A RESOLUTION APPROVING AMENDMENT NO. 2 TO AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND IMPACT SCIENCES INC. FOR PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED PELANDALE/MC HENRY SPECIFIC PLAN PROJECT IN AN AMOUNT NOT TO EXCEED $30,030 AND AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 2

WHEREAS, Michael P. Evans of Meritage Homes has applied for a specific plan, commonly known as the Pelandale/McHenry Specific Plan, to allow for the orderly and future development within the approximate 80-acre planning area bounded by Pelandale Avenue on the north, McHenry Avenue on the east and the Modesto City Limits on the south and west generally located in north Modesto, and

WHEREAS, the proposed Pelandale/McHenry Specific Plan will also involve the following associated entitlements: prezoning to a Specific Plan-Overlay (SP-O) zone, annexation of the project site; a general plan amendment to 1) modify the land use development densities, and 2) modify the land use designations and boundaries by changing the general plan land use designation of 30 acres of Regional Commercial (RC) and 50 acres of Residential (R) to 4.0 acres Commercial (C), 51 acres of Residential (R) and 26.5 acres of Open Space for an 80-acre site located at the southwest corner of the Pelandale and McHenry Avenues, preparation of a Facilities Master Plan and associated Finance Plan, and formation of a community facilities district (CFD) (collectively “Project”), and
WHEREAS, Section 21080.1 of the California Public Resources Code requires the City of Modesto, as lead agency, to make a determination of whether an environmental impact report is required for the Project, and

WHEREAS, On October 11, 2005, by Resolution No. 2005-503, the City Council approved an Agreement with Impact Sciences Inc. to prepare an Initial Study in accordance with Section 15063 of the CEQA Guidelines for the proposed Pelandale/McHenry Specific Plan project and related applications, and

WHEREAS, on May 23, 2006, by Resolution No. 2006-300, the City Council approved Amendment No. 1 to the Agreement For Consultant Services between the City of Modesto and Impact Sciences Inc. for the preparation of an Environmental Impact Report for the proposed Pelandale/McHenry Specific Plan, in an amount not to exceed $235,372, a copy which is on file in the City Clerk’s Office, and

WHEREAS, City staff recommends that the Agreement between the City of Modesto and Impact Sciences Inc. be further amended to provide for additional analysis and services related to preparation of the Draft EIR, in an amount not to exceed $30,030, and

WHEREAS, the applicant has agreed to pay for this additional work, including staff time spent on the project, and the applicant has deposited funds with the City to cover the full amount of the proposed Amendment No. 2 to Agreement for Consultant Services,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 2 to the Agreement For Consultant Services ("Amendment No. 2") between the City of Modesto and Impact Sciences Inc., for additional services required for the completion of the Draft Environmental Impact Report for the proposed Pelandale/McHenry Specific Plan, in an amount not to exceed $30,030. A copy of Amendment No. 2 is on file with the City Clerk's Office.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment No. 2 to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 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 REJECTING ALL BIDS, DUE TO BIDS EXCEEDING THE ANNUAL BUDGETED AMOUNT OF $20,000, FOR THE REPAINTING OF STREET LIGHT STANDARDS, BASES, AND MAST ARMS, FOR THE PUBLIC WORKS DEPARTMENT, TRAFFIC DIVISION.

WHEREAS, the Public Works Department, Traffic Division had request the repainting of street light standards, bases, and mast arms, and

WHEREAS, the City Electrical Unit currently maintains approximated 1,500 painted street light standards, and

WHEREAS, each year $20,000 is budgeted for repainting of street light standards, bases, and mast arms, and

WHEREAS, this routine maintenance is required to treat the faded paint and to maintain the integrity of the light standards, and

WHEREAS, the goal is to eventually replace all painted standard with newer galvanized steel standards, which will eliminate painting a majority of the existing street light standards over time, and

WHEREAS, until such time, the Traffic Division will explore both internal and external options for the repainting services to fit the available funding, and

WHEREAS, on December 12, 2006, Council approved Resolution No. 2006-773 authorizing the Purchasing Manger to issue formal Request for Bids (RFB) for the purchase of repainting of street light standards, bases, and mast arms, for the Public Works Department-Traffic Division, and

WHEREAS, on February 6, 2007, the Purchasing Division issue Request for Bid 0607-32 for the purchase of the repainting of street light standards, bases, and mast arms to twenty-one
(21) prospective bidders, seven (7) 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 13, 2007 RFB’s were formally opened in the City Clerk’s office, and

WHEREAS, of the twenty-one (21) prospective bidders, seven (7) companies chose to respond, and

WHEREAS, RFB language requires bidder to sign Exhibit “A” and “B” of their bid submittal, thereby acknowledging, that they are in full compliance with all requirements and addendum to such bid, and the failure to comply shall result in disqualification, and

WHEREAS, two (2) companies did not include the Bid Acknowledgement, Exhibit A, with their bid submittal, and therefore their bids were deemed to be non responsive, and

WHEREAS, the company’s bids were disqualified and received no considerations, and

WHEREAS, the RFB required two (2) signed original bid submittals, and

WHEREAS, failure to furnish two (2) “inked “signed original bid documents will result in disqualification, and

WHEREAS, based on responsive and responsible bids received being over the departments budgeted amount of $20,000, City staff recommends that all bids be rejected for the repainting of street light standards, base, and mast arms, and

WHEREAS, the Purchasing Division has worked with the Public Works Department-Traffic Division staff to review and evaluate bids received for the repainting of street light standards, bases, and mast arms, and

