

WHEREAS, by mutual agreement of CRF and the City, the Agreement can be amended for two (2) one-year extensions, with the Agreement expiring on June 30, 2009, and

WHEREAS, the current loan portfolio for housing rehabilitation loans and down payment assistance loans consists of 175 loans totaling $4.6 million, and

WHEREAS, staff continues to be pleased with the service provided by this non-profit, community development lender based in Minneapolis, Minnesota, and

WHEREAS, pricing for this First Amendment will remain the same, and

WHEREAS, the servicing includes the processing of monthly payments, sending payment coupons to customers, a toll free number for customers, collection efforts on past due loans, insurance tracking, processing of demand statements and subsequent payoffs, monthly
reports to the City, and a monthly remittance to the City for funds collected on the serviced
loans, and

WHEREAS, the City remains responsible for collection efforts on loans past due more
than 90 days, follow-up for needed fire insurance, and releasing all liens for loans that have been
paid, and

WHEREAS, staff recommends that the City continue to use CRF for loan servicing, and

WHEREAS, the Housing Rehabilitation Loan Committee (HRLC) met on May 17, 2007,
and supported staff's recommendation, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC)
met on May 18, 2007, and supported staff's recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the
Council hereby approves the First Amendment to Standard Agreement for Contract Services with
Community Reinvestment Fund, Inc. for loan servicing of existing and future loans, extending
the Agreement for an additional two (2) year period to June 30, 2009.

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

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby
authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June 2007, 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: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

**NOES:**
Councilmembers: None

**ABSENT:**
Councilmembers: None

Attest: 

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-341

A RESOLUTION APPROVING A TASK-BASED AGREEMENT WITH SCS ENGINEERS FOR THE SITE ASSESSMENT AND DEVELOPMENT OF A METHANE GAS MITIGATION AND MONITORING PLAN FOR THE CLOSED CARPENTER ROAD LANDFILL IN AN AMOUNT NOT-TO-EXCEED $299,500, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Modesto operated the Carpenter Road landfill from 1956 until its closure in 1968, and the landfill includes fill sites on both the west and east sides of Carpenter Road, in between Kenneth and Robertson Roads and the Tuolumne River, and

WHEREAS, the site encompasses approximately 37 acres, and in the future will become part of the Tuolumne River Regional Park (TRRP), and

WHEREAS, although TRRP is currently under the jurisdiction of a Joint Powers Authority, the landfill site is still owned by the City of Modesto (City) and maintenance and repair are the City’s responsibility, and

WHEREAS, in December 2005, and in subsequent months, methane gas levels in one of the monitoring wells on the property exceeded the permitted levels, and

WHEREAS, the California Integrated Waste Management Board (CIWMB) and the Regional Water Quality Control Board (RWQCB) have directed the City to determine the cause of the high readings, and

WHEREAS, on January 2, 2007, by Resolution No. 2007-040, the City Council authorized staff to issue a request for proposals from qualified firms to conduct a Site Assessment and prepare a Mitigation and Monitoring Plan for the closed Carpenter Road Landfill, and

WHEREAS, on January 2, 2007, by Resolution No. 2007-041, the Council authorized a loan of $150,000 from the General Fund to the Solid Waste Fund to cover the cost of the Site Assessment and Plan development, and
WHEREAS, this loan will be reimbursed to the General Fund from the Solid Waste Fund via revenues from a fee imposed on the monthly garbage rates once the cost of the work is known, and

WHEREAS, staff prepared a Request for Proposals (RFP), which was issued on February 2, 2007, with a due date of March 5, 2007, and the RFP was sent to eight (8) firms directly and posted on the City’s web site, and

WHEREAS, Addendum #1 to the RFP, the Standard Consultant Agreement, was issued on February 7, 2007, and

WHEREAS, the Proposal submittal deadline was extended to March 19, 2007, to allow additional time to submit Proposals, and

WHEREAS, in response to questions received on the RFP, Addendum #2, which contained answers to the questions submitted by prospective bidders, was issued on March 7, 2007, and

WHEREAS, proposals were received from SCS Engineers and Geomatrix, and both proposals were found to be complete and responsive, and

WHEREAS, staff then conducted interviews with the two firms, and based on the proposals and the interviews, staff is recommending that the Council approve a professional services Agreement with SCS Engineers to provide these services, and

WHEREAS, due to the uncertainties of what the contractor may find in the Site Assessment and what mitigation measures may be required based on those findings, work under this Agreement will be conducted in phases, on a “task basis” for each phase, and

WHEREAS, Phase 1 and Phase 2 will consist of a review of historical information about the site, the preparation of a work plan, the actual physical site investigation, and the preparation of a draft Mitigation and Monitoring Plan, as well as meetings with staff and the regulatory agencies, and
WHEREAS, depending on the findings of Phases 1 and 2, it may not be necessary to proceed with Phases 3 - 5, which would include design and plan preparation for a gas mitigation system, and assistance with construction administration for the installation of the system, and

WHEREAS, the Agreement is structured to reflect that the contractor cannot proceed with a phase without staff approval, and

WHEREAS, the not-to-exceed cost for Phases 1 and 2 is $118,000, and

WHEREAS, the total not-to-exceed cost for all phases is $299,500,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a task-based agreement with SCS Engineers for the Site Assessment and development of a Methane Gas Mitigation and Monitoring Plan for the closed Carpenter Road Landfill in an amount not-to-exceed $299,500.

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 12th day of June 2007, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-342

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 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 1. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specification for the classification of Airport Manager. The job specification for this classification is being amended to update the essential functions to more accurately reflect the current needs of the City. The job specification for the classification of Airport Manager, as shown on the attached Exhibit “A,” which is hereby 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 12, 2007.
The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, 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:  Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers:  None
ABSENT: Councilmembers:  None

ATTEST:  
JEAN MORRIS, City Clerk
(SEAL)

APPROVED AS TO FORM:

By  
SUSANA ALCALA WOOD, City Attorney
AIRPORT MANAGER

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, monitor, and direct the use, maintenance and security of the City/County Airport; to promote the development of airport facilities; and to coordinate airport activities with other City departments.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Department Director or Deputy Director Engineering and Transportation Director.

Exercises direct supervision over technical, maintenance and clerical staff.

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

Essential Functions:

Manage, direct and organize airport facilities maintenance activities including pavements, drainage and sewer systems, lighting and electrical facilities, buildings, furnishings, landscaping, and grounds.

Direct, oversee and participate in the development of the airport master plan and strategic plan; assign work activities, projects and programs; monitor work flow; implement policies and procedures; review and evaluate work products, methods and procedures.

Participate in recommending the appointment of personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures; recommend employee terminations.

Establish and ensure the carrying out of a proper preventive maintenance program; coordinate contractor and staff maintenance activities with the airlines and Federal Aviation Administration.

Monitor commercial and private aircraft operations for compliance with local, State and Federal laws; monitor vendor operations and review vendor performance reports.

Exhibit “A”
Essential Functions: (Continued)

Prepare and issue public notices and press releases regarding the status of the airport operations and events; conduct media interviews.

Assume responsibility for the security and protection of publicly and privately owned aircraft and property; establish and carry out a passenger-screening program mandated by Federal regulations.

Recommend goals and objectives; assist in the development of policies and procedures; evaluate the need for and develop plans for long-range airport programs; conduct studies for improving airport facilities and services; prepare and implement marketing plans.

Handle daily business transactions including answering correspondence, responding to complaints, authorize purchases ordering supplies, and certifying payroll records.

Negotiates and administers lease agreements with Fixed Based Operators, tenant hangar leases, ground agreements, airport rental car fleet, and commercial business leases; conduct lease negotiations; assign spaces and keep records of aircraft parking and rentals.

Update security manuals and airport certification manuals; coordinate Transportation Security Administration mandated security requirements; coordinate emergency training and drills, mobilize staff in emergencies.

Prepare the airport operating and capital improvement budgets; assist in budget implementation; participate in the forecast of additional funds needed for staffing, equipment, materials, and supplies; administer the approved budget.

Promote public relations; meet with the airport advisory committees, train AAC members and coordinate AAC meetings; act as liaison to public organizations, and representatives of government agencies.

Prepare applications for Federal and State grants; monitor the grant programs to ensure compliance with requirements.

Maintain records of airport operations; conduct research and prepare reports.

Manage collection of Passenger Facility Fees Charges and coordinate PFC funded projects to ensure program compliance, oversee update of the PFC, impose and use application.

Exhibit "A"
Marginal Functions:
Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:
Effective Principles and practices of municipal airport management.
Federal Aviation Administration rules and regulations affecting airport operations.
Preparation and negotiation of airport leases, contracts, and charges.
Development, practices, and terminology of aviation.
Equipment and supplies used in airport operations.
Proper maintenance of airport facilities.
Airport security and emergency plans.
Budgeting procedures and techniques.
Personal computer software applications.
Principles and practices of supervision, training and personnel management.

Ability to:
Plan, organize and direct airport maintenance, security, and operations.
Analyze technical information regarding airport usage and maintenance.
Conduct business negotiations and promote and represent the airport programs, including air service development.
Pilot and operate an airplane.
Monitor airport usage.
Supervise, train and evaluate assigned staff.
Prepare and administer a budget.
Ability to: (Continued)

Work under the pressure of deadlines; analyze, research, and solve a wide range of problems.

Establish and maintain airport security and certification programs.

Communicate clearly and concisely, both orally and in writing.

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

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 experience in airport management or operations of an airport served by a certified air carrier.

Training:

Equivalent to a Bachelor’s degree from an accredited college or university with major course work in aviation management or a related field.

License or Certificate

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

Accreditation by the American Association of Airport Executives is preferred. Successful candidate must obtain this accreditation within two years of appointment to the position.
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 may require occasional overtime or weekend work and occasional travel from site-to-site.

Environmental Conditions:

Office and field environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition for sitting for prolonged periods of time; attending meetings; using a personal computer and related office equipment and traveling from site to site.
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-343

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 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 at Salary Range 419:

Workers’ Compensation Claims Assistant

This classification is being created to perform technical clerical work in support of the City’s self-administered Workers’ Compensation Program. The job specification for the classification of Workers’ Compensation Claims Assistant, as shown on the attached Exhibit “A,” which is hereby 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 12, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney

SUSANA ALCALA WOOD, City Attorney
CITY OF MODESTO
No. 3749

June 2007

WORKERS’ COMPENSATION CLAIMS ASSISTANT

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

Under general supervision, to perform specialized technical clerical work on “medical only” claims and other auxiliary tasks associated with claims in support of the City’s self-administered Workers’ Compensation Program; and to provide technical clerical assistance to the Risk Management Division of the Personnel Department.

SUPervision RECEIVED AND EXERCISED

Receives direct supervision from higher level supervisory and management staff.

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

Essential Functions:

Review a variety of documents in a timely manner to determine proper action for medical only claims.

Respond to and advise internal customers on laws, rules and regulations related to medical only claims.

Negotiate optimum medical recovery through contact with employer, employee and medical provider.

Process and approve related bills indicating the correct amounts to be paid per the California Fee Schedule, Labor Code, and Risk Management guidelines.

Establish and maintain monetary reserves related to medical costs.

Keep current and maintain updates of regulations and procedures used in the administration of medical only claims.

May set up new claims and create files; update claims diary.

Compose memos, correspondence and notes to the claims diary.

Exhibit “A”
Marginal Functions:

Perform general clerical duties as required.

Perform other related duties as assigned.

QUALIFICATIONS:

Knowledge of:

Workers’ Compensation laws and regulations as applied to medical only claims.

Basic principles of general mathematics.

Applicable computer software programs.

English usage, spelling, grammar and punctuation.

Principles and procedures of record keeping.

Ability to:

Analyze and interpret a variety of medical documents, policies, related procedures, rules and regulations.

Type and use various software systems; work accurately with figures.

Maintain confidential records; interpret and effectively communicate policies and procedures.

Respond to the internal and external customers tactfully and courteously; take decisive action.

Communicate in a clear and concise manner both verbally and in writing.

Identify and analyze potential problems, situations and needs; carry out solutions.

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

Two years of experience in the adjustment and evaluation of Workers’ Compensation medical only claims or a closely related field. Familiarity with claims management systems, experience with medical billing and knowledge of the Official Medical Fee Schedule is desirable.

Training:

Equivalent to completion of the twelfth grade, supplemented by college level coursework in medical billing, insurance, business administration or a closely related field.

License or Certificates:

Possession of or the ability to obtain a valid Class C California Drivers 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.

Exhibit “A”
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-344

A RESOLUTION AMENDING EXHIBIT “A” OF RESOLUTION NO. 2006-321 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO ADD WORKERS’ COMPENSATION CLAIMS ASSISTANT AT SALARY RANGE 419.

WHEREAS, the City Council desires to amend Exhibit “A” of Resolution No. 2006-321, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2006-321 Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective May 23, 2006", attached to Resolution No. 2006-321, is hereby amended as shown on the amended Exhibit “A” entitled “City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective June 12, 2007,” which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit “A” adds the classification of Workers’ Compensation Claims Assistant at Salary Range 419 ($3,462-$4,219 per month) to the Class Range Table.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after June 12, 2007.
The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 12th Day of June, 2007, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By [Signature]

SUSANA ALCALA WOOD, City Attorney
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>403</td>
<td></td>
</tr>
</tbody>
</table>
| 407   | Administrative Clerk II (Confidential)  
       | Administrative Office Assistant II (Confidential) |
| 408   |       |
| 409   |       |
| 410   |       |
| 411   | Administrative Office Assistant III (Confidential)  
       | Police Clerk II (Confidential) |
| 412   |       |
| 413   | Administrative Technician (Confidential) |
| 414   |       |
| 415   | Senior Administrative Office Assistant (Confidential)  
       | Secretary |
| 416   |       |
| 417   |       |
| 418   | Legal Secretary  
       | Systems Technician I |
| 419   | Public Information Technician (Confidential)  
       | **Workers’ Compensation Claims Assistant** |
| 420   | Accountant I (Confidential)  
       | Deputy City Clerk  
       | Employee Benefits Coordinator  
       | Executive Secretary (Represented)  
       | Legal Services Technician |
| 421   |       |

Exhibit “A”
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 422   | Office Supervisor  
       | Utility Dispatch Supervisor  
       | Workers' Compensation Claims Examiner I  
       | Systems Technician II |
| 423   | Custodian Supervisor  
       | Parking Services Supervisor |
| 424   | Assistant Planner  
       | Buyer  
       | Police Facilities Coordinator |
| 425   | Administrative Analyst I |
| 426   | Supervising Animal Control Officer  
       | Police Civilian Supervisor  
       | Stores Manager  
       | Systems Technician III |
| 427   | Assistant City Clerk/Auditor  
       | Legal Services Administrator  
       | Workers' Compensation Claims Examiner II |
| 428   | Accountant II (Represented)  
       | Senior Buyer |
| 429   | |
| 430   | Associate Planner  
       | Community Services Supervisor  
       | Events Coordinator  
       | Junior Civil Engineer  
       | Junior Traffic Engineer  
       | Senior Crime Analyst  
       | Software Analyst I |
| 431   | Administrative Analyst II  
       | Assistant Risk Manager  
       | Budget Analyst I  
       | Personnel Analyst  
       | Recycling Program Coordinator |

Exhibit “A”
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 432   | Communications Specialist  
       | Compost Facility Supervisor  
       | Customer Services Supervisor  
       | Neighborhood Preservation Supervisor  
       | Operations and Maintenance Supervisor  
       | Recreation Supervisor II  
       | Senior Accountant  
       | Water Quality Control Maintenance Supervisor  
       | Water Quality Control Operations Supervisor |
| 433   | Organizational Development Specialist |
| 434   | Assistant Civil Engineer  
       | Assistant Traffic Engineer  
       | Budget Analyst II  
       | Environmental Laboratory Supervisor  
       | Operations Supervisor  
       | Regulatory Compliance Supervisor  
       | SCADA Supervisor  
       | Senior Community Development Program Specialist  
       | Senior Housing Rehabilitation Specialist  
       | Software Analyst II  
       | Supervising Accountant  
       | Systems Engineer I |
| 435   | Business Analyst  
       | Cultural Services Manager  
       | Emergency Medical Services Coordinator  
       | Integrated Waste Specialist  
       | Management Analyst  
       | Senior Personnel Analyst  
       | Weed and Seed Program Coordinator |
| 436   | Electrical Supervisor  
<pre><code>   | Senior Planner |
</code></pre>
<p>| 437   | |</p>
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 438   | Budget Officer  
        | Events Supervisor  
        | Housing Program Supervisor  
        | Land Surveyor  
        | Property Agent  
        | Public Safety Business Services Analyst  
        | Senior Business Analyst  
        | Software Analyst III  
        | Systems Engineer II |
| 439   | Administrative Services Officer  
        | Community Facilities Districts Administrative Officer |
| 440   | Associate Civil Engineer  
        | Associate Traffic Engineer  
        | Transportation Planner |
| 441   | Airport Manager  
        | Building Maintenance Superintendent  
        | Fleet Manager  
        | Housing and Urban Development Manager  
        | Parks Operations Superintendent  
        | Parks Planning and Development Manager  
        | Purchasing Manager  
        | Recreation Program Manager  
        | Streets Superintendent  
        | Urban Forestry Superintendent  
        | Wastewater Collections Superintendent  
        | Water Superintendent |
| 442   | Customer Services Division Manager  
        | Manager of Budget and Financial Analysis  
        | Software Analyst IV  
        | Supervising Building Inspector  
        | Supervising Construction Inspector  
<pre><code>    | Systems Engineer III |
</code></pre>
<p>| 443   | |</p>
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 444   | Deputy Chief Building Official  
        | Principal Planner  
        | Solid Waste Program Manager  
        | Transit Manager |
| 445   | Accounting Division Manager |
| 446   | Information Technology Unit Manager  
        | Wastewater Treatment Plant Manager |
| 447   | Business Development Division Manager  
        | Chief Building Official  
        | Planning Division Manager  
        | Senior Civil Engineer  
        | Traffic Engineer |
| 448   | |
| 449   | |
| 450   | |
| 451   | |
| 452   | |
| 453   | |
| 455   | |

Exhibit "A"
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-345

A RESOLUTION APPROVING A ONE-YEAR AGREEMENT FOR TESTING SERVICES WITH QUALITY CONTROL INSPECTION, INC., TO PERFORM CONSTRUCTION MATERIALS TESTING SERVICES FOR VARIOUS PUBLIC WORKS PROJECTS TO BE CONSTRUCTED DURING THE 2007/2008 FISCAL YEAR, WITH TWO (2) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF CITY, IN AN AMOUNT NOT-TO-EXCEED $65,035 IN THE FIRST YEAR, $65,035 IN THE SECOND YEAR AND $65,035 IN THE THIRD YEAR; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT AND UP TO TWO (2) ONE-YEAR EXTENSION OPTIONS. TOTAL COST FOR THREE (3) YEARS IS NOT TO EXCEED $195,105.