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases which meet or exceed $50,000 for materials, equipment or contractual services to be formally
WHEREAS, the issuance of a formal Request for Bid for the purchase of the repainting of street light standards, bases, and mast arms conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the rejection of all bids for the repainting of street light standards, bases, and mast arms,

BE IT FURTHER RESOLVED that the Purchasing Division and the Public Works Department-Traffic Division will explore internal and external options for the repainting of street light standards, bases, and mast arms to fit the available funding. Options may include use of temporary labor services or obtaining additional funding through the budget process to contract for the repainting of street light standards, bases, and mast arms.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 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 AUTHORIZING THE PURCHASE OF ONE (1) NEW CATERPILLAR 420E BACKHOE/LOADER BY “ACCESSING THE TERMS” OF A COMPETITIVELY BID CONTRACT THROUGH HOLT OF CALIFORNIA OF STOCKTON, CALIFORNIA FOR A TOTAL ESTIMATED COST OF $83,305.00.

WHEREAS, the Public Works Department, Fleet Services Division has requested the purchase of a new, current year/model, backhoe/loader, and

WHEREAS, the new backhoe/loader will replace the current backhoe/loader at the Secondary Treatment Plant (STP), and

WHEREAS, the current loader is being replaced because it is a two-wheel drive unit and no longer meets the needs of the STP, and

WHEREAS, Resolution No. 2007-361 authorized the Purchasing Manager to solicit bids for the purchase of additional vehicles and equipment at the STP, and

WHEREAS, the Purchasing Division working in conjunction with the Public Works Department, Fleet Service staff was able to identify a competitive bid contract made by the Modesto Irrigation District (MID) with Holt of California of Stockton, California for a new Caterpillar 420E backhoe/loader, and

WHEREAS, Holt of California has extended the same base pricing for said Caterpillar 420E backhoe/loader to other government agencies as quoted to the MID, except for upgrades, and

WHEREAS, the City of Modesto may purchase said backhoe/loader by “accessing the terms” through the MID competitively bid contract with Holt of California, of Stockton California, and
WHEREAS, the total estimated cost for the one (1) new, current year/model, Caterpillar 420E backhoe/loader is $83,305.00, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 requires all purchases which meet or exceed $50,000 for material and equipment or contractual services to be formally bid, and

WHEREAS, Pursuant to MMC Section 8-3.204(d) the Purchasing Manager may determine that a process other than the formal bid process set forth in Section 8-3.203 will result in procurements for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, by “accessing the terms” of the MID contract, the purchase of this equipment will conform to MMC Section 8-3.204(d), and

WHEREAS, the City Council has appropriated funds in the following accounts: 7210-480-5814-5745 (Fleet Equipment, Replacement),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the purchase of a new Caterpillar 420E backhoe/loader by “accessing the terms” of a competitively bid contract with Holt of California of Stockton, California for a total estimated cost of $83,305.00.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a purchase order to Holt of California of Stockton, California for the estimated amount of $83,305.00.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-291


WHEREAS, the Information Technology Department (IT), purchases annual maintenance agreements on most of its software applications for the purpose of receiving technical support and to keep current with software releases, and

WHEREAS, the City of Modesto utilizes the Oracle database platform to house and maintain a majority of its mission critical and non-mission critical applications and data, and

WHEREAS, over the last several years, the demand for new and upgraded system applications, technological hardware advances, and an increase in use, has extended the use of the Oracle database platform, and

WHEREAS, the Information Technology department has conducted an internal audit of its use and has discovered the need for additional licensing, and

WHEREAS, as applications and system use expands, it is essential that technology be utilized to maintain and support these applications and backend systems, and

WHEREAS, the Modesto Municipal Code, MMC 8-3.203, generally requires all purchases, which meet or exceed $50,000.00 for material, equipment or contractual services to be formally bid, and
WHEREAS, there are exceptions to the rule set forth in the Modesto Municipal Code, and

WHEREAS, one exception, MMC 8-3.204 (d), is available where the Purchasing Manager, in his or her discretion, determines that a process other than the usual formal bid procedure set forth in Section MMC 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, acting within his discretion, the Purchasing Manager invoked that exception for this purchase, and

WHEREAS, the County of Los Angeles went through a competitive bid process for the purchase of Oracle licensing and software maintenance support to the lowest responsive and responsible bidder, which was Oracle Corporation., and

WHEREAS, by “accessing the terms” County of Los Angeles master agreement would be an efficient and effective way to purchase Oracle licenses and software maintenance support, thereby saving City time and expense to formally solicit Request for Bids, and

WHEREAS, this purchase will conform to MMC 8-3.204 (d).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a Purchase Order to Oracle USA, Inc., for the purchase of Oracle licenses and maintenance renewal for an annual cost of $135,160 and a total estimated cost of $675,800 over the term of the 5-year lease.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd, day of May, 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, CITY CLERK

052207/IT/Kharless/item11 3 2007-291
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-292

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF CISCO SMARTNET HARDWARE MAINTENANCE FOR THE INFORMATION TECHNOLOGY DEPARTMENT FOR A TERM OF THREE (3) YEARS, AT AN ESTIMATED ANNUAL COST OF $46,483. THE TOTAL AMOUNT OF THE AGREEMENT OVER THREE (3) YEARS IS ESTIMATED AT $134,491.

WHEREAS, In 2004, the city standardized its networking equipment on Cisco Systems, Inc. switching and routing products, and

WHEREAS, the maintenance of this networking equipment is critical to maintaining network continuity, system uptime and optimization, and

WHEREAS, a 3-year term agreement will protect the city from service cost increases within the 3 year contracted date.

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The issuance of a formal Request for Bid for the purchase Cisco SMARTnet Hardware maintenance conforms to the Modesto Municipal code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue formal Request for Proposals (RFP) for the purchase of Cisco SMARTnet Hardware maintenance for the Information Technology Department for a term of three (3) years, at an estimated annual cost of $46,483. The total amount of the agreement over three (3) years is estimated at $139,449.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd, day of May, 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

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
A RESOLUTION APPROVING A REQUEST FROM BANDCREATOR.COM FOR AMPLIFIED MUSIC AT MANCINI BOWL FOR A “VALLEY ROCKS CALI-SUPPORT YOUR LOCAL MUSICIANS TOUR” EVENT, TO BE HELD ON JULY 7, 2007, FROM 2:00 TO 6:00 P.M.

WHEREAS, the Parks, Recreation and Neighborhoods Department received a request from BandCreator.com for amplified music at Mancini Bowl for a “Valley Rocks Cali-Support Your Local Musicians Tour” event, to be held on July 7, 2007, from 2:00 to 6:00 p.m., and

WHEREAS, City Council Policy No. 6-007 prohibits the use of amplified music in public without City Council approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a request from BandCreator.com for amplified music at Mancini Bowl for a “Valley Rocks Cali-Support Your Local Musicians Tour” event, to be held on July 7, 2007, from 2:00 to 6:00 p.m.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 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
A RESOLUTION APPROVING A REQUEST FROM JESUSISLORD.COM FOR AMPLIFIED MUSIC AT MANCINI BOWL FOR A "WEST COAST YOUTH EXPLOSION" EVENT TO BE HELD ON JUNE 2, 2007, FROM 4:00 TO 7:00 P.M.

WHEREAS, the Parks, Recreation and Neighborhoods Department received a request from JesusIsLord.com for amplified music at Mancini Bowl for a "West Coast Youth Explosion" event to be held on June 2, 2007, from 4:00 to 7:00 p.m., and

WHEREAS, City Council Policy No. 6-007 prohibits the use of amplified music in public without City Council approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a request from JesusIsLord.com for amplified music at Mancini Bowl for a "West Coast Youth Explosion" event to be held on June 2, 2007, from 4:00 to 7:00 p.m.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 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
A RESOLUTION APPROVING CITY’S RESPONSE TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) AUDIT FOR HUD ENTITLEMENT FUND PROGRAMS ADMINISTERED BY THE PARKS RECREATION AND NEIGHBORHOODS DEPARTMENT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SUBMIT THE RESPONSE TO HUD.

WHEREAS, HUD funded programs administered by the Parks, Recreation and Neighborhoods Department (PRND) were scheduled to be audited by the City’s Internal Auditor in the Fall of 2001, and

WHEREAS, at that time, administration of the HUD funded programs had recently shifted from the Community Economic and Development Department to the Parks, Recreation and Neighborhoods Department’s Recreation and Neighborhood Services Division, and

WHEREAS, since all components of program administration and staffing were new, the Internal Auditor delayed the audit giving newly assigned staff time to complete the transition, and

WHEREAS, in 2002, a potential conflict of interest arose for the City’s Internal Auditor; consequently he withdrew from the engagement to avoid the appearance of any conflict, and

WHEREAS, in 2004, the City’s Internal Auditor proposed to find another source for the audit, and

WHEREAS, at an audit training seminar, the City’s Internal Auditor presented the conflict to a group of auditors that included a representative of the HUD Office of Inspector General (OIG), and

WHEREAS, the OIG auditor volunteered to conduct the audit at no fee to the City, and

WHEREAS, the audit was subsequently conducted by the HUD OIG from November 2005 through April 2006, and
WHEREAS, the HUD OIG audit process included an initial survey of files, programs and policies, followed by an in-depth file review and then on-site inspections of approximately 40 homes that had rehabilitation work funded by HUD programs, and

WHEREAS, representatives of the OIG also reviewed all HUD Entitlement Programs, including the Community Development Block Grant Program, the HOME Investment Partnership Program, the Emergency Shelter Grant Program and the American Dream Downpayment Assistance Program for a period of approximately 10 years, with focus on housing rehabilitation program in years of 2000-2006, and

WHEREAS, the auditors also reviewed City Purchasing Policy, personnel job descriptions and financial management of the entitlement programs, and

WHEREAS, City employees, community partners, general contractors, program participants, representatives of local agencies and representatives of the Region IX HUD Community Planning and Development Office were interviewed, and

WHEREAS, in July 2006, the OIG issued a “Use Restricted Draft Audit Report”, and

WHEREAS, the report outlined the audit findings and recommendations that OIG representatives had proposed for a final audit report, and

WHEREAS, in August 2006, the City reviewed the Draft Audit Report and offered a comprehensive response to and rebuttal of the proposed audit findings and recommendations listed in the draft report, and

WHEREAS, the OIG took the City’s response into consideration and did make minor adjustments to the final report, and

WHEREAS, in August 2006, the OIG’s final report was completed and sent to the Department of Housing and Urban Development (HUD) and listed two (2) audit findings and six (6) recommendations, and
WHEREAS, the OIG also suggested that the City pay back $68,379 in CDBG Funds, and

WHEREAS, per HUD’s request, in March 2006, the City wired $3,441 to HUD to repay funds extended to a client who defrauded the City, and

WHEREAS, HUD reviewed the OIG Final Audit Report and has given the City direction in response to the OIG’s report and recommendations, and