WHEREAS, City staff finds it necessary to utilize the services of a materials testing firm during the course of administering the construction on public improvement projects, and

WHEREAS, the testing services are required to help achieve compliance with the specification requirements of the various projects, and

WHEREAS, staff does not have the required equipment or certifications to perform all the required testing services, and

WHEREAS, bids were opened on April 24, 2007, for the Construction Materials Testing Services contract, and

WHEREAS, the firm of Quality Control Inspection, Inc., was the low responsive bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a one-year Agreement for Testing Services between the City of Modesto and Quality Control Inspection, Inc., to perform Construction Materials Testing Services for various Public Works projects to be constructed during the 2007/2008 fiscal year, with two (2) one-year extension options, at the sole discretion of City, in an amount
not-to-exceed $65,035 in the first year, $65,035 in the second year and $65,035 in the third year. Total cost for three years is not to exceed $195,105.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement and up to two (2) one-year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, 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: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: None

ATTEST: [Signature]
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

[Signature]
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-346

A RESOLUTION APPROVING THE ACCEPTANCE OF A GRANT IN THE AMOUNT OF $325,787 FROM THE CALIFORNIA AIR RESOURCES BOARD (ARB) TO FUND THE REPLACEMENT OF FOUR (4) BACKHOES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT ACCEPTANCE ON BEHALF OF THE CITY.

WHEREAS, over the past several years, the California Air Resources Board (ARB) has been considering opportunities to reduce Particulate Matter and Nitrous Oxide emissions from off-road, diesel-powered construction equipment, and

WHEREAS, new rules being considered in 2007 will require owners to replace, repower, retrofit, or retire all non-compliant equipment over a ten-year period, and

WHEREAS, in the 2006-2007 State of California Budget, the ARB proposed an allocation of $25 million in grants to public agencies for the purchase of low-polluting construction equipment, and,

WHEREAS, the City of Modesto was notified on May 8, 2007, that it had been awarded a grant in the amount of $325,787 for the purchase of four (4) low-polluting construction equipment units and to retrofit the engines with certified emission-reduction technology, and

WHEREAS, the terms of the Grant program require twenty-five percent (25%) matching funds for the purchase of replacement equipment, and provide full funding for retrofit devices that further reduce emissions, and

WHEREAS, funds are budgeted in the Fleet Replacement Reserve fund to cover these matching funds, and

WHEREAS, accepting the Grant offers a significant savings over the full purchase price of this equipment, and
WHEREAS, this Grant offer must be accepted on or before June 30, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the acceptance of a Grant in the amount of $325,787 from the California Air Resources Board to fund the replacement of four (4) backhoes.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the grant acceptance 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 12th day of June, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: \(\text{Jean Morris}\)
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

by \(\text{SUSANA ALCALA WOOD}\), City Attorney

WHEREAS, over the past several years, the California Air Resources Board (ARB) has been considering opportunities to reduce Particulate Matter and Nitrous Oxide emissions from off-road, diesel-powered construction equipment, and

WHEREAS, new rules being considered in 2007 will require owners to replace, repower, retrofit, or retire all non-compliant equipment over a ten-year period, and

WHEREAS, in the 2006-2007 State of California Budget, the ARB proposed an allocation of $25 million in grants to public agencies for the purchase of low-polluting construction equipment and,

WHEREAS, the City of Modesto was notified on May 8, 2007, that it had been awarded a grant in the amount of $325,787 for the purchase of four (4) low-polluting construction equipment units and to retrofit the engines with certified emission-reduction technology, and

WHEREAS, staff requested the full amount of $411,363 for the full purchase and retrofitting of this equipment, and

WHEREAS, grant funding will be reimbursed up to the amount of the $325,787 once the equipment has been purchased and placed in service, and

WHEREAS, funds are budgeted in the Fleet Replacement Reserve fund to cover these matching funds,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the adopted Operating Budget for FY 2006-07 and authorizing the appropriation of $411,353 from the Fleet Replacement Reserve Fund into an Equipment Replacement Project titled "Tractor Backhoe Replacement (4 ea)" (7210-480-5814-5XXX).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: SUSANA ALCALA WOOD
City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-348

A RESOLUTION AUTHORIZING THE PURCHASE OF FOUR (4) NEW CATERPILLAR 420E BACKHOE/LOADERS BY “ACCESSING THE TERMS” OF A COMPETITIVELY BID CONTRACT THROUGH HOLT OF CALIFORNIA OF STOCKTON, CA. FOR A TOTAL COST NOT TO EXCEED $342,304.

WHEREAS, over the past several years, the California Air Resources Board (ARB) has been considering opportunities to reduce Particulate Matter and Nitrous Oxide emissions from off-road, diesel-powered construction equipment, and

WHEREAS, new rules being considered in 2007 will require owners to replace, repower, retrofit, or retire all non-compliant equipment over a ten-year period, and

WHEREAS, in the 2006-2007 State of California Budget, the ARB proposed an allocation of $25 million in grants to public agencies for the purchase of low-polluting construction equipment, and,

WHEREAS, the City of Modesto was notified on May 8, 2007, that it had been awarded a grant in the amount of $325,787 for the purchase of four (4) low-polluting construction equipment units and to retrofit the engines with certified emission-reduction technology, and

WHEREAS, City Purchasing and Fleet Services divisions have identified a competitively bid contract by the Modesto Irrigation District (MID) for Caterpillar 420E backhoe/loaders, and

WHEREAS, MID recently awarded a contract for this equipment to Holt of California (Holt) of Stockton, CA, and
WHEREAS, Holt has extended the same base pricing for the backhoe/loader to other governmental agencies, excluding upgrades, and

WHEREAS, the City of Modesto may purchase this equipment by “assessing the terms” through MID’s competitively awarded contract with Holt of California of Stockton, CA.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the purchase of four (4) new Caterpillar 420E Backhoe/Loaders by “assessing the terms” of a competitively bid contract through Holt of California of Stockton, CA for a total cost not to exceed $342,304.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

by Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-349

A RESOLUTION APPROVING AN AGREEMENT WITH BROWN AND CALDWELL TO PREPARE A 35% PROJECT DESIGN AND A PRELIMINARY DESIGN REPORT (PDR) FOR THE EMERALD TRUNK REHABILITATION PROJECT IN AN AMOUNT NOT TO EXCEED $374,931.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, based on the recent analysis prepared for the Wastewater Master Plan, there is a need for rehabilitation of the City’s existing collection system, and

WHEREAS, the Wastewater Master Plan identified rehabilitation of the Emerald Trunk based on factors including deterioration, excessive infiltration due to defects, and reliability, and

WHEREAS, City Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, was followed to select a professional engineering design consultant, and

WHEREAS, following a Request for Qualifications for engineering design services, which was sent to approximately 80 engineering firms, seven Statements of Qualifications were received, and

WHEREAS, of the seven Statements of Qualifications, four firms were shortlisted for proposals and interviews, and

WHEREAS, the firm of Brown and Caldwell was deemed the most qualified and selected for preliminary engineering design services, and

WHEREAS, staff recommends that an agreement with the consulting firm of Brown and Caldwell be approved to perform the pre-design services as the City does not have the staffing level to design these projects and current workload levels do not provide for timely in-house solutions/responses, and
WHEREAS, the Public Works Director has recommended accepting the proposed agreement with Brown and Caldwell to complete the Preliminary Design Services for the Emerald Trunk Rehabilitation project in an amount not to exceed $374,931.00, and

WHEREAS, Brown and Caldwell will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Brown and Caldwell to prepare a 35% project design and a Preliminary Design Services Report (PDR) for the Emerald Trunk Rehabilitation project in an amount not to exceed $374,931.00.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, 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: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-350

A RESOLUTION APPROVING AN AGREEMENT WITH BROWN AND CALDWELL TO PREPARE A 35% PROJECT DESIGN AND A PRELIMINARY DESIGN REPORT (PDR) FOR THE PARALLEL OUTFALL REHABILITATION PROJECT IN AN AMOUNT NOT TO EXCEED $384,966, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, based on the recent analysis prepared for the Wastewater Master Plan, there is a need for rehabilitation of the City’s existing collection system, and

WHEREAS, the Wastewater Master Plan identified rehabilitation of the Parallel Outfall based on factors including deterioration, increasing regulatory control, additional hydraulic capacity, and reliability, and

WHEREAS, City Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, was followed to select a professional engineering design consultant, and

WHEREAS, following a Request for Qualifications for engineering design services, which was sent to approximately 80 engineering firms, seven Statements of Qualifications were received, and

WHEREAS, of the seven Statements of Qualifications, four firms were short listed for proposals and interviews, and

WHEREAS, the firm of Brown and Caldwell was deemed the most qualified and selected for preliminary engineering design services, and

WHEREAS, staff recommends that an agreement with the consulting firm of Brown and Caldwell be approved to perform the pre-design services as the City does not have the staffing level to design these projects and current workload levels do not provide for timely in-house solutions/responses, and
WHEREAS, the Public Works Director has recommended accepting the proposed agreement with Brown and Caldwell to complete the Preliminary Design Services for the Parallel Outfall Rehabilitation project in an amount not to exceed $384,966.00, and

WHEREAS, Brown and Caldwell will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Brown and Caldwell to prepare a 35% project design and a Preliminary Design Services Report (PDR) for the Parallel Outfall Rehabilitation project in an amount not to exceed $384,966.00.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, 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: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By

SUSANÁ ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-351

A RESOLUTION ACCEPTING THE SYLVAN AVENUE IMPROVEMENT PROJECT BETWEEN MILLBROOK AVENUE AND ROSELLE AVENUE, AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION

WHEREAS, the Sylvan Avenue Improvement Project ("IMPROVEMENTS") is located within the Village One Specific Plan area between Roselle Avenue and Millbrook Avenue and includes the widening of Sylvan Avenue from two lanes to four lanes between Millbrook Avenue and Roselle Avenue, and

WHEREAS, the IMPROVEMENTS included the installation of storm drainage, curb, gutter, sidewalks, roadway, landscaped parkways, landscaped medians and a landscaped roundabout at the intersection of Sylvan Avenue and Millbrook Avenue, and

WHEREAS, the IMPROVEMENTS are listed as a Priority 1 project on the Village One Facilities Prioritization List, and

WHEREAS, the Modesto City School District ("MCS") was scheduled to open the new Enochs High School, adjacent to the IMPROVEMENTS in August of 2006, and

WHEREAS the City of Modesto agreed to allow MCS to manage the construction of the IMPROVEMENTS to expedite the installation of IMPROVEMENTS, and

WHEREAS the Council of the City of Modesto, by Resolution No. 2006-15, approved an Acquisition and Shortfall Agreement ("AGREEMENT") on January 10, 2006, between the City of Modesto Community Facilities District No. 2004-1 (Village One #2) and the Modesto City School District for the construction of the IMPROVEMENTS, and
WHEREAS the AGREEMENT stipulated the cost sharing arrangement between
MCS and the Community Facilities District No. 2004-1, and

WHEREAS, the City Engineer, in a memorandum to staff, indicates that said
IMPROVEMENTS included in the Acquisition and Shortfall Agreement between the
City of Modesto Community Facilities District No. 2004-1 (Village One #2), a District
created pursuant to the provision of the California Government Code Section 53311.5 et.
seq. ("DISTRICT") and the MCS have been completed to the satisfaction of the Public
Works Department, and

WHEREAS, MCS filed with the City of Modesto and/or DISTRICT adequate
improvement securities to secure faithful performance of this AGREEMENT and to
secure payment for labor and materials, and

WHEREAS, MCS has filed a warranty bond to guarantee the IMPROVEMENTS,
and

WHEREAS, the City Engineer has indicated that it would be in order for the City
Council to accept said IMPROVEMENTS as complete, and authorize the City Clerk to
record a Notice of Completion,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the Sylvan Avenue Improvement Project, between Millbrook Avenue and Roselle
Avenue, is hereby accepted, and the City Clerk is hereby authorized to record a Notice of
Completion for said improvements.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June 2007, 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: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By __________________________
SUSANA ALCALA WOOD, City Attorney

ATTEST: _______________________  
JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-352

A RESOLUTION SUMMARILY VACATING THE STREET RIGHT-OF-WAY FOR TEMPERATE AVENUE, LOCATED BETWEEN 1201 AND 1137 CARPENTER ROAD IN THE CITY OF MODESTO (ALLEN A. BERT)

WHEREAS, Chapter 4, Part 3 of Division 9, Section 8331, et seq of the California Streets and Highway Code authorizes a city council, by resolution, to summarily vacate public streets where the street has been impassable for vehicular travel for five consecutive years, and no public money was expended for maintenance on the street during such period, and

WHEREAS, Allen A. Bert owns two separate parcels separated by a portion of Temperate Avenue, a 50-foot-wide portion of unused and undeveloped right-of-way for Temperate Avenue, property located at 1201 and 1137 Carpenter Road, on the west side of Carpenter Road, south of Woodland Avenue ROW, and

WHEREAS, the ROW was inherited from the County and has never been constructed nor maintained by the City, and

WHEREAS, on or about March 5, 2007, Allen A. Bert received approval for a Vesting Tentative Parcel Map from the Planning Commission which required that the right-of-way be vacated prior to recordation of a final map, and

WHEREAS, the ROW to be abandoned is more particularly described in Exhibit “A” attached hereto and incorporated herein by this reference, and

WHEREAS, the Public Works Department contacted all affected City departments and public utility companies, and replies with no objections to the proposed summary street vacation have been received, and
WHEREAS, the Council of the City of Modesto finds and declares that:

1. Streets and Highway Code Section 8331 allows for the summary vacation of a City street or part thereof, if both of the following conditions exist:
   
   (a) For a period of five consecutive years, the street or highway has been impassable for vehicular travel.

   (b) No public money was expended for maintenance on the street or highway during such period.

2. This is a project, but is exempt from environmental review. The proposed summary abandonment was previously considered as part of a parcel map approval by the Planning Commission on March 5, 2007. The Proposed abandonment is a condition of approval for that parcel map. CEQA Guidelines, Public Resources Section 15315 which exempts parcel maps of four or fewer parcels which meet the following criteria: the proposed parcel map is in conformance with the General Plan and zoning; no variances or exceptions are required; all services and access to the proposed parcels to local standards are available; the parcel was not involved in a division of a larger parcel within the previous two years; the parcel does not have an average slope greater than 20 percent.