WHEREAS, a copy of the City’s response, updated policies and procedures and verification results of re-inspections are attached hereto and incorporated herein by reference, and

WHEREAS, most of the recommendations entail updating policy relating to estimating, bidding and contractor outreach, and

WHEREAS, initially, the OIG stated the City’s estimates were high on 12 rehabilitation projects and were not consistent with local market conditions and

WHEREAS, the City engaged an independent architect to review four of the 12 files questioned by the OIG, and

WHEREAS the four files represented over 50% of the funds in question and the independent architect found that three of the clients received fair estimates and that one received an estimate and ultimately rehabilitation work at an amount lower than market rate, and therefore the OIG claim was not warranted, and

WHEREAS, the final OIG audit report changed the finding slightly to indicate that 12 program recipients had not received products specified in the work write-ups, and clients were overcharged for products not received in a total amount of $64,938, and

WHEREAS, HUD directed the City to have an independent and qualified inspector, outside of City staff, administering the HUD programs, to re-inspect the identified 12 homes, and
WHEREAS, City Building Inspectors re-inspected the 12 homes in question and found the City may have overcharged one client up to $32.67 for a grab bar specified, but not installed, and

WHEREAS, City Building Inspectors also found other minor variations from the specification; but all other variations favored the program recipient, and

WHEREAS, the City will submit a response to HUD’s report and direction indicating that $32.67 in CDBG funding will be repaid, in addition to the $3,441 in funds already wired in March, and

WHEREAS, the total of $3,474 in funds that will be repaid to HUD represent .01% of the CDBG funds the City received from HUD in the ten program years audited, and

WHEREAS, while the City does not agree with the findings of the OIG, the audit and subsequent audit report have resulted in fine tuning of policies, procedures and operations of the City’s HUD Programs including the following:

1. HUD Rehabilitation Program Bids are now posted on the Internet using the City’s Planet Bid program;
2. The HUD Programs Contractor List has added new contractors to the program through quarterly outreach efforts;
3. HUD Rehabilitation Programs now use industry standard estimating tools crafted especially for single family home rehabilitation projects. The City has conducted an estimating workshop to educate contractors and other interested parties in the HUD Programs procedure for estimating;
4. The Parks Recreation and Neighborhoods Department’s Recreation and Neighborhood Services Division is now evaluating the possible use of rehabilitation program software to produce cost estimates, determine income eligibility and to format program documentation; and
5. Work write-ups and bid specifications now have accompanying drawings to clarify any potentially ambiguous narrative in specifications.

and,

WHEREAS, the Audit Committee met on April 30, 2007, and supported staff’s proposed response to HUD,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves City’s response to the Department of Housing and Urban Development (HUD) Audit for HUD Entitlement Fund programs administered by the Parks Recreation and Neighborhoods, a copy of which is attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to submit the response to HUD.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 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
April 25, 2007

Steven B. Sachs, Director
Community Planning and Development Division
U.S. Department of Housing and Urban Development
San Francisco Regional Office – Region IX
600 Harrison Street
San Francisco, California 94107-1387

Subject: Office of Inspector General (OIG) Audit Report
Audit Report Number: 2006-LA-1019
Response to Corrective Actions Requested by HUD

Dear Mr. Sachs:

The City has now received two transmittals from the Region IX HUD Office regarding corrective actions required to close cited findings in OIG Audit Report Number 2006-LA-1019; the first was received January 22, 2007 and the latter received February 27, 2007. The City offered a preliminary response to the transmittals to HUD in a letter dated March 22, 2007; and now offers this document and attachments as the final response.

Process for Response

August 25, 1975, the Modesto City Council adopted Resolution Number 75-866, delegating the authority to administer Community Development Block Grant funds to citizens advisory committees. The citizens advisory committees assigned to review CDBG programs and housing rehabilitation programs subsidized by HUD Entitlement funding are the Housing and Community Development Committee and the Housing Rehabilitation Loan Committee. To ensure a full public process the City provided reports to the following committees:

The City presented status reports to:
1. Citizens Housing & Community Development Committee; and
2. Housing Rehabilitation Loan Committee;

The City presented formal responses to:
3. City Council Audit Sub-Committee; and
4. The Modesto City Council
In a preliminary response dated March 6, 2007, the City requested that the deadlines for responding to the following corrective actions be extended:

- Corrective Action for Recommendation 1A – Extended to May 30, 2007
- Corrective Action for Recommendation 1B – Extended to May 30, 2007

RESPONSE

The City of Modesto has addressed all OIG recommendations, including the steps that were implemented before the completion of the audit, and included in the City’s audit response report.

In the Region IX HUD Office’s transmittals to the City of Modesto, it was stated that the following corrective actions must be taken to clear Findings and Recommendations listed in the OIG Audit Report:

<table>
<thead>
<tr>
<th>OIG Finding 1: The City Did Not Properly Administer and Procure Rehabilitation Work, Resulting in Loan Recipients Being Overcharged at Least $64,938.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>OIG Recommendation 1A:</strong> Comply with HUD procurement requirements in 24 CFR 85.36 and its own policy and procedures manual by ensuring that work write-up forms and clearly written, procurement records are maintained, awards are made to the lowest priced responsible bidder, two or more responsible bids are received to avoid sole-source contracts, and procurements are publicly advertised and bids solicited from an adequate number of contractors.</td>
</tr>
</tbody>
</table>

**HUD Required Corrective Action:** Develop improved housing rehabilitation policies and procedures that require more detailed work write-ups. The procurement procedures should be changed to retain procurement records for a minimum of four years, consistent with CDBG requirements. Additionally, the City must develop improved outreach procedures to increase the number of contractors bidding on projects. Finally, train rehabilitation staff on these new policies and procedures.

To document these corrective actions, please submit written policies and procedures evidencing these actions and submit written policies and procedures evidencing these actions and provide a certification that staff has been trained on these new policies and procedures. Please complete these items by March 30, 2007.*

* Extension requested to May 30, 2007
Modesto has drafted the following updated policy in the Community Development Policies and Procedures Manual:

- **Chapter 6 – Policies for Bidding on Rehabilitation Projects**

The City has updated Chapter 6 of the Community Development Policies and Procedures Manual. The updated policy is attached.

Additionally, the City has drafted new procedures for the following Housing Rehabilitation Programs processes:

- Creating work write-ups
- Cost estimating
- Outreach Procedure

The updated procedures are attached.

Policies and Procedures are consistent with 24 CFR 85.36 as well as pertinent City of Modesto regulatory requirements.

The City certifies that employees assigned to administration duties of the rehabilitation program have received internal training on updated policies and procedures. Please note that the City has also implemented the following practices:

**Work Write-Ups**

1. Work write-ups are now accompanied by plans offering visual clarifications.
2. Work write-ups must now be approved by the Senior Rehabilitation Specialist and the HUD Programs Manager.
3. Housing rehabilitation personnel have been trained in these new practices.

**Cost Estimates**

During the course of the audit, the City implemented an administrative practice of documenting independent estimating tools by RS Means, a company that auditors stated would be appropriate. The City is now evaluating estimating software that will use an industry standard, in addition to developing a database documenting local market cost deviations.

The City certifies that employees assigned to generate cost-estimates have been internally trained. Additionally, the City has conducted a
training workshop for local contractors on the estimating procedure used for HUD funded rehabilitation programs administered by the City.

Outreach

The City has already taken steps to extend bid outreach by enrolling in the Planet Bid on-line bidding process, establishing an outreach committee and contacting all contractors on the pre-qualified list to determine if they continue to be interested in remaining on the list. The on-line bidding process was implemented and operational on April 3, 2006, during the course of the audit.

The City has also conducted outreach to contractors, specifically in the “cost estimating processes.” On March 16, 2007, Modesto hosted an estimating workshop for local contractors. The workshop detailed the process that the Housing Rehabilitation Specialists follow to generate estimates. Five contractors attended the workshop as well as two representatives from the local Housing Authority.

Following is a list of contractor outreach activities conducted by the City since the beginning of the OIG audit:

<table>
<thead>
<tr>
<th>Date</th>
<th>Activity Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/12/2005</td>
<td>Open House</td>
</tr>
<tr>
<td>12/15/2005</td>
<td>Tour of housing rehabilitation area-Modesto Junior College</td>
</tr>
<tr>
<td>1/1/2006</td>
<td>Advertisement in City Activity Guide</td>
</tr>
<tr>
<td>1/4/2006</td>
<td>Meeting with Senior providers</td>
</tr>
<tr>
<td>2/1/2006</td>
<td>Meeting with Senior providers</td>
</tr>
<tr>
<td>3/10/2006</td>
<td>Annual Safe Banking Seminar for Seniors</td>
</tr>
<tr>
<td>4/5/2006</td>
<td>Meeting with Senior providers</td>
</tr>
<tr>
<td>4/8/2006</td>
<td>Cesar Chavez Day event participation</td>
</tr>
<tr>
<td>4/18/2006</td>
<td>Tour of housing rehabilitation area-Modesto Junior College</td>
</tr>
<tr>
<td>4/18/2006</td>
<td>Mailing to three non-profits on housing rehabilitation referrals</td>
</tr>
<tr>
<td>4/19/2006</td>
<td>Mailing to Highway Village residents</td>
</tr>
<tr>
<td>4/22/2006</td>
<td>Earth Day event participation</td>
</tr>
<tr>
<td>5/1/2006</td>
<td>Advertisement in City Activity Guide</td>
</tr>
<tr>
<td>5/1/2006</td>
<td>Advertisement in City Utility insert</td>
</tr>
<tr>
<td>5/3/2006</td>
<td>Mailing to Airport Neighborhood residents</td>
</tr>
<tr>
<td>6/1/2006</td>
<td>Mature Adults Housing Seminar</td>
</tr>
</tbody>
</table>
OIG Recommendation IB: Design and implement appropriate quality control systems to ensure that City Staff properly monitors contractor charges and document rehabilitation progress and work quality, including conducting and documenting site visits to evaluate the progress and quality of the rehabilitation work performed by the contractors.

HUD Required Corrective Action: The City must develop policies and procedures to Implement Quality Control Systems that Monitor Contractor charges, including conducting and documenting site visits to evaluate the progress and quality of the rehabilitation work completed. After these policies and procedures have been completed, train rehabilitation staff on these new policies and procedures.

As with Recommendation IA, to document these corrective actions, please submit written policies and procedures and a certification indicating that staff has been trained on these items. Please complete these items by March 30, 2007. *

* Extension requested to May 30, 2007

The City has drafted the following updated policy in the Community Development Policies and Procedures Manual:

- Chapter 9 - Policies for Work Monitoring, Quality Standards, Grievances, Collections, Foreclosures and Appeals.

Additionally, the City has drafted the following new procedures:

- Outreach for Housing Rehabilitation Programs
- Housing Rehabilitation Program Monitoring Procedures
Copies of the policies and procedures are attached. The City certifies that employees assigned to administer HUD funded housing rehabilitation programs have received internal training on the new policies and procedures.