3. The ROW, which is proposed to be summarily vacated is located between 1201, and 1137 Carpenter Road in the City of Modesto. This ROW has never been constructed and therefore has been impassable for over five consecutive years, and

4. The property owner has been maintaining the ROW as part of has own property, therefore no public money has been expended for maintenance of the ROW for over five consecutive years.
5. That from and after the date this resolution is recorded, the street ROW, which is proposed to be summarily vacated, will no longer constitute a public street right-of-way.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the street right-of-way for Temperate Avenue located between 1201, and 1137 Carpenter Road in the City of Modesto, which is more particularly described in Exhibit “A”, attached hereto and incorporated herein by reference, be and is hereby summarily vacated.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to record a certified copy of this resolution in the Stanislaus County Recorder’s Office. From and after the date this resolution is recorded, said street right-of-way shall no longer constitute a public street right-of-way.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 12th day of June, 2007, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,
       Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
         JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
EXHIBIT "A"
Legal Description of Temperate Avenue

A portion of Temperate Avenue as shown on the Pleasant Homes Tract according to the map filed in Volume 9 of Maps, Page 67, Stanislaus County Records, lying in the north half of Section 25, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, more particularly described as follows:

The south 25.00 of Lot 4, Block 1 and the North 25.00 feet of Lot 1, Block 12, all as shown on the Pleasant Homes Tract according to the map filed in Volume 9 of Maps, Page 67, Stanislaus County Records.
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-353

A RESOLUTION APPROVING AN AGREEMENT FOR THE ACCEPTANCE OF COMPLETED PUBLIC IMPROVEMENTS AND PARTIAL RELEASE OF SECURITY BETWEEN DEL VALLE CAPITAL CORPORATION AND THE CITY OF MODESTO FOR THE GALAS BROTHERS UNIT NO. 1 SUBDIVISION, AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, AND AUTHORIZING THE PUBLIC WORKS DIRECTOR TO RELEASE THE OCCUPANCIES FOR THE REMAINING 41 UNITS IN THE GALAS BROTHERS UNIT NO. 1 SUBDIVISION.

WHEREAS, on December 23, 2003, by Resolution No. 2003-666, the City of Modesto (City) entered into an Agreement to Construct Necessary Infrastructure with Del Valle Capital Corporation (Del Valle) requiring completion of necessary infrastructure prior to final inspection or occupancy within the Galas Brothers Unit No. 1 Subdivision, and

WHEREAS, as part of this agreement, Del Valle posted surety in the form of performance bonds as follows:

<table>
<thead>
<tr>
<th>Bond No.</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>869121S</td>
<td>$ 735,574.40</td>
</tr>
<tr>
<td>869122S</td>
<td>$ 2,590,100.00</td>
</tr>
<tr>
<td>869123S</td>
<td>$ 2,712,696.33</td>
</tr>
<tr>
<td>869124S</td>
<td>$ 2,450,200.00</td>
</tr>
<tr>
<td>869125S</td>
<td>$ 2,583,529.27</td>
</tr>
<tr>
<td><strong>Total Bond Amount:</strong></td>
<td><strong>$11,072,100.00</strong></td>
</tr>
</tbody>
</table>

WHEREAS, securities submitted by Del Valle did not comply with City’s standard security requirement for subdivision improvements, and

WHEREAS, as additional security, Del Valle and City agreed, within the 2003 agreement, that no occupancies would be issued until all subdivision improvements were completed, and
WHEREAS, the following shows the phased completion of infrastructure by Del Valle and the subsequent phased release of occupancies for the Galas Brothers Subdivisions:

- **On January 25, 2005**, by Resolutions 2005-66, Council approved an amendment to the agreement allowing for phasing in of water infrastructure to provide for occupancy for a limited number of units prior to final infrastructure completion. Del Valle paid an additional $100,000 for additional water system improvements and 108 homes were permitted for occupancy on September 21, 2005.

- **On September 30, 2005**, an agreement with Del Valle, D.R. Horton, and Pulte Home Corporation (Del Valle/Developers) and the City provided for funding and construction of interim water infrastructure improvements to support 50 additional units. Del Valle/Developers provided a $1 million deposit to fund these improvements and 50 additional units received occupancy permits.

- **On November 9, 2005**, by Resolution 2005-560, Council approved a Second Amendment to the Del Valle agreement, which required Del Valle/Developers to deposit an additional $242,000 for the estimated project costs exceeding $1.25 million and an additional 58 homes received occupancy permits.

- **On December 14, 2005**, by Resolution 2005-616, Council approved a Third Amendment allowing for 73 additional homes receiving occupancy permits.

- **On June 27, 2006**, by Resolution 2006-407, Council approved a Fourth Amendment allowing for 43 additional homes receiving occupancy permits, and included a prohibition on issuance of any additional building permits beyond the 43 until an agreement is reached for completion of the remaining infrastructure.

- **On February 2, 2007**, a Letter of Agreement with Del Valle Homes, Inc. to Complete the Necessary Infrastructure Improvements for Galas Brothers Unit 1 and Unit 2 Subdivisions was executed. This agreement outlined a schedule for completion for the remaining public improvements for the subdivisions, and the City agreed to release the remaining 50 lots for building permits.

WHEREAS, on March 6, 2007 the City accepted a portion of the Public Improvements and placed these public improvement in a one-year maintenance period, and
WHEREAS, the accepted improvements include all of the CFD-funded Storm Drain System Improvements and all Public Improvements for Unit 1 except the Water Booster Pumping Station, Water Well, Water Tank, Yard Piping and Miscellaneous, Well head Treatment, Park improvements, and Street Landscape and Irrigation related to the Galas Brothers Subdivision Unit No. 1, and

WHEREAS, Per §66499.7 of the Subdivision Map Act, Del Valle has applied to City for a partial reduction in the security required based upon Del Valle’s completion and City’s acceptance of a portion of the Public Improvements, and

WHEREAS, to facilitate a reduction in the security required, Del Valle and City have agreed that the following work must be carried out in order for all of the Public Improvements to be completed:

<table>
<thead>
<tr>
<th>Improvement</th>
<th>Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Booster Pumping Station</td>
<td>$1,500,000.00</td>
</tr>
<tr>
<td>Water Well</td>
<td>$300,000.00</td>
</tr>
<tr>
<td>Yard Piping and Misc.</td>
<td>$40,000.00</td>
</tr>
<tr>
<td>Well Head Treatment</td>
<td>$1,750,000.00</td>
</tr>
<tr>
<td>Landscaping and Irrigation</td>
<td>$336,000.00</td>
</tr>
<tr>
<td>Water Tank</td>
<td>$550,000.00</td>
</tr>
<tr>
<td>10% Contingency:</td>
<td>$47,600.00</td>
</tr>
<tr>
<td>Total Engineer’s Estimate:</td>
<td>$4,923,600.00</td>
</tr>
</tbody>
</table>

WHEREAS, City agrees with Del Valle’s summary of the remaining work and Engineer’s Estimate, including contingency, as the amount of security required for guarantying faithful performance of the remaining work, and

WHEREAS, an agreement for acceptance and partial release of security was developed by City staff and allocates the remaining work to Del Valle’s bonds as security for the performance of the remaining work, and
WHEREAS, the agreement requires Del Valle to provide security equal to 50% of the Total Engineer's Estimate to satisfy Del Valle's payment bond obligation, and

WHEREAS, approval of the agreement allows the release of $2,712,696.33 in performance bonds, and

WHEREAS, the remaining improvements are mainly related to the wellhead treatment system and City staff is working with Del Valle to facilitate the completion of this system, and

WHEREAS, Del Valle has been making good progress in completing all remaining work related to other improvements such as landscaping, irrigation, and piping, and

WHEREAS, the amount of security is adequate to cover the completion of the remaining improvements and to release the remaining 41 occupancies,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement for the acceptance of completed public improvements and the partial release of security between Del Valle Capital Corporation and the City of Modesto for the Galas Brothers Unit No. 1 Subdivision.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the agreement on behalf of the City of Modesto.

BE IT FURTHER RESOLVED that the Council hereby releases Del Valle from the terms and conditions of the Agreement to Construct Necessary Infrastructure, as amended, and authorizes the Public Works Director to release the occupancies for the remaining 41 units in the Galas Brothers Unit No. 1 Subdivision.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

by 
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-354

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE VIRGINIA CORRIDOR PHASE III WITH DOWNSTREAM WATER SYSTEM IMPROVEMENTS PROJECT, ACCEPTING THE BID AND APPROVING A $3,224,959.00 CONTRACT WITH GEORGE REED, INC., FOR THE PROJECT TITLED, “VIRGINIA CORRIDOR PHASE III WITH DOWNSTREAM WATER SYSTEM IMPROVEMENTS,” AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the “Virginia Corridor Phase III with Downstream Water System Improvements” and City staff recommends approval to the City Council, and

WHEREAS, the bids received for “Virginia Corridor Phase III with Downstream Water System Improvements” were opened at 11:00 a.m. on May 15, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $3,224,959.00 received from George Reed, Inc., be accepted as the lowest responsible bid and the contract be awarded to George Reed, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of George Reed, Inc., in the amount $3,224,959.00, and hereby awards George Reed, Inc., the contract titled “Virginia Corridor Phase III with Downstream Water System Improvements”.

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 12th day of June 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney

ATTEST: JEAN MORRIS, City Clerk
A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT BUDGET IN ORDER TO FULLY FUND THE CONTRACT WITH GEORGE REED, INC., AND COVER CONSTRUCTION CONTINGENCY AND CONSTRUCTION ADMINISTRATION COSTS BY DECREASING CIP ACCOUNT 2300-310-P712 (VIRGINIA CORRIDOR PHASE II) BY $19,674 AND RETURNING THE FUNDS TO ACCOUNT 2300-800-8000-8003 (CAPITAL GRANTS RESERVES), THEN DECREASING ACCOUNT 2300-800-8000-8003 (CAPITAL GRANTS RESERVES) AND REAPPROPRIATING $19,674 TO CIP ACCOUNT 2300-310-P713 (VIRGINIA CORRIDOR PHASE III); AND DECREASING ACCOUNT 1350-800-8000-8003 (PARKS RESERVES) BY $20,000 AND REAPPROPRIATING $20,000 TO CIP ACCOUNT 2300-310-P713 (VIRGINIA CORRIDOR PHASE III)

WHEREAS, the CIP account 2300-310-P713 (Virginia Corridor Phase III) only provides $3,558,536.31 in available funds to fully fund construction of the Virginia Corridor Phase III project in the estimated total amount of $3,598,210.55, including funding a Contract with George Reed, Inc., for construction and to cover construction contingency and construction administration costs, including contract administration by City staff, and

WHEREAS, certain budgetary transactions are necessary to fully fund said Contract with George Reed, Inc., in the amount of $3,072,357 for construction services, $218,617.85 for construction contingency, and $307,235.70 to cover construction administration costs, including contract administration by City staff, for a total of $3,598,210.55, and

WHEREAS, the CIP Account 2300-310-P712 (Virginia Corridor Phase II) experienced savings due to a favorable bid below the budgeted engineer’s estimate for construction, and

WHEREAS, the total amount of $19,674 is to be transferred by decreasing CIP Account 2300-310-P712 (Virginia Corridor Phase II) and returning the funds to Account 2300-800-8000-8003 (Capital Grants Reserves), then decreasing Account 2300-800-
WHEREAS, the total amount of $20,000 is to be transferred by decreasing Account 1350-800-8000-8003 (Parks Reserves) by $20,000 and reappropriating $20,000 to CIP Account 2300-310-P713 (Virginia Corridor Phase III),

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the transfer of funds as set forth herein to fully fund the Contract with George Reed, Inc., in the amount of $3,072,357 for construction services, $218,617.85 for construction contingency, and $307,235.70 to cover construction administration costs, including contract administration by City staff, for a total of $3,598,210.55 for the Virginia Corridor Phase III project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-356


WHEREAS, the City Council (the “Council”) of the City of Modesto (the “City”), did, on May 8, 2007, adopt its Resolution No. 2007-270, entitled “A Resolution of the City Council of the City of Modesto of Intention to Establish City of Modesto Community Facilities District No. 2007-1 (North Beyer Park #2) and Authorize the Levy of Special Taxes Therein” stating its intention to establish its City of Modesto Community Facilities District No. 2007-1 (North Beyer Park #2) (the “District”), and levy special taxes therein, pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”); and

WHEREAS, Resolution No. 2007-270 (1) describing the proposed boundaries of the District, the name of the District, and the types of facilities (the “Facilities”) and services (the “Services”) proposed to be financed by the District, (2) providing that, except where funds are otherwise available to pay for the Facilities to be financed by the District, including the incidental expenses thereof, special taxes sufficient to pay the costs thereof, secured by recordation of a continuing lien against all nonexempt real property in the District, will be levied within the boundaries of the District, (3) specifying the rate, method of apportionment, and manner of collection of the special taxes in sufficient detail to allow each landowner or resident
within the proposed District to estimate the maximum amount that he or she will have to pay, and (4) setting a hearing thereon, is incorporated herein by this reference; and

WHEREAS, notice of the hearing was duly published as required by law, as evidenced by the affidavit of publication on file with the City Clerk; and

WHEREAS, at the time and date set for the hearing, June 12, 2007, this Council held the public hearing as required by law relative to the proposed formation of the District, the levy of the special taxes, and all other matters set forth in Resolution No. 2007-270; and

WHEREAS, at least 15 days prior to the hearing, a map of the proposed boundaries of the District, entitled “Boundary Map of City of Modesto Community Facilities District No. 2007-1 (North Beyer Park #2)” (the “Boundary Map”) was recorded pursuant to Section 3111 of the California Streets and Highways Code in the office of the County Recorder of the County of Stanislaus, in Book 4 of Maps of Assessment and Community Facilities Districts, at page 83; and

WHEREAS, prior to the hearing a report (the “Report”) containing a description of the Facilities and Services required to adequately meet the needs of the District and an estimate of the cost of providing the Facilities and Services, including, to the extent the purchase of completed Facilities or the payment of incidental expenses is proposed, the estimated fair and reasonable cost thereof, was filed with this Council as a part of the record of the hearing and duly considered by this Council; and

WHEREAS, consultant to the City has recommended that the rate and method of special taxes, attached as Exhibit A to Resolution No. 2007-270, be revised to include an enforcement provision. This revision does not increase either the maximum special taxes or the probable special taxes to be paid by the owner of any lot or parcel; and
WHEREAS, staff has recommended that the maximum special taxes set forth in the rate and method of special taxes, attached as Exhibit A to Resolution No. 2007-270, be reduced to reflect (1) the removal of landscaping on Oakdale Road because it is a tentative map condition and will be installed by the developer and (2) the removal of maintenance expenses attributed to another parcel that will annex to CFD 2007-1 in the future; and

WHEREAS, at the hearing all persons desiring to be heard on all matters pertaining to the formation of the District, the levy of the special taxes, and all other matters set forth in Resolution No. 2007-270, including all interested persons or taxpayers for or against the establishment of the District, the extent of the District, or the furnishing of specific type or types of Facilities or Services, were heard and considered, and a full and fair hearing was held thereon; and

WHEREAS, at the hearing evidence was presented to this Council on the matters before it, and this Council, at the conclusion of the hearing, was fully advised as to all matters relating to the formation of the District, the levy of the special taxes, and all other matters set forth in Resolution No. 2007-270; and

WHEREAS, written protests against the establishment of the District, the furnishing of specified type or types of Facilities and Services within the District as listed in the Report, or the levying of the special taxes, have not been filed with the City Clerk by fifty percent (50%) or more of the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be included in the District, or the owners of one-half (1/2) or more of the area of land in the territory proposed to be included in the District and not exempt from this special taxes; and
WHEREAS, the Stanislaus County Registrar of Voters has certified there are less than twelve (12) registered voters residing in the District; accordingly, the qualified electors in the District are the landowners; and

WHEREAS, the City Clerk has concurred in the election date herein set forth for the election herein called;

NOW THEREFORE, BE IT RESOLVED, that the Council hereby finds and determines as follows:

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The proposed special taxes to be levied in the District have not been precluded by majority protest pursuant to Section 53324 of the Act. All protests (there were none) to the establishment of the District, the extent thereof, or the furnishing of the Facilities and Services proposed therefore, or the levy of the special taxes proposed to be levied in the District, are hereby overruled.

SECTION 3. As proposed in Resolution No. 2007-270, a community facilities district is hereby established pursuant to the Act, designated "City of Modesto Community Facilities District No. 2007-1 (North Beyer Park #2)," the boundaries of which are shown on the Boundary Map.