**OIG Recommendation 1C**: Immediately reduce loan amounts by at least $64,938, plus interest, for the loan recipients listed in Appendix D who were charged unreasonable and unnecessary amounts for rehabilitation work. If loan amounts are not reduced for the individual loan recipients, the City must provide documentation supporting the original contract charges. Additionally, all overcharges agreed to must be refunded back to the City’s block grant account from nonfederal funds.

**HUD Required Corrective Action**: In response to the draft audit, the City hired an independent architect to review the costs charged for the 12 rehabilitation loans identified in the audit. While the City believed the architect’s review supported the costs charged, we could not fully accept these reviews, in part, because physical inspections of the properties were not conducted to ensure that the items specified were installed. In recent discussions with the OIG, they indicated that some items specified in work write-ups were not actually installed in some of the homes. The result was that items costing less were installed but were charged the original higher contract price. The architect’s review could only confirm costs of the items specified but not necessarily of the items installed and work completed.

To resolve this issue, the City must conduct site visits for the 12 properties identified in the audit. Each site visit must verify that the items specified in the work write-up/rehabilitation contracts were completed and that items specified were installed. The work performed and items actually installed should be analyzed to determine that the costs of the work completed were installed and are appropriate for the amount charged. Discrepancies on work performed and costs charged should be noted and documented and the costs adjusted. Therefore, if applicable, actions should be taken to reduce the loans, pay back the City’s CDBG program, or support and document the costs charged.

Please note the Recommendation does not require that the City hire an outside contractor to complete the inspections. If City employees are used, we suggest that staff with sufficient construction experience that do not work directly on the HUD-funded programs be used. This will mitigate the appearance of a conflict of interest. Please complete these actions by June 30, 2007.

The City of Modesto has complied with this required action, but would ask that HUD note that the interpretation of this recommendation and grounds for the related finding appear to have changed since the OIG Audit exit interview and subsequent publication of OIG Audit Report Number 2006-LA-1019.

Of concern to the City is the apparent suggestion that items specified were not the items installed, and further that inferior items were installed at an inappropriate cost. The City of Modesto appreciates this clarification made by the Region IX HUD Office, as it was never stated.
by representatives of the OIG or made apparent in OIG Audit Report Number 2006-LA-1019.

On the four properties already reviewed by an independent appraiser, the City does stand by the independent appraiser’s findings.

In compliance with HUD’s direction, the City attempted to contact the owners of the 12 units required by HUD with the following results:

- 9 property owners allowed re-inspections
- 1 owner refused inspection and stated that she was pleased with the rehabilitation work completed
- 1 owner initially scheduled an inspection, but cancelled due to serious illness. This owner has since scheduled and cancelled again and has stated that she does not know when she will be well enough to reschedule an inspection – but for the time being is not allowing an inspection.
- One property was sold. The City has made numerous attempts to contact the new owner without success. Proof of change of ownership is attached.

Two qualified City Building Inspectors visited the 9 out of the 12 properties identified in the audit, in order to verify that items specified in the work write-ups/rehabilitation contracts and associated change orders were completed and that items specified were installed.

Attached to this report is the list of items specified and the Inspectors verification.

Modesto’s Senior Rehabilitation Specialist and Rehabilitation Specialist II are new to the City and were not employed by the City during the time rehabilitation work was completed or during the course of the audit. The housing rehabilitation program specialists evaluated any deviation from items specified in file work-write ups and conducted an impact analysis. The rehabilitation specialists generated cost estimates for any product or installation that varied from the work-write up in any way, to determine if any participant incurred financial loss or overcharge. The City certifies that cost estimates were conducted using an industry standardized tool, an RS Means estimating book, with any deviations documented through sources such as the Lowes’ or Home Depot websites, as these businesses are located in Modesto (the websites both offer zip code specific product pricing information). Additionally, the rehabilitation specialist clarified any items that may have been changed from the original specification due to change order or documented client request.
Using the results of inspections conducted by the Building Inspector and the cost estimating impact analysis conducted, the City determined that one client did incur financial harm of $32.67. The City requests that HUD determine if this amount should be refunded to the client, adjusted in the client's loan or if the City should offer to correct the oversight of installing a grab bar.

A summary of the inspections and analysis is attached to this report. Please note that there were other minor deviations, but all others actually benefited the client.

**Recommendation 1D:** Change its policy of requiring loan recipients to select only contractors from the City’s approved bidders list and allow them the option to seek out their own licensed and bonded contractors to perform the work.

**HUD Required Corrective Actions:** The City must include in their CDBG Housing Rehabilitation loan policy that loan recipients have the option to seek out their own licensed and bonded contractors to perform the rehabilitation work. Staff should be trained on this new policy. Please submit a copy of the revised procedures and certify that the training has been done. Please complete this item by May 15, 2007.*

* Extension requested to May 30, 2007

It has always been the intent and practice in housing rehabilitation programs, administered by the City of Modesto, to give loan recipients the option to seek out their own licensed and bonded contractors to perform rehabilitation work. The City has drafted the following updated policy in the Community Development Policies and Procedures Manual:

- **Chapter 6 – Policies for Bidding on Rehabilitation Projects**

The policy has been updated specifically to clarify that loan recipients have the option to seek out their own contractors. The City certifies that employees assigned to administer HUD funded housing rehabilitation programs have received internal training on this policy.