SECTION 4. (a) The Facilities to be financed by the District are set forth in Exhibit B attached hereto and by this reference incorporated herein. The Facilities are public facilities having a useful life of five years or longer.

(b) The Facilities are necessary to meet the increased demands placed upon the City and other local agencies operating within the area of the District as a result of development occurring in the District.
(c) No land within the District is devoted primarily to agricultural, timber or livestock uses or is being used for the commercial production of agricultural, timber or livestock products.

SECTION 5. (a) The Services to be financed by the District are set forth in Exhibit B attached hereto and by this reference incorporated herein. The proposed Services are governmental services which the City is authorized by law to provide since they are in addition to those provided in the territory of the District before the District was created.

(b) The Services are necessary to meet the increased demands placed upon the City and other local agencies operating within the area of the District as a result of development occurring in the District.

SECTION 6. The Report related to the Facilities and Services shall be a part of the record in these proceedings. For purposes hereof, the Report shall refer to the Report as modified, amended, revised or corrected pursuant to and in accordance with any resolution or order heretofore adopted or made by this Council.

(a) As stated in Resolution No. 2007-270, except where funds are otherwise available, it is the intention of this Council, subject to the approval of the qualified electors of the District, to levy special taxes sufficient to pay for the Facilities to be financed by the District, the Services to be financed by the District, and to pay incidental expenses related thereto, secured by recordation of a continuing lien against all nonexempt real property in the District.

(b) The rate, method of apportionment, and manner of collection of the special taxes, in sufficient detail to allow each landowner or resident within the District to estimate the maximum amount that he or she will have to pay, is described in Exhibit A attached hereto and by this reference incorporated herein.
(c) There is no ad valorem property tax currently being levied on property within the District for the exclusive purpose of making lease payments or paying principal or interest on bonds or other indebtedness incurred to finance the construction of capital facilities which are the same as the Facilities to be financed by the District.

(d) Any reimbursement made to the District pursuant to Section 53313.5(e) of the California Government Code shall be utilized to reduce or minimize the special taxes levied within the District or to finance additional Facilities within the District.

(e) The special taxes as apportioned to each parcel pursuant to Exhibit A is based on the cost of making the Facilities and Services available to each parcel, or other reasonable basis, and is not based on or upon the ownership of real property.

(f) Pursuant to Section 53314.9 of the Act, this Council may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or that work-in-kind for any authorized purpose, including, but not limited to, paying any cost incurred by the City in creating the District.

SECTION 7. The description of the proposed voting procedure, as set forth in Resolution No. 2007-270, is incorporated herein by this reference, and shall be the voting procedure to be used in these proceedings.

SECTION 8. The District Administrator is hereby designated as the office, department or bureau which will be responsible for annually preparing the current roll of special tax levy obligations by assessor's parcel number on nonexempt property within the District and which will be responsible for estimating future special tax levies. The name, address, and
telephone number of the office of the District Administrator, and the person responsible for
administering the District, is as follows:

District Administrator
City of Modesto
Tenth Street Place
P.O. Box 642
Modesto, California 95353
(209) 577-5211

Such officer is hereby directed to establish procedures to promptly respond to
inquiries concerning current and future estimated tax liability pursuant to Section 53340.2 of the
Act.

SECTION 9. Upon a determination by this Council, after the canvass of the
returns of the election contemplated in Sections 13 and 14 hereof, that at least two-thirds (2/3) of
the votes cast upon the question of levying the special taxes were in favor thereof, the City Clerk
shall record the notice of special tax lien provided for in Section 3114.5 of the California Streets
and Highways Code. Upon recordation of the notice of special tax lien pursuant to Section
3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the
special taxes shall attach to all nonexempt real property in the District, and this lien shall
continue in force and effect until collection of the special taxes by this Council ceases, or, in the
case of the Annual Facilities Special Tax Component of the special taxes (as defined in Exhibit
A), the obligation to pay that component of the special taxes is prepaid and permanently satisfied
and the lien thereof cancelled in accordance with the Act.

SECTION 10. All prior proceedings taken with respect to the establishment of
the District were valid and in conformity with the requirements of the Act.

SECTION 11. In accordance with Section 53325.7 of the Act, the annual
appropriations limit of the District, as defined by subdivision (h) of Section 8 of Article XIIIIB of
the California Constitution, is hereby preliminarily established at $800,000, and this annual appropriations limit shall be submitted to the voters of the District as hereafter provided. The proposition establishing the appropriations limit shall become effective if approved by the qualified electors voting thereon and shall thereafter be adjusted in accordance with the applicable provisions of Section 53325.7 of the Act.

SECTION 12. (a) This Council hereby calls a special election and submits the question of levying the special taxes, and the establishment of the annual appropriations limit for the District in connection therewith, to the qualified electors within the District, in accordance with and subject to the Act, the terms of which shall, unless waived as herein provided, be applicable to such election.

(b) Fewer than twelve (12) persons have been registered to vote within the territory of the District for each of the ninety (90) days preceding the close of the hearing referenced herein. Accordingly, for the purposes of these proceedings, the qualified electors shall be the landowners within the District. The vote shall be by such landowners, or their authorized representatives, each having one vote for each acre or portion thereof that such landowner owns in the District as of the close of the hearing; and the ballots for the special election shall be distributed by mail with return postage prepaid or by personal service to each such landowner, all as provided in Section 53326 of the Act.

(c) The Council hereby designates the City Clerk, and the City Clerk hereby agrees to serve, as the election official to conduct the election. The shortening of the election as herein provided has been concurred in by the City Clerk.

(d) If the City Clerk receives appropriate waivers of time limits and other requirements pertaining to the conduct of the election by all of the owners of land included in the
District (collectively, the “Landowners”) on or before the 12th day of June 2007, the election shall be held on the 12th day of June, 2007. Otherwise, the election shall be held on the first Tuesday after that date which is 90 days after the date this Resolution is adopted.

(e) Unless waived by the Landowners, there shall be prepared and included in the ballot material provided to each voter an impartial analysis and arguments and rebuttals, if any, as provided in Section 53327 of the Act. The election shall be conducted by the City Clerk in the manner required by this Resolution, the Act and applicable laws.

(f) Unless waived by the Landowners, the City Clerk shall publish this Resolution as notice of the special election.

SECTION 13. If two-thirds (2/3) of the votes cast upon the question of levying the special tax are cast in favor of levying the special taxes, as determined by this Council after the canvass of the returns of the consolidated election, this Council may levy the special taxes within the District in the amount and for the purposes specified in this Resolution. The special taxes may be levied only at the rate and may be apportioned only in the manner specified in this Resolution, subject to the Act, except that the special taxes may be levied at a lower rate.

SECTION 14. The City Clerk, as the designated election official, shall, within three business days after the adoption of this Resolution, obtain a certified copy thereof. The City Clerk has previously been provided with a map of the boundaries of the District, a sufficient description from which to determine the boundaries of the District, and the assessor’s parcel numbers for the land within the District.

SECTION 15. The Council hereby determines that the formation of the proposed District is the creation of a government funding mechanism which is not a project under the provisions of C.E.Q.A. pursuant to Section 15378(b)(4) of the C.E.Q.A. guidelines.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June 2007, by Councilmember Keating, 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: Hawn, Keating, Marsh, O’Byrant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Morris

JHAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
APPENDIX B

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(NORTH BEYER #2)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor’s Parcel in Community Facilities District No. 2007-1 (North Beyer #2) [herein “CFD No. 2007-1” or “the CFD”] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2007-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2007-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

“Administrative Expenses” means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2007-1, including, but not limited to, levying and collecting the Special Taxes; the fees and expenses of legal counsel; charges levied by the County Auditor’s Office, Tax Collector’s Office, and/or Treasurer’s Office; costs related to annexing property into the CFD; costs related to property owner inquiries regarding the Special Taxes; and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.

“Annual Maintenance Special Tax” means a special tax levied in any Fiscal Year to pay the Annual Maintenance Special Tax Requirement, as defined below.

“Annual Maintenance Special Tax Requirement” means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay Administrative Expenses, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years.
or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

"Assessor's Parcel" or "Parcel" means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor designating parcels by Assessor’s Parcel number.

"Authorized Services" means those services that are authorized to be funded by CFD No. 2007-1.

"CFD Formation" means the date on which the Resolution of Formation to form CFD No. 2007-1 was adopted by the City Council.

"City" means the City of Modesto.

"City Council" means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2007-1.

"County" means the County of Stanislaus.

"Developed Property" means, in any Fiscal Year, the following:

- for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007;
- for Multi-Family Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007, and
- for Other Property, all Parcels for which a building permit for construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

"Final Map" means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure. The term "Final Map" shall not include any Assessor’s Parcel Map or subdivision map or portion thereof, that does not create lots that are in their final configuration, including Assessor’s Parcels that are designated as remainder parcels.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Maximum Annual Maintenance Special Tax" means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D.
"Maximum One-Time Facilities Special Tax" means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"Maximum Special Taxes" means, collectively, the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax.

"Multi-Family Property" means all Parcels in CFD No. 2007-1 for which building permits have been issued for construction of a residential structure consisting of two or more residential units that share common walls, including but not limited to, townhomes, condominiums, duplexes, triplexes, fourplexes, and apartment units.

"Net Taxable Acreage" or "Net Taxable Acre" means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by the subdivision, the Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

"One-Time Facilities Special Tax" means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.

"Original Parcel" means an Assessor’s Parcel (or a parcel within a recorded Subdivision Map that has not yet been assigned an Assessor’s Parcel number) that is in CFD No. 2007-1 at the time of CFD Formation or added to the CFD upon annexation. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C below.

"Other Property" means, in any Fiscal Year, all Parcels of Taxable Property within the CFD for which building permits have been issued for construction of a non-residential structure.

"Proportionately" means, for Developed Property, that the ratio of the actual Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property, respectively. In addition, for Undeveloped Property, "Proportionately" means that the ratio of the actual Annual Maintenance Facilities Special Tax to the Maximum Annual Maintenance Special Tax is equal for all Assessor’s Parcels of Undeveloped Property, respectively.
“Public Property” means any property within the boundaries of CFD No. 2007-1 that is owned by the federal government, State of California, County, City, or other public agency.

“Single Family Detached Lot” means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached unit.

“Single Family Detached Property” means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a residential unit that does not share a common wall with another Unit.

“Special Taxes” means, collectively, the One-Time Facilities Special Tax and the Annual Maintenance Special Tax.

“Subdivision Map” means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

“Successor Parcel” means an Assessor’s Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a residential or non-residential structure is permitted.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2007-1 which are not exempt from the Special Tax pursuant to law or Section G below.

“Taxable Public Property” means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2007-1 that, at the time of CFD Formation, were expected to be Taxable Property, and, based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2007-1 that are not Developed Property.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property in CFD No. 2007-1. The Administrator shall also determine (i) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, (ii) the Net Taxable Acreage of each Parcel, and (iii) the Annual Maintenance Special Tax Requirement.

In any Fiscal Year, if it is determined that (i) a Subdivision Map for a portion of property in CFD No. 2007-1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the Subdivision Map was recorded, the Assessor does not yet recognize the new Parcels created by the Subdivision Map, and (iii) one or more of the newly-created Parcels
meets the definition of Developed Property, the Administrator shall calculate the Special Tax for
the property affected by recordation of the Subdivision Map by determining the Special Tax that
applies separately to each newly-created Parcel, then applying the sum of the individual Special
taxes to the Original Parcel or Successor Parcel that was subdivided by recordation of the
Subdivision Map.

C. **MAXIMUM SPECIAL TAXES**

1. **Original Parcels**

Table 1 below identifies the Maximum One-Time Facilities Special Tax and Maximum Annual
Maintenance Special Tax assigned to each Original Parcel in the CFD at the time of CFD
Formation. Separate Maximum Special Taxes shall be assigned to Parcels added to the CFD as a
result of future annexations.

<table>
<thead>
<tr>
<th>Fiscal Year 2007-08 Assessor's Parcel Number or Subdivision Map Parcel Number</th>
<th>Fiscal Year 2007-08 Maximum One-Time Facilities Special Tax*</th>
<th>Fiscal Year 2007-08 Maximum Annual Maintenance Special Tax*</th>
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<tr>
<td>082-005-031</td>
<td>$211,827</td>
<td>$35,070</td>
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<td>Parcel 2 of Parcel Map 55-PM-12</td>
<td>$114,030</td>
<td>$18,879</td>
</tr>
</tbody>
</table>

*Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below.

2. **Successor Parcels**

Upon recordation of a Subdivision Map that subdivides an Original Parcel, the Administrator shall apply the appropriate subsection below to determine the Maximum Special Taxes for each Successor Parcel:

**All Successor Parcels are Single Family Detached Lots**

If all Parcels created by a recorded Subdivision Map are Single Family Detached Lots, the Administrator shall divide the Maximum Special Taxes assigned to the Original Parcel that was subdivided by the number of Single Family Detached Lots created within the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

**No Successor Parcels are Single Family Detached Lots**
If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

Step 1: Determine the total combined Net Taxable Acreage within all Successor Parcels created from subdivision or reconfiguration of the Original Parcel.

Step 2: Divide the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the Net Taxable Acreage determined in Step 1 to determine a Maximum One-Time Facilities Special Tax and a Maximum Annual Maintenance Special Tax per Net Taxable Acre.

Step 3: Multiply the Maximum Special Taxes per Net Taxable Acre determined in Step 2 by the Net Taxable Acreage of each Successor Parcel of Taxable Property to determine the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax for each Parcel.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

Some, But Not All, Successor Parcels are Single Family Detached Lots

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to determine the Maximum Special Taxes for each Successor Parcel:

Step 1: Separately identify: (i) the total Net Taxable Acreage created within the Subdivision Map, and (ii) the combined Net Taxable Acreage of all Single Family Detached Lots created within the Subdivision Map.

Step 2: Divide the Maximum One-Time Facilities Special Tax assigned to the Original Parcel by the total Net Taxable Acreage created within the Subdivision Map to determine the Maximum One-Time Facilities Special Tax per Net Taxable Acre.

Step 3: Divide the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the total Net Taxable Acreage created within the Subdivision Map to determine the Maximum Annual Maintenance Special Tax per Net Taxable Acre.
Step 4: Multiply the Maximum One-Time Facilities Special Tax per Net Taxable Acre that was calculated in Step 2 by the total combined Net Taxable Acreage of all Single Family Detached Lots (as determined in Step 1), and divide the product by the number of Single Family Detached Lots created in the Subdivision Map to calculate the Maximum One-Time Facilities Special Tax for each Single Family Detached Lot.

Step 5: Multiply the Maximum Annual Maintenance Special Tax per Net Taxable Acre that was calculated in Step 3 by the total combined Net Taxable Acreage of all Single Family Detached Lots (as determined in Step 1), and divide the product by the number of Single Family Detached Lots created in the Subdivision Map to calculate the Maximum Annual Maintenance Special Tax for each Single Family Detached Lot.

Step 6: Multiply the Maximum One-Time Facilities Special Tax per Net Taxable Acre that was calculated in Step 2 by the Net Taxable Acreage of each Parcel of Taxable Property created within the Subdivision Map that is not a Single Family Detached Lot to determine the Maximum One-Time Facilities Special Tax for each Parcel.

Step 7: Multiply the Maximum Annual Maintenance Special Tax per Net Taxable Acre that was calculated in Step 3 by the Net Taxable Acreage of each Parcel of Taxable Property created within the Subdivision Map that is not a Single Family Detached Lot to determine the Maximum Annual Maintenance Special Tax for each Parcel.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

D. ESCALATION OF MAXIMUM SPECIAL TAXES

One-Time Facilities Special Tax

Beginning in January 2008 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be adjusted by the
greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the One-Time Facilities Special Tax shall become effective on the subsequent July 1.

Annual Maintenance Special Tax

Beginning in January 2008 and each January thereafter, the Maximum Annual Maintenance Special Tax assigned to each Parcel shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. METHOD OF LEVY OF THE SPECIAL TAX

One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2007-1 and shall be collected as set forth in Section F below.

Annual Maintenance Special Tax

Each Fiscal Year, the Administrator shall determine the Annual Maintenance Special Tax Requirement for the Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

Step 1: The Annual Maintenance Special Tax shall be levied proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year.

Step 2: If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied proportionately on each Assessor’s Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year.

Step 3: If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied proportionately on each Assessor’s Parcel of Taxable Public Property,
up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

F. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2007-1, and shall be immediately delinquent if not so paid.

The Annual Maintenance Special Tax for CFD No. 2007-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Maintenance Special Taxes through foreclosure or other available methods. The Annual Maintenance Special Tax shall be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services and all Administrative Expenses have been reimbursed.

G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Taxes, no Special Taxes shall be levied on Public Property except Taxable Public Property, as defined herein.

H. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the Rate and Method of Apportionment of Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City’s discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Taxes.

I. ENFORCEMENT

All delinquent One-Time Facilities Special Taxes, or delinquent Annual Maintenance Special Taxes billed off the County tax roll, shall be subject to an immediate 10% penalty plus interest charges of 1.5% as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City’s discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursing the delinquency by
an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.

APPENDIX B

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(NORTH BEYER #2)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor’s Parcel in Community Facilities District No. 2007-1 (North Beyer #2) [herein “CFD No. 2007-1” or “the CFD”] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2007-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2007-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

“Administrative Expenses” means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2007-1, including, but not limited to, levying and collecting the Special Taxes; the fees and expenses of legal counsel; charges levied by the County Auditor’s Office, Tax Collector’s Office, and/or Treasurer’s Office; costs related to annexing property into the CFD; costs related to property owner inquiries regarding the Special Taxes; and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.

“Annual Maintenance Special Tax” means a special tax levied in any Fiscal Year to pay the Annual Maintenance Special Tax Requirement, as defined below.

“Annual Maintenance Special Tax Requirement” means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay Administrative Expenses, and (iii) cure any
delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

"Assessor’s Parcel” or “Parcel” means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

"Assessor’s Parcel Map” means an official map of the County Assessor designating parcels by Assessor’s Parcel number.

"Authorized Services” means those services that are authorized to be funded by CFD No. 2007-1.

"CFD Formation” means the date on which the Resolution of Formation to form CFD No. 2007-1 was adopted by the City Council.

"City” means the City of Modesto.

"City Council” means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2007-1.

"County” means the County of Stanislaus.

“Developed Property” means, in any Fiscal Year, the following:

- for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007,

- for Multi-Family Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007, and

- for Other Property, all Parcels for which a building permit for construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

"Final Map” means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure. The term “Final Map” shall not include any Assessor’s Parcel Map or subdivision map or portion thereof, that does not create lots that are in their final configuration, including Assessor’s Parcels that are designated as remainder parcels.

"Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Maximum Annual Maintenance Special Tax” means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D.
“Maximum One-Time Facilities Special Tax” means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

“Maximum Special Taxes” means, collectively, the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax.

“Multi-Family Property” means all Parcels in CFD No. 2007-1 for which building permits have been issued for construction of a residential structure consisting of two or more residential units that share common walls, including but not limited to, townhomes, condominiums, duplexes, triplexes, fourplexes, and apartment units.

“Net Taxable Acreage” or “Net Taxable Acre” means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by the subdivision, the Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

“One-Time Facilities Special Tax” means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.

“Original Parcel” means an Assessor’s Parcel (or a parcel within a recorded Subdivision Map that has not yet been assigned an Assessor’s Parcel number) that is in CFD No. 2007-1 at the time of CFD Formation or added to the CFD upon annexation. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C below.

“Other Property” means, in any Fiscal Year, all Parcels of Taxable Property within the CFD for which building permits have been issued for construction of a non-residential structure.

“Proportionately” means, for Developed Property, that the ratio of the actual Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property, respectively. In addition, for Undeveloped Property, “Proportionately” means that the ratio of the actual Annual Maintenance Facilities Special Tax to the Maximum Annual Maintenance Special Tax is equal for all Assessor’s Parcels of Undeveloped Property, respectively.
"Public Property" means any property within the boundaries of CFD No. 2007-1 that is owned by the federal government, State of California, County, City, or other public agency.

"Single Family Detached Lot" means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached unit.

"Single Family Detached Property" means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a residential unit that does not share a common wall with another Unit.

"Special Taxes" means, collectively, the One-Time Facilities Special Tax and the Annual Maintenance Special Tax.

"Subdivision Map" means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

"Successor Parcel" means an Assessor’s Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a residential or non-residential structure is permitted.

"Taxable Property" means all of the Assessor’s Parcels within the boundaries of CFD No. 2007-1 which are not exempt from the Special Tax pursuant to law or Section G below.

"Taxable Public Property" means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2007-1 that, at the time of CFD Formation, were expected to be Taxable Property, and, based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year.

"Undeveloped Property" means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2007-1 that are not Developed Property.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property in CFD No. 2007-1. The Administrator shall also determine (i) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, (ii) the Net Taxable Acreage of each Parcel, and (iii) the Annual Maintenance Special Tax Requirement.

In any Fiscal Year, if it is determined that (i) a Subdivision Map for a portion of property in CFD No. 2007-1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the Subdivision Map was recorded, the Assessor does not yet recognize the new Parcels created by the Subdivision Map, and (iii) one or more of the newly-created Parcels
meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Subdivision Map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Original Parcel or Successor Parcel that was subdivided by recordation of the Subdivision Map.

C. MAXIMUM SPECIAL TAXES

1. Original Parcels

Table 1 below identifies the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax assigned to each Original Parcel in the CFD at the time of CFD Formation. Separate Maximum Special Taxes shall be assigned to Parcels added to the CFD as a result of future annexations.

<table>
<thead>
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<th>Fiscal Year 2007-08</th>
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*Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below.

2. Successor Parcels

Upon recordation of a Subdivision Map that subdivides an Original Parcel, the Administrator shall apply the appropriate subsection below to determine the Maximum Special Taxes for each Successor Parcel:

All Successor Parcels are Single Family Detached Lots

If all Parcels created by a recorded Subdivision Map are Single Family Detached Lots, the Administrator shall divide the Maximum Special Taxes assigned to the Original Parcel that was subdivided by the number of Single Family Detached Lots created within the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

No Successor Parcels are Single Family Detached Lots
If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

Step 1: Determine the total combined Net Taxable Acreage within all Successor Parcels created from subdivision or reconfiguration of the Original Parcel.

Step 2: Divide the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the Net Taxable Acreage determined in Step 1 to determine a Maximum One-Time Facilities Special Tax and a Maximum Annual Maintenance Special Tax per Net Taxable Acre.

Step 3: Multiply the Maximum Special Taxes per Net Taxable Acre determined in Step 2 by the Net Taxable Acreage of each Successor Parcel of Taxable Property to determine the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax for each Parcel.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

Some, But Not All, Successor Parcels are Single Family Detached Lots

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to determine the Maximum Special Taxes for each Successor Parcel:

Step 1: Separately identify: (i) the total Net Taxable Acreage created within the Subdivision Map, and (ii) the combined Net Taxable Acreage of all Single Family Detached Lots created within the Subdivision Map.

Step 2: Divide the Maximum One-Time Facilities Special Tax assigned to the Original Parcel by the total Net Taxable Acreage created within the Subdivision Map to determine the Maximum One-Time Facilities Special Tax per Net Taxable Acre.

Step 3: Divide the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the total Net Taxable Acreage created within the Subdivision Map to determine the Maximum Annual Maintenance Special Tax per Net Taxable Acre.
Step 4: Multiply the Maximum One-Time Facilities Special Tax per Net Taxable Acre that was calculated in Step 2 by the total combined Net Taxable Acreage of all Single Family Detached Lots (as determined in Step 1), and divide the product by the number of Single Family Detached Lots created in the Subdivision Map to calculate the Maximum One-Time Facilities Special Tax for each Single Family Detached Lot.

Step 5: Multiply the Maximum Annual Maintenance Special Tax per Net Taxable Acre that was calculated in Step 3 by the total combined Net Taxable Acreage of all Single Family Detached Lots (as determined in Step 1), and divide the product by the number of Single Family Detached Lots created in the Subdivision Map to calculate the Maximum Annual Maintenance Special Tax for each Single Family Detached Lot.

Step 6: Multiply the Maximum One-Time Facilities Special Tax per Net Taxable Acre that was calculated in Step 2 by the Net Taxable Acreage of each Parcel of Taxable Property created within the Subdivision Map that is not a Single Family Detached Lot to determine the Maximum One-Time Facilities Special Tax for each Parcel.

Step 7: Multiply the Maximum Annual Maintenance Special Tax per Net Taxable Acre that was calculated in Step 3 by the Net Taxable Acreage of each Parcel of Taxable Property created within the Subdivision Map that is not a Single Family Detached Lot to determine the Maximum Annual Maintenance Special Tax for each Parcel.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

D. ESCALATION OF MAXIMUM SPECIAL TAXES

One-Time Facilities Special Tax

Beginning in January 2008 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be adjusted by the
greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the One-Time Facilities Special Tax shall become effective on the subsequent July 1.

Annual Maintenance Special Tax

Beginning in January 2008 and each January thereafter, the Maximum Annual Maintenance Special Tax assigned to each Parcel shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. METHOD OF LEVY OF THE SPECIAL TAX

One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2007-1 and shall be collected as set forth in Section F below.

Annual Maintenance Special Tax

Each Fiscal Year, the Administrator shall determine the Annual Maintenance Special Tax Requirement for the Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

Step 1: The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year.

Step 2: If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor’s Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year.

Step 3: If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor’s Parcel of Taxable Public Property,
up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

F. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2007-1, and shall be immediately delinquent if not so paid.

The Annual Maintenance Special Tax for CFD No. 2007-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Maintenance Special Taxes through foreclosure or other available methods. The Annual Maintenance Special Tax shall be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services and all Administrative Expenses have been reimbursed.

G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Taxes, no Special Taxes shall be levied on Public Property except Taxable Public Property, as defined herein.

H. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the Rate and Method of Apportionment of Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City’s discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Taxes.

I. ENFORCEMENT

All delinquent One-Time Facilities Special Taxes, or delinquent Annual Maintenance Special Taxes billed off the County tax roll, shall be subject to an immediate 10% penalty plus interest charges of 1.5% as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City’s discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursing the delinquency by
an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.
and/or the principal and interest as it becomes due on the bonds of the District

issued to finance such Facilities, and the Services,

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including the costs of the proposed bond financing,

WHEREAS, the special tax consultant to the City has recommended that consultant to the City has recommended that
WHEREAS, staff has recommended that the maximum special taxes set forth in the rate and method of special taxes, attached as Exhibit A to Resolution No. 2007-270, be reduced to reflect (1) the removal of landscaping on Oakdale Road because it is a tentative map condition and will be installed by the developer and (2) the removal of maintenance expenses attributed to another parcel that will annex to CFD 2007-1 in the future; and
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(Village One #2

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and/or the principal and interest as it becomes due on bonds issued to finance such Facilities,

For purposes hereof, expenses shall include the payment in full of all amounts necessary to eliminate any fixed special assessment liens or to pay, repay, or defease any obligation to pay or any indebtedness secured by any tax, fee charge, or assessment levied within the area of the District or to pay debt service on that indebtedness.

Landowners may prepay the “Annual Facilities Special Tax” component of the special taxes (as defined in Exhibit A) pursuant to the procedures set forth in Exhibit A.
office of the Director of Finance

District Administrator
district administrator

director of finance

district administrator

director of finance

district administrator

city hall

tenth street place

tina rocha
This Council hereby further directs that the election at which the question of levying the special taxes and the establishment of an appropriations limit in connection therewith is submitted to the qualified electors within the District be consolidated with the election at which the question of incurring a bonded indebtedness in an aggregate principal amount not to exceed $75,000,000 for the District, as set forth in Resolution No. 2004-128, is submitted to the qualified electors with the District, and the question of levying the special taxes shall be combined in one ballot proposition with the question of incurring such bonded indebtedness and the question of establishing an appropriations limit for the District, all as provided by the Act; and this Council further directs that the resolution adopted by this Council determining the necessity to incur such bonded indebtedness shall constitute the notice of the consolidated election on the combined propositions of authorizing the levy of the special tax, establishing an appropriations limit, and incurring such bonded indebtedness. However, the giving of such notice is waived if the City Clerk receives unanimous consent to such waiver from the Landowners.
the creation of a government funding mechanism which is not a project under categorically exempt from

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APPENDIX B

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(NORTH BEYER #2)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor’s Parcel in Community Facilities District No. 2007-1 (North Beyer #2) [herein “CFD No. 2007-1” or “the CFD”] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2007-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2007-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

A-36
“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

“Administrative Expenses” means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2007-1, including, but not limited to, levying and collecting the Special Taxes; the fees and expenses of legal counsel; charges levied by the County Auditor’s Office, Tax Collector’s Office, and/or Treasurer’s Office; costs related to annexing property into the CFD; costs related to property owner inquiries regarding the Special Taxes; and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.

“Annual Maintenance Special Tax” means a special tax levied in any Fiscal Year to pay the Annual Maintenance Special Tax Requirement, as defined below.

“Annual Maintenance Special Tax Requirement” means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay Administrative Expenses, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

“Assessor’s Parcel” or “Parcel” means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

“Assessor’s Parcel Map” means an official map of the County Assessor designating parcels by Assessor’s Parcel number.

“Authorized Services” means those services that are authorized to be funded by CFD No. 2007-1.

“CFD Formation” means the date on which the Resolution of Formation to form CFD No. 2007-1 was adopted by the City Council.

“City” means the City of Modesto.

“City Council” means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2007-1.

“County” means the County of Stanislaus.

“Developed Property” means, in any Fiscal Year, the following:

• for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007,
• for Multi-Family Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007, and

• for Other Property, all Parcels for which a building permit for construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

"Final Map" means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure. The term “Final Map” shall not include any Assessor’s Parcel Map or subdivision map or portion thereof, that does not create lots that are in their final configuration, including Assessor’s Parcels that are designated as remainder parcels.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Maximum Annual Maintenance Special Tax" means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D.

"Maximum One-Time Facilities Special Tax" means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"Maximum Special Taxes" means, collectively, the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax.

"Multi-Family Property" means all Parcels in CFD No. 2007-1 for which building permits have been issued for construction of a residential structure consisting of two or more residential units that share common walls, including but not limited to, townhomes, condominiums, duplexes, triplexes, fourplexes, and apartment units.

"Net Taxable Acreage" or "Net Taxable Acre" means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by the subdivision, the Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

"One-Time Facilities Special Tax" means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.
“Original Parcel” means an Assessor’s Parcel (or a parcel within a recorded Subdivision Map that has not yet been assigned an Assessor’s Parcel number) that is in CFD No. 2007-1 at the time of CFD Formation or added to the CFD upon annexation. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C below.

“Other Property” means, in any Fiscal Year, all Parcels of Taxable Property within the CFD for which building permits have been issued for construction of a non-residential structure.

“Proportionately” means, for Developed Property, that the ratio of the actual Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property, respectively. In addition, for Undeveloped Property, “Proportionately” means that the ratio of the actual Annual Maintenance Facilities Special Tax to the Maximum Annual Maintenance Special Tax is equal for all Assessor’s Parcels of Undeveloped Property, respectively.

“Public Property” means any property within the boundaries of CFD No. 2007-1 that is owned by the federal government, State of California, County, City, or other public agency.

“Single Family Detached Lot” means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached unit.

“Single Family Detached Property” means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a residential unit that does not share a common wall with another Unit.

“Special Taxes” means, collectively, the One-Time Facilities Special Tax and the Annual Maintenance Special Tax.

“Subdivision Map” means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

“Successor Parcel” means an Assessor’s Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a residential or non-residential structure is permitted.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2007-1 which are not exempt from the Special Tax pursuant to law or Section G below.

“Taxable Public Property” means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2007-1 that, at the time of CFD Formation, were expected to be Taxable Property, and, based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year.
“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2007-1 that are not Developed Property.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property in CFD No. 2007-1. The Administrator shall also determine (i) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, (ii) the Net Taxable Acreage of each Parcel, and (iii) the Annual Maintenance Special Tax Requirement.

In any Fiscal Year, if it is determined that (i) a Subdivision Map for a portion of property in CFD No. 2007-1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the Subdivision Map was recorded, the Assessor does not yet recognize the new Parcels created by the Subdivision Map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Subdivision Map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Original Parcel or Successor Parcel that was subdivided by recordation of the Subdivision Map.

C. MAXIMUM SPECIAL TAXES

1. Original Parcels

Table 1 below identifies the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax assigned to each Original Parcel in the CFD at the time of CFD Formation. Separate Maximum Special Taxes shall be assigned to Parcels added to the CFD as a result of future annexations.