**Finding 2: The City Approved $3,441 in Ineligible Relocation Expenses**

**OIG Recommendation 2A:** Comply with the underwriting requirements in its policies and procedures manual relating to verification of income and credit when determining the eligibility of all loan applicants before relocation expenses are incurred, such as the $3,441 identified in this report.

**HUD Required Corrective Action:** The City must develop policies and procedures to improve the underwriting requirements and improve Income and Credit Verification procedures. Staff must be trained on these new policies and procedures.
To document these corrective actions, please submit written policies and procedures and a certification indicating that staff has been trained on these items. Please complete these items by March 30, 2007.*

* Extension requested to May 30, 2007

The City has drafted the following updated policy in the Community Development Policies and Procedures Manual:

- **Chapter 7 – Policies for Loan Origination**

  This policy is attached. The City certifies that HUD funded housing rehabilitation staff have received internal training on this policy.

  The City has had difficulty in locating income eligibility training for CDBG Housing Rehabilitation Programs. Representatives from the Region IX HUD office were also unable to identify training, but did recommend seeking training similar to a Public Housing Authority's Section 8 Program, as many standards and processes are similar. The Stanislaus County Housing Authority has agreed to provide training to the City in income eligibility review and documentation by May 30, 2007.

  HUD's consideration of the City's request for time extensions is greatly appreciated. Should additional information be needed, please contact Barbara Kauss, HUD Programs Manager, at (209) 577-5275.

Sincerely,

Julie Hannon
Deputy Director

cc: George Britton, City Manager
    James E. Niskanen, Director, Parks Recreation and Neighborhoods Department
    Barbara Kauss, HUD Programs Manager
6.1 CONTRACTOR BID PROCESS GENERAL POLICIES

i. The solicitation, review, and analysis of bid proposals are part of the technical assistance provided to property owners who have requested assistance under any of the housing rehabilitation programs.

ii. The Policies for Bidding on Housing Rehabilitation Projects supports professional construction management standards on the part of bidders, and it recognizes the vital role played by private sector small businesses in assisting the City of Modesto in accomplishing its housing rehabilitation and neighborhood revitalization objective of preventing or eliminating blighted neighborhoods through rehabilitation. The Policies for Bidding on Housing Rehabilitation Projects promotes equal access for bidders, competitive pricing, reasonable profits, and increased opportunity for economic growth for small, minority, and female contractors.

iii. All policies and procedures for implementing the Bid Process shall be in compliance with the Code of Federal Regulations (24CFR 85.36), applicable OMB Circulars, HUD guidelines, rules, notices, regulations, and City of Modesto requirements.

iv. In support of the Policies for Bidding on Housing Rehabilitation Projects, the Department of Parks, Recreation and Neighborhoods, Recreation and Neighborhood Services Division will implement procedures to effectively carry out the Policies for Bidding on Housing Rehabilitation Projects.

v. The Policies for Bidding on Rehabilitation Projects shall only be amended by approval of the City Council. The Procedures for Bidding on Rehabilitation Projects may be amended with approval by the Parks, Recreation and Neighborhoods Department Director, or designee. The Procedures for Bidding on Rehabilitation Projects shall be amended by the Recreation and Neighborhood Services Division, as experience and practicality dictates, including, but not limited to, suggestions offered by city staff, program participants and participating bidders, potential bidders, and contractors.

vi. The supervisor of the housing rehabilitation program shall be responsible for implementing and enforcing the Policies for Bidding on Rehabilitation Projects, as well as the Procedures for Bidding on Rehabilitation Projects.
6.2 **ELIGIBILITY FOR BIDDING ON HOUSING REHABILITATION PROJECTS**

i. Any person, partnership, or corporation with a current California General Contractor's License is eligible to have bids considered in accordance with the Procedures for Bidding on a Housing Rehabilitation Project. In limited situations, specialty contractors may be directly invited to bid on projects as the Recreation and Neighborhood Services Division deems necessary.

ii. In accordance with 24CFR85.36(c)(4) the Recreation and Neighborhood Services Division shall encourage qualified contractor participation to ensure that enough bids are received for a successful and adequate solicitation. The Recreation and Neighborhood Services Division shall engage in continuous contractor outreach in order to provide for the maximum open and free competition that will not preclude other potential bidders from qualifying during the bid solicitation period.

iii. The contractor outreach will employ a broad range of activities designed to improve the Housing Rehabilitation Programs access to qualified contractors. Such activities may include: publishing a brochure, participating in trade fairs, presenting seminars or workshops for interested contractors, participating in local organizations which support contractors and various forms of public advertisement.

6.3 **CONTRACTORS LIST**

i. The Recreation and Neighborhood Services Division shall maintain a Contractors List. The list will contain Licensed General Contractors and Licensed Specialty Contractors.

ii. The Contractors list will be updated, at minimum, on a quarterly basis and more frequently if deemed necessary.

6.4 **STANDARD PROJECT BID PROPOSALS**

i. When soliciting bids for private property rehabilitation projects, the procurement by sealed bids (formal advertising) method, in accordance with 24CFR 85.36(d)(2) shall be used.

   Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in Sec. 85.36(d)(2)(i) apply.

   In order for sealed bidding to be feasible, the following conditions should be present:
(A) A complete, adequate, and realistic specification or purchase description is available;
(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and
(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

ii. The City’s Recreation and Neighborhood Services Division will prepare a detailed work write-up and a detailed cost estimate for each housing rehabilitation project.

iii. Exceptions to the Standard Project Bid Proposal may occur when the property owner has been approved as an owner-builder or in cases of emergency as determined by the Director, or designee.

iv. The Invitation for bids shall be provided at no cost to the bidder or to the property owner. Property owners requesting a project to be re-bid may be charged the actual costs incurred for copies.

v. Invitation for bids may be amended, by Recreation and Neighborhood Services Division, at any time prior to the bid due date, by issuance of a written “Addendum To Bid.” When addendums become necessary, all bidders who received a bid packet, shall be notified of the addendum.