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* Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below.
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
CANVASSING THE RESULTS OF THE JUNE 12, 2007, ELECTION HELD WITHIN
CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2007-1 (NORTH
BEYER PARK #2)

WHEREAS, this Council is conducting proceedings pertaining to the formation of
City of Modesto City’s Community Facilities District No. 2007-1 (North Beyer Park #2) (the
“District”), the establishment of an appropriations limit for the District, and the levy of a special
taxes sufficient to pay all costs necessary to finance certain Facilities and Services, as described

WHEREAS, the owners of all of the property in the District waived those
provisions related to the timing and conduct of the election referenced in Sections 13 and 14 of
this Council’s Resolution No. 2007-270 and Sections 9, 10 and 11 of this Council’s Resolution
No. 2007-270, each adopted on May 8, 2007, and, as a result, this Council called an election
within the District (the “Election”) for June 12, 2007, relative to the foregoing; and

WHEREAS, consultant to the City has recommended that the rate and method of
special taxes, attached as Exhibit A to Resolution No. 2007-270, be revised to include an
enforcement provision. This revision does not increase either the maximum special taxes or the
probable special taxes to be paid by the owner of any lot or parcel; and

WHEREAS, staff has recommended that the maximum special taxes set forth in
the rate and method of special taxes, attached as Exhibit A to Resolution No. 2007-270, be
reduced to reflect (1) the removal of landscaping on Oakdale Road because it is a tentative map
condition and will be installed by the developer and (2) the removal of maintenance expenses attributed to another parcel that will annex to CFD 2007-1 in the future; and

WHEREAS, on June 12, 2007, the Election was held; and

WHEREAS, the City Clerk has certified that the proposition of levying the special taxes and establishing an appropriations limit for the District was approved by at least two-thirds (2/3) of the votes cast at the Election;

NOW, THEREFORE, BE IT RESOLVED, ORDERED AND FOUND, by the City Council of the City of Modesto, that:

1. The Election was duly and validly conducted in conformity with all applicable laws, rules and regulations pertaining thereto. It is hereby determined that the owners of the property in the District is as set forth in the Affidavit of City Clerk as to Distribution of Official Ballots, submitted to this Council and on file with the City Clerk.

2. The ballot proposition presented to the qualified electors of the District at the Election received at least two-thirds (2/3) of the votes cast at the Election. A copy of the City Clerk’s certificate of election results is attached hereto as Exhibit A.

3. The City Clerk is directed to enter this resolution on the minutes of this City Council, which shall constitute the official declaration of the result of such election.

4. The City Clerk is further authorized and directed to record a notice of special tax lien with the County Recorder of the County of Stanislaus, within 15 days from the date hereof, in accordance with the provisions of Section 3114.5 of the California Streets and Highways Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June 2007, by Councilmember Keating, 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: Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
EXHIBIT A

CERTIFICATE OF CITY CLERK

I, JEAN MORRIS, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2007-356, the Resolution of Formation, adopted on June 12, 2007 by the City Council of the City of Modesto, I did conduct a Special Tax for City of Modesto Community Facilities District No. 2007-1 (North Beyer Park #2) on June 12, 2007, and that the election was conducted by mail or in person at the City Hall of the City of Modesto.

I further certify that the following shows the full text of the measure submitted to the voters at the election and the full and true totals of all votes cast for and against the measure.

Proposition A. Shall an appropriations limit in the amount of $800,000 per fiscal year be established for City of Modesto Community Facilities District No. 2007-1 (the "District") of the City of Modesto ("the City"), and shall special taxes with the rates, method of apportionment, and manner of collection as provided in Exhibit A to the City's Resolution No. 2007-270 (the "Resolution of Intention") adopted by the City Council of the City of Modesto on May 8, 2007, including any amendments thereto up to, and including the election date, which are incorporated herein by this reference, be levied within the District in order to finance certain public facilities (the "Facilities") as set forth in the Resolution of Intention and services (the "Services") also set forth in the Resolution of Intention, including any incidental expenses related thereto?

TOTAL VOTES CAST: YES__  NO__

______________________________
Jean Morris
City Clerk of the City of Modesto
Dated: ____________, 2007
A RESOLUTION DESIGNATING THE PROPERTY AT 216 WEST MORRIS AVENUE AS A MODESTO LANDMARK PRESERVATION SITE (OWNER: LORIE GARCIA)

WHEREAS, Chapter 10 of Title 9 of the Modesto Municipal Code establishes Landmark Preservation Site status as a way to recognize, preserve, enhance and perpetuate significant landmarks in the community, and

WHEREAS, a public hearing was held on March 19, 2007, at the McHenry Museum, 1402 I Street, Modesto, California, at which the Landmark Preservation Commission found and recommended in their Resolution No. 2007-1, that the property at 216 West Morris Avenue is eligible for designation as a Landmark Preservation Site for the following reasons:

(1) The location and setting are compatible with future preservation and use.
(2) The physical condition is such that preservation, maintenance or adaptive use is economically feasible.
(3) The distinguishing characteristics of significance are for the most part original and intact or capable of restoration.
(4) The existing or proposed use is compatible with the preservation and maintenance of the site

and

WHEREAS, the Safety and Communities Committee met on May 7, 2007, and supported the Landmark Preservation Commission’s recommendation, and

WHEREAS, after a public hearing held on June 12, 2007, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, the Council found and determined that the property at 216 West Morris Avenue is eligible for designation as a Landmark Preservation Site for reasons set forth by the Landmark Preservation Commission,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the property located at 216 West Morris Avenue is more particularly described in Exhibit “A” attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the property at 216 West Morris Avenue has historical significance for the following reason:

This 1925 Arts and Crafts/California Bungalow-style house was part of the Coldwell subdivision which was formed on August 24, 1903 and owned by Virginia Coldwell. Mr. and Mrs. Coldwell came to Stanislaus County in 1875 and purchased a 400-acre ranch about three miles north of Modesto. The subdivision was not developed until the mid to late 1920’s.

The original owners of the house were William J. “Billy” Silva and his wife Evelyn D. Mr. Silva was a prominent businessman and community leader in Modesto, owning the William J. Silva Garage and becoming the Stanislaus County representative of the Studebaker Automobile Company in 1919. He also was very active in the Modesto Lodge 1282, Elks, Past President of the Modesto Rotary Club (1930-31), Chair of the Selective Services Board in Modesto during World War II, a past Grand Knight of the Stanislaus Council, Knights of Columbus, and he belonged to the American Legion. In March 1946, Governor Earl Warren named William J. Silva to the five-member Fish and Game Commission. He was a member of that Board until his death and served as Chairman of the Commission for several terms. During his years as a Fish and Game Commissioner, Mr. Silva dealt with several highly important issues involving California’s fish and wildlife. Mr. Silva was also appointed to the Wildlife Conservation Board.

BE IT FURTHER RESOLVED that the property at 216 West Morris Avenue has architectural significance and is hereby designated a Landmark Preservation Site for the following reason:

Built in 1925, this Arts and Crafts/California Bungalow architectural style house is located in a neighborhood with tree-lined streets and 50-foot wide lots. The house is set back from the street allowing for a modest, cultivated lawn and planting beds. A driveway is located on the east side of the house and a porte-cochere extends from the east façade of the house over the driveway. The plan is rectangular with a low-pitched, cross-gabled roof with multiple roof planes, multiple gables with attic vents, and a wide roof overhang with exposed rafters. Decorative roof beams are placed under the gable ends at the roof-wall junctions and the exposed roof rafters are finished with plain verge boards. An L-shaped porch surrounds both the north, or street-side and part of the east facades. Short columns, resting upon more massive capped piers that begin at ground level, create a series of arched openings that support the porch roof. These frame the porch, creating an arcade effect. The house is set over a partial basement which elevates the living area approximately 20 inches above the ground. The entrance is on the north
façade and is accessed by three concrete steps leading to the porch. The roof is finished with composition shingles and the walls, foundation, chimney, porch piers and columns are finished with stucco. The primary living space exhibits a mixture of large casement, double-hung and fixed windows. The secondary rooms have multiple large double-hung windows. Like all true California Bungalows, the home features an open plan with the ornamental use of wood limited to the moldings, baseboards and hardwood floors.

To the rear of the house and reached by a straight driveway from the street, a frame building, housing a garage/workshop, is set at the southeast corner of the lot. Mature landscaping covers the grounds.

While the Bungalow style has been considered the quintessential American house of the early twentieth century, the California Bungalow is unique to California. The house and garage/workshop are consistent with residential architecture and construction methods used extensively in Modesto and California during the 1900-1930 period.

BE IT FURTHER RESOLVED that pursuant to Section 9-10.104(e)(1) of the Modesto Municipal Code, the City Clerk shall record a copy of this resolution with the County Recorder’s Office of Stanislaus County.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, 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: Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Morris

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
P1. Other Identifier: William J. "Billy" Silva House

P2. Location: □ Not for Publication  □ Unrestricted  □ County Stanislaus
and (P2c, P2e, or P2f. Attach a Location Map as necessary.)
  *b. USGS 7.5' Quad Riverbank  Date 1987 photo revised  T 3S; R 9E; ¼ of NE ¼ of Sec 29; M.D. B.M.
  c. Address 216 West Morris Avenue  City Modesto  Zip 95354
  d. UTM: (Give more than one for large and/or linear resources) Zone __ __ mE  __ __ mN
  e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc., as appropriate)

P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)

216 West Morris Avenue is located in the urban setting of a block of houses with tree-lined streets that was developed in the 1920s-1930s. The homes have similar setbacks from the street with urban sized front yards and 50-foot wide lots. Like the surrounding blocks, the streetscape on this block is a pleasant one, which evokes the sense of an early twentieth century neighborhood. The primary building on the site is a 2,048 sq. ft., one-story house, constructed in 1925 and designed in the California Bungalow architectural style. The house fronts north onto West Morris Avenue and is set back from the street allowing for a modest, cultivated lawn and planting beds. A large street tree dominates the front landscaping. A driveway is located on the east side of the house, and a porte-cochere extends from the east side of the house over the driveway. The plan is rectangular with a low-pitched, cross-gabled roof with multiple roof planes, multiple gables with attic vents, and a wide roof overhang with exposed rafters. Decorative roof beams are placed under the gable ends at the roof-wall junctions and the exposed roof rafters are finished with plain verge boards. A concrete L-shaped porch surrounds both

P3b. Resource Attributes: (List attributes and codes) HP2 Single - Family Property

P4. Resources Present: □ Building □ Structure □ Object □ Site □ District □ Element of District □ Other (isolates, etc.)

P5a. Photograph or Drawing: (Photograph required for buildings, structures, and objects.)

P5b. Description of Photo: (view, date, accession #)

P6. Date Constructed/Age and Sources:
1925. Assessor's records, deeds
□ Historic □ Prehistoric □ Both
Stanislaus County Assessor's Records; Deeds and Maps, Polk City Directories

P7. Owner and Address:
Lorie Garcia
216 West Morris Avenue
Modesto, CA 95354

P8. Recorded by: (Name, affiliation, and address)
Lorie Garcia
Beyond Buildings
P.O. Box 121
Santa Clara, CA 95052

P9. Date Recorded: February 7, 2007

P10. Survey Type: (Describe) Intensive

*P11. Report Citation: (Cite survey report and other sources, or enter "none.") None

Attachments: □NONE □ Location Map □ Continuation Sheet □ Building, Structure, and Object Record □Archaeological Record □District Record □Linear Feature Record □Milling Station Record □Rock Art Record □Artifact Record □Photograph Record □ Other (List):
the north, or street-side, façade and part of the east side elevation. Short columns, resting upon more massive capped piers that begin at ground level, create a series of arched openings that support the porch roof. These frame the porch, creating an arcade effect. A low wood railing, which appears to have been added later, connects the piers enclosing portions of the porch.

The house is set over a partial basement, which elevates the living area approximately 20 inches above the ground. The main entrance is on the north façade and is accessed by three concrete steps leading to the porch. A front-facing end gable projects from the western half of the porch roof delineating the main entry into the house. A secondary entry is located on the east side, opening into the dining room from the porte-cochere. The roof is finished with composition shingles, and the walls, foundation, chimney, porch piers and columns are finished with stucco. Fenestration is typical of the California Bungalow architectural style. The primary living space exhibits a mixture of large casement, double-hung, and fixed windows. The secondary rooms have multiple large double-hung windows. The casement windows have a glazing pattern of 9 panes divided by muntins into a specific pattern. The glazing pattern of the double-hung windows in the primary rooms is one of 9 panes divided by muntins on top and a single pane on the bottom. All other double-hung windows are one-over-one. Fixed windows, comprised of eight lights, are located on either side of the dining room door that provides access to the porte-cochere. The north wall of the living room features a casement window with 2 openings on one side of the entry door and a large fixed pane, flanked by single six-paned casement windows, on the other side. The west wall of the living room features 2 small double-hung windows on either side of the fireplace chimney. These windows exhibit a pattern of 6 panes divided by muntins over a single pane. The living room's east wall has two casement windows each with 2 openings. All windows have a projecting sill and are surrounded with decorative frames. The four exterior doors differ from each other. The front, or main door, is comprised of 9 panes divided by muntins in a pattern matching the casement windows. The secondary entry door, east side, is a wooden door with 9 panes equally sized and separated by muntins placed in the top half of the door. The rear door, which opens onto the back porch, is wooden with a single pane in the top half. A door that opens into the back yard from the rearmost room is solid wood.

The interior of the house is unmodified and reflects the Arts and Crafts/Bungalow style in the woodwork and built-in cabinetry. However, as the interior of the California Bungalow is generally plainer, the ornamental use of wood in this house is limited to the moldings, baseboards and hardwood floors.

To the rear of the house and reached by a straight driveway from the street, a frame building, housing a garage and workshop, is set at the southeast corner of the lot. Mature landscaping covers the grounds. The property is in good condition and has had very little alteration since its construction.
B1. Historic Name: William J. "Billy" Silva House
B2. Common Name: None
B3. Original Use: single-family residential
B4. Present Use: single family residential
B5. Architectural Style: California Bungalow
B6. Construction History: The residence was constructed circa 1925. The construction date of the accessory building containing a garage, workshop and a room is unknown. However, it most likely dates from the same period. There have been no alterations to the residence.

B7. Moved? No
B8. Related Features:
Accessory building divided into garage, workshop and small room located to rear of the house.

B9a. Architect: not known
b. Builder: not known
B10. Significance: Theme: Residential Architecture
Residential Architecture
Area: Modesto
Period of Significance: 1925-1956
Property Type: House
Applicable Criteria: NA

Although the Coldwell subdivision was formed by Virginia Coldwell in 1903, it was not developed until the mid to late 1920s. In 1922, most of the homes on the north side of West Morris between Magnolia and McHenry were constructed. Subsequently, on June 30, 1925, George W. O'Connor recorded the subdivision of his land, Lot 1, Block 554, which he divided into 13 lots (lots numbered 4 thru 16). The lots in front of McHenry Avenue ranged from 50' to 52.5' wide and were 118' deep. Those facing on Morris Avenue were 50' wide and 152.5' deep (except for lot 10 at 57' wide and lot 16, which was 10' wide). Two days later, on July 2d William J. Silva purchased Lot 13. Considered a pioneer in the automotive industry of Modesto, William J. Silva came to Modesto in 1912. The son of a La Grange district rancher who helped settle the San Joaquin Valley, W. J. Silva was born in 1895 and raised on his father's cattle and grain ranch. When he was 17, having decided he didn't want to follow in his father's footsteps, he left his father's ranch in La Grange with $40.00 in his pocket and moved to Modesto. Interested in mechanical things and the young automobile industry, Mr. Silva got a job as night service man in the Myers and Zacharias garage. From service he was promoted into the sales department, and by 1914 had worked into the management department of Charles Kaar's Studebaker dealership.

World War I interrupted his advancement in Modesto's automobile business and he enlisted in the United States Army. A strong voice for progress and the opportunities he saw in Modesto and Stanislaus County, after the armistice William J. Silva returned to Modesto and formed a partnership with Claude Shackleford to construct a building at 1116-22 H Street. This was a main thoroughfare in the heart of Modesto.

B11. Additional Resource Attributes: (List attributes and codes) HP2—Single Family Property

B12. References:

B13. Remarks: The house is being considered for Landmark status in the City of Modesto

B14. Evaluator: Lorie Garcia

Modesto’s business district. In his newly constructed building, W. J. Silva located his business, the William J. Silva Garage “Studebaker Dealers, Garage, Day and Night Services.” In 1919, Mr. Silva became the Stanislaus County representative of the Studebaker Automobile Company and by 1922 he had sold over 350 models of this popular vehicle. His garage had a capacity of 140 cars and was considered one of the largest, if not the largest, garages in the San Joaquin valley. An article written about him in March of that year, stated that he “is a real asset” and that “Stanislaus County and Modesto are truly proud to number him among their substantial citizens.”

On July 2, 1925, William J. Silva purchased a residential lot in the subdivision that had recently been created by George W. O’Connor (deed). By the beginning of 1926, he had moved with his wife, Evelyn D., and family from their previous residence at 1530 Morris into their newly constructed house on the property located at 1806 Morris (today’s 216 West Morris). The same year, Mr. Silva bought out his partner’s share of the business. As his business grew over the following decades, Mr. Silva continued to handle Studebaker cars for, as he stated in a 1936 interview, he felt “that his company being one of the oldest builders of automobiles, always has had a fine reputation for producing dependable vehicles.” By World War II, he was the distributor for Studebaker cars in four central valley counties, not only handling Studebaker cars, but also Studebaker and White trucks. At that time, with the exception of a few, he was considered to have had the longest service record with one company than any other automobile distributor in California. When the United States joined in the war, W. J. Silva took on another responsibility. For five years he served as chair of the selective services board in Modesto.

William J. Silva - “Billy” to most who were acquainted with him - along being an active member of Modesto’s merchant and business community was also known for his participation in civic organizations. He held membership in the Modesto Lodge 1282, Elks, was a past president of the Modesto Rotary Club (1930-31), a past grand knight of Stanislaus Council, Knights of Columbus and belonged to the American Legion.

Along with his business and civic involvement, W. J. Silva was noted for his love of outdoor sports, particularly hunting, fishing, golf and trap shooting. He belonged to various sporting groups, including the Old Fishermen’s Club and a duck club called the Modesto Properties Company. As a member of the Modesto Trap Club and an expert trap shooter, William J. Silva participated in many Pacific coast competitions. Being an avid deer and bird hunter, he made several out-of-state hunting trips all over the United States, Canada and Alaska for big game, i.e., mountain lion, mountain goat, big horn sheep, moose and caribou. He also went deep-sea fishing for swordfish off the coast of Mexico. As a result many trophies decorated his office.

In March 1946, Governor Earl Warren named William J. Silva to the 5-member Fish and Game Commission. This Commission administered the State of California Division of Fish and Game, which was charged with the enforcement of the State’s fish and game laws; the establishment of fish hatcheries; importation, propagation, and distribution of birds, mammals, fish, mollusks, and other crustaceans; control of game predators; conduct of scientific research on fish and game problems; and collection of statistics on the take of all these resources. The year previous to W. J. Silva’s appointment to the commission, the Legislature, through a constitutional amendment, delegated to the Fish and Game Commission the responsibility for making regulations for sport fishing and hunting.

He was a member of that board until his death and served as president or “chairman” of the commission for several terms. When acting as the commission president, William J. Silva had the additional responsibility of serving on the Wildlife Conservation Board (WCB), which was comprised of three people, the Director of the Department of Fish and Game, the Director of Finance, and the president of the Fish and Game Commission. The WCB administered the capital acquisition and development program for conservation and recreational uses-of fish and wildlife resources, including deciding which lands were suitable for wildlife production and preservation and which were suitable for recreational uses.

During his years as a Fish and Game Commissioner, William J. Silva dealt with several highly important issues involving California’s fish and wildlife. Among these were ecological concerns; the Sardine industry crisis and other commercial fishing issues, as an increase in commercial fishing led to the depletion of fish; and improvements for sports fishermen. These improvements included the development of fish hatcheries and fish planting. Mr. Silva was particularly interested in fish and game planting programs, and in 1948 the Fish and Game Commission implemented the first aerial planting of trout followed by the establishment of the first pheasant cooperative hunting areas in 1949.

William J. Silva died on December 17, 1956, following a long illness. The Modesto Bee carried his obituary on the first page. For six months following his death, his wife, Evelyn, continued to live in their home. However, on June 1, 1957, she also passed away. When her death occurred, the news was also on the first page of the Modesto Bee, noting the fact that she was a native of California who had lived in Modesto nearly all her life and referencing the accomplishments of her husband.

After the death of Evelyn D. Silva, records show that her daughter, Mary Lou Johns, a public school teacher, followed by William Johns, manager of Hills Food Market, and his wife Dorothy, resided at this address through 1981.

Starting in 1962, the property has had nine owner occupants. Harry C. Kurkjian, resided in this house along with his wife Anne in 1962 and 1963. Members of the Kurkjian family are listed at this address until 1980. They include, Mrs. Annie Kurkjian, likely the widow of Harry C., who lived here from 1964-1968, followed by Pearle Kurkjian, a bookkeeper for Cal. Packing (1967-1971) Robert H. Stagg, a salesman for American Lumber Co., and his wife Pearle (Kurkjian), (1972-1977), and Mrs. Pearle Stagg (1978-1979).

By 1981 Sheldon Spencer occupied the house, living here through 1985. After Sheldon Spencer, the owners were Lyle Witt, an employee of Modesto Brake and Filter (1987-2001) and Melissa Maxwell and Brenda Carpenter, a teacher (2002-2005). In spring 2005, Brenda Carpenter and Melissa Maxwell sold the property to the current owner, Loria Garcia.
The 1925 George O'Connors subdivision of residential lots on West Morris Avenue became important to the growth of Modesto for the urban design. As the houses were constructed they came to represent fine residential design and well constructed buildings, important in the city's architectural heritage. This residence was one of the first constructed in the subdivision and its California Bungalow architectural style stands out in this Modesto neighborhood, which was mostly constructed in the Provincial style. It has not undergone physical alteration since it was constructed and does retain the distinctive characteristics that represent a period and method of construction and that make it recognizable as a historic resource. Also it has a direct association with the life of a person important to the history of Modesto and California, as it was the residence of William J. “Billy” Silva from its construction in 1925 until his death in 1956. Research into the past owners and residents concluded that the original owner of the subject property was a solid citizen of Modesto. The original owner, William J. “Billy” Silva, was very active in civic and social organizations and a leading member of the business community during an important period of economic growth and development in Modesto, 1920-1950. Not only was Mr. Silva significant to the history of the City, but also as a member of the California State Fish and Game Commission (1946-1956) he was influential in policy decisions affecting the preservation and development of California's fish and wildlife resources.

However, no events are associated with the building which would have made a significant contribution to the broad patterns of history or cultural heritage. And none of the persons associated with it appear to be important at a national level. Therefore the subject building does not appear to be eligible for the National Register based on Criteria A or B. The house itself represents the California Bungalow architectural style, which became extremely popular across the country from 1900-1930 and it retains its architectural integrity. Considering the criteria of the National Register of Historic Places, Criterion "C" is the one that best addresses the subject property although it is not a rare example of that type. In conclusion, while the William J. "Billy" Silva house does not appear to meet the criteria for listing in the National Register of Historic Places as an individual resource it would qualify for inclusion in a small residential district in the immediate neighborhood.

The criteria for listing historical resources in the California Register of Historical Resources are consistent with those for listing resources in the National Register of Historic Places, but have been modified for state use in order to include a range of historical resources that better reflect the history of California. The significance of a property is found in the association with historic events or people or is due to the physical quality and presence of the building, structure or object. The Bungalow style has been considered the quintessential American house of the early twentieth century, but the California Bungalow is unique to California. Most of the homes in the 200 block of West Morris Avenue were constructed in the Provincial style; however the William J. "Billy" Silva house was built in the California Bungalow architectural style and exhibits the distinctive characteristics of this style. The house and accessory building housing the garage/workshop have not lost architectural integrity and are consistent with residential architecture and construction methods used extensively in Modesto and California during the 1900-1930 period. Also as mentioned above, William J. "Billy" Silva was not only a successful businessman but was also very influential in local business issues and promoting Modesto. And, as a member of the State Fish and Game Commission (1946-1958), he was influential in the implementation of policies and programs, which affected the preservation and development of California's fish and wildlife resources. Under criteria 2 and 3, the subject property appears eligible for inclusion on the California Register of Historical Resources at both a local and state level.

The house at 216 West Morris Avenue has not been moved or altered and it retains its architectural integrity from the period of significance. As such, it is an important element in the streetscape and the architectural heritage of Modesto. It appears to be eligible for listing as a City of Modesto Landmark due to the historic associations with William J. "Billy" Silva, and the original building style.
A RESOLUTION ESTABLISHING FEES FOR MUNICIPAL OFF-STREET PARKING FACILITIES, PROVIDING FOR CONTROL THEREOF, AND RESCINDING RESOLUTION NO. 2007-086.

WHEREAS, Section 3-2.1601 of the Modesto Municipal Code provides that the City Council may from time to time establish and designate municipal off-street parking facilities in the City by resolution of the Council, and

WHEREAS, Section 3-2.1602 of the Modesto Municipal Code provides that the hours and days upon which the operation of off-street parking facilities shall be effective shall be established from time to time by resolution of the Council, and

WHEREAS, Section 3-2.1603 of the Modesto Municipal Code provides that the rates for use of off-street parking facilities shall be established from time to time by resolution of the Council, and

WHEREAS, on February 6, 2007, the City Council, by Resolution No. 2007-086, established the current fee schedule and hours that fees can be collected at the City’s off-street parking facilities, and

WHEREAS, by an agenda report to the City Council from the Parks, Recreation and Neighborhoods Department dated May 24, 2007, City staff recommended standardizing parking rates, resulting in the surface lots having the same per hour charge as the garages, revising the grace period from ten (10) minutes to twenty (20) minutes, and eliminating the gross revenue sharing, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on June 12, 2007, 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 parking rates,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. GARAGE PARKING FACILITIES.

(a) The following municipal garage parking facilities are hereby established:

(1) Eleventh Street Garage (Lot 28) west side of 11th Street between I and J Streets;
(2) Ninth Street Garage (Lot 43) west side of 9th Street between K and L Streets;
(3) Tenth Street Garage (Lot 44) west side of 11th Street between J and K Streets.

(b) Vehicular parking on said parking facilities shall be controlled and regulated as follows:

(1) From 6:00 a.m. to 6:00 p.m., seven days per week, the rate of One and no/100ths dollar ($1.00) per hour or fraction thereof, unless validated in accordance with the provisions of Section 3-2.1604 of the Modesto Municipal Code.
(2) From 6:00 p.m. to 6:00 a.m., seven days per week, the rate of Five and no/100ths dollars ($5.00) per evening, unless validated in accordance with the provisions of Section 3-2.1604 of the Modesto Municipal Code.

(c) The price for validation stamps to be used with the validation system on said garage parking facilities, as provided by Section 3-2.1604 of the Modesto Municipal Code, shall be $107.00 for a book of one hundred (100) stamps.

(d) The Parks, Recreation and Neighborhoods Director may designate spaces in said garage parking facilities for the free parking of bicycles. When appropriate signs are erected, bicycles may be parked in such areas without charge.

(e) Monthly parking passes may be authorized by the Parks, Recreation and Neighborhoods Director at said garage parking facilities when it does not encroach on the needs of commercial parking and/or other parking agreements. The monthly charges for such passes for the three parking garages (Lots 28, 43 and 44) shall be Sixty and no/100ths dollars ($60.00) for 2007; Sixty-two and no/100th dollars ($62.00) for 2008; Sixty-four and no/100th dollars ($64.00) for
2009; Sixty-six and no/100th dollars ($66.00) for 2010; Sixty-eight and no/100th dollars ($68.00) for 2011; Seventy and no/100th dollars ($70.00) for 2012; Seventy-two and no/100th dollars ($72.00) for 2012; Seventy-four and no/100th dollars ($74.00) for 2013, Seventy-six and no/100th dollars ($76.00) for 2014; Seventy-eight and no/100th dollars ($78.00) for 2015; and, Eighty and no/100th dollars ($80.00) for 2015.

(f) From time to time, the promoters of special events have the need to use the entire first floor of the Eleventh Street parking garage for their events. The charges for such “buy-out” rentals shall be Two hundred Twenty-five and no/100th dollars ($225.00), per twenty-four (24) hour period or portion thereof.

(g) In order to accommodate patrons who are unable to locate a parking space, a twenty (20)-minute free, grace period shall be allowed.

SECTION 2. SURFACE PARKING LOTS.

(a) For the purposes of this section, municipal off-street parking facilities shall be defined as those that are equipped with automated collection devices and/or are staffed. Parking lots described in Section 3. below shall be excluded.

(b) Vehicular parking on said parking facilities shall be controlled and regulated as follows:

1. From 6:00 a.m. to 6:00 p.m., seven days per week, the rate of One and no/100ths dollar ($1.00) per hour or fraction thereof, unless validated in accordance with the provisions of Section 3-2.1604 of the Modesto Municipal Code.

2. From 6:00 p.m. to 6:00 a.m., seven days per week, the rate of Five and no/100ths dollars ($5.00) per evening, unless validated in accordance with the provisions of Section 3-2.1604 of the Modesto Municipal Code.

(c) The price for validation stamps to be used with the validation system on said garage parking facilities, as provided by Section 3-2.1604 of the Modesto Municipal Code, shall be $107.00 for a book of one hundred (100) stamps.
(d) The Parks, Recreation and Neighborhoods Director may designate spaces in said parking facilities for the free parking of bicycles. When appropriate signs are erected, bicycles may be parked in such areas without charge.

(e) Monthly parking passes may be authorized by the Parks, Recreation and Neighborhoods Director or any surface parking lot when it does not encroach on the needs of commercial parking. The monthly charges for such passes shall be Sixty and no/100ths dollars ($60.00) for 2007; Sixty-two and no/100th dollars ($62.00) for 2008; Sixty-four and no/100th dollars ($64.00) for 2009; Sixty-six and no/100th dollars ($66.00) for 2010; Sixty-eight and no/100th dollars ($68.00) for 2011; Seventy and no/100th dollars ($70.00) for 2012; Seventy-two and no/100th dollars ($72.00) for 2012; Seventy-four and no/100th dollars ($74.00) for 2013, Seventy-six and no/100th dollars ($76.00) for 2014; Seventy-eight and no/100th dollars ($78.00) for 2015; and, Eighty and no/100th dollars ($80.00) for 2015.

(f) Recreational Vehicles (RVs) may be allowed to park on surface lots as designated by the Parks, Recreation and Neighborhoods Director. The charges per twenty-four (24) hour period, or portion thereof, shall be Twenty and no/100ths dollars ($20.00).

(g) Buses and commercial trucks may be allowed to park on surface lots as designated by the Parks, Recreation and Neighborhoods Director. The charges per twenty-four (24) hour period, or portion thereof, shall be Thirty and no/100ths dollars ($30.00).

(h) From time to time, the promoters of special events have the need to use an entire surface lot for their event. The charges for such “buy-out” rentals shall be Six Hundred Fifteen and no/100th dollars ($615.00) for the surface lot at 10th and H (123 spaces); Three Hundred Thirty and no/100th dollars ($330.00) for the surface lot at 9th and I (66 spaces); Two Hundred Fifteen and no/100th dollars ($215.00) for the surface lot at 9th and J (43 spaces); Two Hundred Twenty-five and no/100th dollars ($225.00) for the first floor of the Eleventh Street garage (45 Spaces); and Seven Hundred Fifty and no/100th dollars ($750.00) for the Centre Plaza surface lot (150...
spaces). In addition, a discount of $1 per space shall be provided at the Centre Plaza lot when the rental of the Centre Plaza lot is in conjunction with an event at the Modesto Centre Plaza. In that case, the rate will be Six Hundred and no/100th dollars ($600.00), with Seventy-five and no/100th dollars ($75.00) of that amount going to the Centre Plaza operating fund.

(i) Additional surface parking facilities and/or hours of operation, including weekends may be authorized by the Parks, Recreation and Neighborhoods Director as appropriate to meet parking needs, comply with existing agreements, or allow for collection of fees for special events.

SECTION 3. FREE PARKING LOTS.

(a) The following municipal off-street parking facilities shall be free parking lots:

(1) Lot 13, north side of H Street between 15th and 16th Streets (Modesto Stanislaus Library);

(2) Lot 15, east side of 11th Street between F and G Streets (north of Fire Station #1);

and

(3) Lot 16, east side of 11th Street between F and G Streets (south of Fire Station #1).

SECTION 4. DISABLED PERSONS. Notwithstanding any other provision of this resolution, disabled persons, as defined in Section 22511.5 of the California Vehicle Code, displaying a distinguishing license plate or distinguishing placard issued pursuant to Section 22511.5 of the California Vehicle Code may park free in any of the municipal off-street parking facilities specified in this resolution, except in reserved parking spaces.

SECTION 5. JURY PARKING. Persons ordered to appear for jury duty may park exclusively in the following municipal off-street parking facility in compliance with the fees and regulations specified in this resolution:

(1) Lot 10, exclusive all day, east side of 8th Street between I and K streets.
SECTION 6. The Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

SECTION 7. Effective July 1, 2006, the gross revenue sharing between the Parking Services Division and the Modesto Police Department for evening revenue at the Eleventh Street parking garage is hereby eliminated.