6.5 ANNOUNCEMENT OF AVAILABLE BID PROPOSALS

i. Invitation for Bids will be publicly advertised and bids shall be solicited from an adequate number of known contractors. Invitation for bids will be posted on the City of Modesto web site. Posting may also be announced by one or more of the following methods: e-mail to bidders who have provided an e-mail address, direct mail, newspaper ad, and/or posting at the Recreation and Neighborhood Services Division front desk or any other public place deemed applicable.

ii. In cases of extreme emergencies i.e. conditions that are a threat to human life or situations that pose extreme hazardous conditions, the Director, or designee, may authorize other expedient methods for soliciting an adequate number of bidders to have the emergency work completed.

6.6 OBTAINING BID PROPOSALS

i. Bid Proposal Packets will be made available to the public.
ii. Bid Proposal Packets can be obtained from the City of Modesto website or at the Recreation & Neighborhood Services Division, 1010 10th Street, Suite #4300, during business hours.

iii. Bid Proposal Packets may also be made available by one or more of the following methods: e-mail to bidders who have provided an e-mail address, or direct mail.

iv. All requests made by bidders for bid proposals must be documented.

6.7 SUBMITTING BID PROPOSALS

i. The Recreation and Neighborhood Services Division shall require sealed bids for housing rehabilitation projects (24 CFR 85.36(d)(2)). Each bid shall be submitted to the Recreation and Neighborhood Services Division in a sealed envelope by the time and date specified in the invitation for bids.

6.8 OPENING OF SEALED BIDS

i. Pursuant to 24 CFR 85.36(d)(ii)(C) all bids will be publicly opened at the time and place prescribed in the invitation for bid.

ii. Bid opening is a public event, all bidders, contractors, and anyone from the general public is welcomed and encouraged to attend.

6.8 BID REVIEW AND VALIDATION

i. The Recreation and Neighborhood Services Division staff shall review each bid proposal to verify that it complies with all provisions of the bid procedure.

ii. Any deviations or exceptions to the bid validation procedure must be approved by the Director, or designee.

iii. Contractor bids that are more than 115% or less than 85% of the cost estimate will very likely fail to meet the cost criteria of the Recreation & Neighborhood Services Division. Exceptions between 115% -125% or between 75%-85% of the cost estimate may occur upon approval by the Director, or designee.

iv. Any or all bids may be rejected if there is a sound documented reason (24 CFR 85.36(d)(ii)(E))
6.9 AWARDING OF BIDS

i. Awarding bids for housing rehabilitation projects shall be in compliance with 24 CFR 85.36(d)(ii)(D).

ii. Pursuant to 24 CFR 85.36(b)(8) awarding of bids shall be made only to responsible contractors possessing the ability to perform successfully under the terms and conditions for the proposed project. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, availability of financial and technical resources.

iii. A property owner applying for financial assistance for housing rehabilitation through the City of Modesto, Department of Parks, Recreation and Neighborhoods Department is not required to accept the lowest bid submitted.

6.10 WITHDRAWAL OF BID BY BIDDER

i. Bids may be withdrawn by the submitter within three (3) business days after the bids were opened, without penalty. If a bidder withdraws the bid after the three-day period the bidder may be subject to an administrative penalty.

ii. A bidder who has withdrawn a bid shall be ineligible to re-bid the same project.

6.11 ADMINISTRATIVE PENALTIES

i. Any bidder who violates the policies of the Housing Rehabilitation Programs specified in the Community Development Manual, may be subject to administrative penalties which could include suspension or expulsion from the Housing Rehabilitation Program.

6.12 ADMINISTRATIVE APPEALS

i. In accordance with 24CFR 85.36(b)(12) the City shall provide a process for bidders and contractors to present administrative appeals, as needed.

ii. Appeals shall be submitted in writing to the Recreation and Neighborhood Services Deputy Director.
7.1 REQUEST FOR ASSISTANCE

i. A property owner may request assistance by contacting the Recreation and Neighborhood Services Division. The Housing Financial Specialist, or designee, will screen the applicant to determine property eligibility, eligibility of requested repairs, and household income. The Housing Financial Specialist will prepare a loan application package, the inspection information form, a property detail report (for real property), and information on the applicant’s request and deliver this to the Senior Housing Rehabilitation Specialist, or designee. The Senior Housing Rehabilitation Specialist will contact the property owner to set up an initial inspection that will verify repairs are needed. The Senior Housing Rehabilitation Specialist will deliver the loan application package to the property owner during the inspection appointment, if repairs are needed.

ii. The applicant must complete their loan application package. The loan application package will contain the application, required disclosures, and a checklist of required documents.

iii. Documents that may be requested, but not limited to, are: Federal Income Tax Returns with Schedules and W2’s, 1099’s, and other attachments, pay stubs, Social Security benefit statement, Unemployment benefit statement, Public Assistance benefit statement, bank statements, IRA statements, mortgage statements, loan or credit card statements, copies of mortgage Notes, copies of recent property appraisals, escrow settlement statements, property tax statements, fire insurance policy, etc.

iv. The applicant contacts the Housing Financial Specialist for a confidential interview. The applicant can travel to the City’s offices or the Housing