SECTION 8. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on and after June 13, 2007.

SECTION 9. RESCIND. Resolution No. 2007-086 is hereby rescinded effective at midnight on June 12, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: Dunbar

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION SUPPORTING SENATE BILL 286 (LOWENTHAL/DUTTON)
WHICH DEFINES AN ALLOCATION SCHEDULE FOR THE $2 BILLION FOR
CITIES AND COUNTIES

WHEREAS, In November, 2006, California voters overwhelmingly approved Proposition 1B, a $19.9 billion state bond for transportation improvements, and

WHEREAS, The Assembly and Senate Budget Subcommittees on Transportation made their recommendations for the allocation of the $2 billion included in Proposition 1B for cities and counties (split evenly at $1 billion each), and

WHEREAS, The Senate recommendation provides $400 million, split evenly between cities and counties. This represents just 20 percent of cities' guaranteed allocation, and

WHEREAS, The Assembly recommendation is consistent with the Governor's May Budget Revision, which allocates $600 million, split evenly between cities and counties, and

WHEREAS, The issue now goes to the Budget Conference Committee where the Assembly and Senate proposals will be debated and reconciled, and

WHEREAS, Legislators are urged to support a $1 billion appropriation for cities in FY 2007/08 from the Proposition 1B account for local streets and roads, and

WHEREAS, The League of California Cities is asking for cities to pass a resolution in support of SB286 and full funding of Proposition 1B Local Streets and Roads, as the decisions for funding levels are being determined now, and
WHEREAS, This bill guarantees that every city will receive at least half of their Proposition 1B funds to spend in the next two fiscal years (the 2007-08 Proposition 42 "gap" year and 2008-09), and

WHEREAS, Securing this funding is extremely important for cities. Cities will not receive any Proposition 42 (gasoline sales tax) funds for local streets and roads during the FY 2007/08, and

WHEREAS, Cities can use these Proposition 1B funds immediately for improvements to local transportation facilities that will repair and rehabilitate local streets and roads, reduce local traffic congestion, improve traffic flow, or increase traffic safety.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves supporting Senate Bill 286 (Lowenthal/Dutton) which defines an allocation schedule for the $2 billion for cities and counties.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, 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: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susan Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-361

A RESOLUTION ADOPTING RUN-OFF ELECTION PROCEDURES AND DIRECTING THE CITY CLERK TO FOLLOW THE PROCEDURES IN CONDUCTING ANY REQUIRED RUN-OFF ELECTION FOLLOWING THE REGULAR MUNICIPAL ELECTION IN NOVEMBER, 2007, AND DIRECTING THE CITY ATTORNEY TO FILE AN ACTION IN SUPERIOR COURT IN THE EVENT THAT THE DECEMBER, 2007 RUN-OFF ELECTION "FAILS"

WHEREAS, after considering the options of whether the County Clerk-Recorder or the City Clerk should conduct the December 11, 2007 run-off election, the Finance Committee at its May 21, 2007 meeting recommended to the City Council that the City Clerk conduct the run-off; and

WHEREAS, the City Council adopted Resolution No. 2007-317 directing the City Clerk to conduct the December 11, 2007 run-off election, and

WHEREAS, the City Council authorized a contract with Martin & Chapman for election services to assist the City Clerk in conducting the 2007 run-off election; and

WHEREAS, it is prudent and necessary for the City Council to approve run-off election procedures to guide the City Clerk in conducting the December run-off election in the event one is necessary.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the run-off election procedures set forth in the staff report to the City Council dated June 26, 2007, are hereby adopted and the City Clerk is authorized and directed to follow said procedures in conducting the run-off election, and further, the City Attorney is directed to file the litigation described in said staff report in the event the December, 2007, run-off election "fails." (A copy of the staff report is attached as Exhibit "A" and incorporated herein by reference.)
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 26th day of June 2007, by Councilmember Hawn, who
moved its adoption, which motion being duly seconded by Councilmember Dunbar, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,
 Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney

ATTEST: Jean Morris

JEAN MORRIS, City Clerk
TO: Mayor and City Council

FROM: Jean Morris, City Clerk

SUBJECT: December 2007 Run-Off Election

CONTACT: Jean Morris, jmorris@modestogov.com, (209) 577-5396

RECOMMENDED COUNCIL ACTION

1. Resolution approving run-off election procedures and directing the City Clerk to follow the procedures in conducting any required run-off election following the regular municipal election in November 2007, and directing the City Attorney to file an action in Superior Court to do the following in the event that the December 2007, run-off election “fails;” (1) obtain an order prohibiting the City Clerk from canvassing the December 11, 2007 run-off election, (2) declare the December 11, 2007, run-off election nullified, and (3) request the Court to retain jurisdiction until the run-off election results are certified.

2. Resolution calling for a special election to be held on January 29, 2008 for the purpose of holding a run-off election that might otherwise have been held on December 11, 2007 in the event the December 11, 2007, run-off election “fails.”

BACKGROUND

The City Council has directed the City Clerk to conduct the December 11, 2007 run-off election.

The County Clerk-Recorder will be conducting the November 6, 2007 Municipal Election and it is anticipated that the office will use the entire 28-day canvassing period allowed under the law for that election. In the event the full 28-day period allowed by law is utilized, there will not be sufficient time to mail the run-off ballots to voters 10 days prior to the run-off date as required by the Elections Code. It is therefore recommended that the City Council approve the following run-off election procedures:
SELECTION OF RUN-OFF CANDIDATES:

- Establish November 16, 2007, at 5:00 p.m. as the date and time when the top two candidates will be chosen for purposes of printing the run-off ballots in those races where it appears that a run-off will be necessary. In those races where any candidate has more than 50% of the votes cast as of that date and time, no run-off ballots will be printed. The determinations provided for in this paragraph will be made based on the vote tabulation printed by the County Elections Office at that date and time.

- Immediately after the above determinations have been made pursuant to these procedures, the City Clerk shall cause the necessary ballots to be printed.

- Prior to November 16, 2007, the City shall have caused the necessary mail ballot envelopes and any other election supplies to have been printed utilizing the services of the election supplier previously chosen by the City Council as set forth in Resolution No. 2007-318.

- In the event the County Clerk-Recorder does not utilize the full 28-day canvassing period and the certified election results show that the incorrect names were chosen pursuant to the procedure set forth above, then the following action shall be taken depending on at what point in the process the canvass is made:
  
  ◆ If the canvass is made prior to the mailing of the ballots then, provided there is sufficient time in the opinion of the election supplier, the City Clerk shall request an emergency reprint and incur any necessary additional cost and mail out the reprinted ballots prior to the 10-day deadline mandated by state law, or if there is not sufficient time to meet the 10-day deadline, the election shall be deemed to have “failed” and the City Attorney shall proceed with the litigation outlined below.
  
  ◆ If the canvass of the County Clerk-Recorder shows that the incorrect names were chosen pursuant to the procedure outlined above and the ballots have already been mailed, then the run-off shall be deemed to have “failed,” and the City Attorney shall proceed with the litigation outlined below.

LITIGATION:

- In the event said run-off is deemed to have “failed” pursuant to these procedures, then the City Attorney is hereby directed to file an action in Superior Court to do the following:
  
  ◆ Obtain an order prohibiting the City Clerk from canvassing the December 11, 2007, run-off election.
  
  ◆ Declare the December 11, 2007, run-off election nullified.
  
  ◆ Request the Court to retain jurisdiction until the run-off election results are certified
DECISION TREE:

- Pursuant to these procedures there are two (2) possible scenarios which are summarized in the attached “Decision Tree.”

- Pursuant to the procedures set forth above, if the City Clerk has printed and mailed ballots with incorrect names chosen, it will be necessary to call a special election for the purpose of holding the run-off. The agreed upon date to hold an election with Martin and Chapman is January 29, 2008. This date will allow adequate time to reprint and mail new ballots. It is recommended that the City Council adopt such a resolution now on condition that it not be effective unless the circumstances described above occur.

In the past, in order to avoid allegations of conflict of interest, it has been recommended that Councilmembers running for re-election abstain from voting on this matter. The precedent for this is the fact that Councilmembers Friedman and Smith abstained during actions taken related to the “failure” of the 2001 run-off election, Mayor Sabatino and Councilmember Conrad abstained from voting on this matter during actions related to the 2003 run-off election, and Councilmembers Jackman, Keating and O’Bryant abstained from voting on this matter during actions related to the 2005 run-off election. However, in this election year if all four incumbents run for re-election and abstain from voting on this issue, there will not be a quorum of the Council. Therefore, it is recommended that all Councilmembers, including the Mayor, vote on this item.

FISCAL IMPACT

If a special run-off election is required in January it is estimated that an additional $172,000 will be needed to cover costs.

STEPS FOLLOWING APPROVAL

These procedures will be forwarded to Martin & Chapman and the County Clerk-Recorder.

Prepared and Submitted By: Jean Morris, City Clerk, jmorris@modestogov.com; 577-5396

cc: George Britton, City Manager
    Susana Alcala-Wood, City Attorney

Attachments: Resolution Adopting Run-Off Procedures
              Resolution Calling for a Special Election
              Decision Tree
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-362

A RESOLUTION CALLING FOR A SPECIAL ELECTION TO BE HELD ON
JANUARY 29, 2007 FOR THE PURPOSE OF HOLDING A RUN-OFF
ELECTION THAT WAS PREVIOUSLY SCHEDULED FOR
DECEMBER 11, 2007

WHEREAS, in the event the December run-off election “fails,” it will be
necessary to reschedule the run-off election; and
WHEREAS, the City Council determines that the run-off election should be held
on the 5th Tuesday in January 2008.

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

1. That the City Council orders the City Clerk to submit the run-off
election previously scheduled for December 11, 2007, to the voters

2. The City Council hereby requests Martin & Chapman to provide
election services for the purpose of holding a run-off election that
was previously scheduled for December 11, 2007, to elect
members of Council for the Mayor, Chairs 1, 3 and 6.

3. That the City Clerk shall certify to the passage and adoption of this
resolution and enter it into the book of original resolutions.

4. This resolution shall only be effective in the event incorrect names
for the run-off ballots were chosen; and, the Superior Court issues
an Order prohibiting the City Clerk from canvassing the December
11, 2007, run-off election; and, the Superior Court issues an Order
nullifying the December 11, 2007, run-off election.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 26th day of June 2007, by Councilmember Hawn, who
moved its adoption, which motion being duly seconded by Councilmember Dunbar, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2006-2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2006-2007 budget have been adjusted as shown on the Budget Request form(s).

BE IT FURTHER RESOLVED that the Finance Director 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 26th day of June 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ________

SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO FORM:

By: ________

06/26/07/Finance/W Padilla/Item 7 1 2007-363
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-364

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT
FOR THE FURNISHING OF DIGESTER CLEANING SERVICES FOR THE
PUBLIC WORKS DEPARTMENT, WATER QUALITY CONTROL DIVISION
(WQC) TO WASTEWATER SOLIDS MANAGEMENT, INC. OF YACHATS, OR,
FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR
EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN
ESTIMATED ANNUAL COST OF $29,200

WHEREAS, the Public Works Department, Water Quality Control Division has
requested the cleaning of digesters, and

WHEREAS, digesters are utilized to reduce the volume of organic waste that is
removed from the waste water in the Primary clarifiers, and

WHEREAS, cleaning of digesters removes solids that will not break down in the
digestion process, such as sand and plastic, and

WHEREAS, cleaning of anaerobic digesters is standard operating procedure for
all wastewater treatment plants, and

WHEREAS, on May 23, 2006, Council approved Resolution No. 2006-310
authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the
furnishing of digester cleaning services, for the Public Works Department, Water Quality
Control Division (WQC), and

WHEREAS, on March 20, 2007, the Purchasing Division issued Request for Bid
No. 0607-06 for the furnishing of digest cleaning services to eight (8) prospective
bidders, none of which were local companies, posted the bid on the City’s web site, and
formally advertised as required by law, and

WHEREAS, on May 1, 2007, RFB’s were formally opened in the CITY Clerk’s
office, and
WHEREAS, of the eight (8) prospective bidders, two (2) companies chose to respond, of which one was a “No Bid”, and

WHEREAS, based on receiving a responsive and responsible bid, City staff recommends the award of bid and contract for digester cleaning services to Wastewater Solids Management, Inc. of Yachats, OR, for a two (2) year agreement, with three (3) one-year extension options, at the sole discretion of the City, and

WHEREAS, Modesto Municipal Code 8-3.203, generally requires all purchases, which meet or exceed $50,000 for materials, equipment or contractual services to be formally bid, and

WHEREAS, the award of bid and contract for the purchase of digest cleaning services conforms to Modesto Municipal Code, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of digester cleaning services for the Public Works Department, Water Quality Control Division (WQC) to Wastewater Solids Management, Inc. of Yachats, OR, for a two (2) year agreement, with three (3) one-year extension options, at the sole discretion of the City, for a total estimated annual cost of $29,200.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issued a purchase agreement for the furnishing of digester cleaning services for the Public Works Department, Water Quality Control Division (WQC) to Wastewater Solids Management, Inc. of Yachats, OR, for a two (2) year agreement, with three (3) one-year extensions, at the sole discretion of the City, for an annual total estimated cost of $29,200.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES:  Councilmembers:  Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES:  Councilmembers:  None

ABSENT:  Councilmembers:  None

ATTEST:  

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY:  

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING TWO (2) ANNUAL RETAIL ADVERTISING CONTRACTS WITH THE MODESTO BEE (MCCLATCHY NEWSPAPER GROUP), TO COINCIDE WITH THE FISCAL YEAR CALENDAR, CONSISTING OF, ONE (1) CONTRACT FOR A RETAIL NON-PROFIT “NO-COMMITMENT” ADVERTISING RATE OF $51.68 PER COLUMN INCH AND THE OTHER CONTRACT FOR A “12X COMMITMENT” BUSINESS PACKAGE ADVERTISING PLAN “D”, AT A STANDARD AD SIZE AVERAGE RATE OF $31.25 PER COLUMN INCH AND AUTHORIZING THE CITY MANAGER TO EXECUTE BOTH CONTRACTS

WHEREAS, the City of Modesto is currently using the Modesto Bee (McClatchy Newspaper Group) as its primary advertising source for its advertising requirements, and

WHEREAS, the advertising services are required for classified and legal advertisements as required by law, and for retail advertisements for public information purposes, and

WHEREAS, in May of 2002 Council directed staff to consolidate the procurement of advertising through a central source in order to obtain the best contractual pricing available for the City, and

WHEREAS, Council has also requested that the annual retail advertising contracts be put in place to coincide with the fiscal year calendar, and

WHEREAS, the City’s Purchasing Manager annually meets with the Modesto Bee and based on advertising volume commitments over the prior year identifies two (2) retail contract options which would best meet the City’s retail advertising needs, and
WHEREAS, in June of 2005 staff went before Council with a recommendation to approve two (2) annual retail advertising contracts with the Modesto Bee to coincide with the fiscal year calendar, and

WHEREAS, in June of 2005, by Resolution No. 2005-322, Council approved both contracts and authorized the City Manager to sign the retail advertising contracts, and

WHEREAS, both retail contracts will expire on June 30, 2007, and

WHEREAS, staff once again met with the Modesto Bee to discuss what contract renewal options would be available to the City, and

WHEREAS, the Modesto Bee has agreed to renew both retail advertising contracts for another year based on the fiscal year calendar, and

WHEREAS, a price increase associated with the contract renewal will put the “non-profit no-commitment” contract rate at $51.68 per column inch, and

WHEREAS, this year the “12x-commitment business package” rate will once again include a single insertion in the Saturday Shopper and Vida with the average per column inch rate of $31.25, and

WHEREAS, the Purchasing Manager has determined that a process other than the formal bid procedure will result in a procurement of advertising for the City at the lowest cost commensurate with the desired quality, as provided for in MMC 8-3.204(d), and

WHEREAS, once signed, both advertising contracts shall be implemented and tracked by the City’s Purchasing Manager, and with the City’s Public Information Technician assisting departments with their advertising needs,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves two (2), twelve (12) month retail advertising contracts with the Modesto Bee (McClatchy Newspaper Group), to coincide with the fiscal year calendar, consisting of one contract for a retail “no-commitment” non-profit rate of $51.68 per column inch and the other contract for a “12x-commitment” business package advertising plan “D” at an average rate of $31.25 per column inch, based on a standard 2x5 inch ad size run three (3) times in the Bee, combined with one-time insertions in both the Saturday Shopper and Vida as outlined in plan “D”.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney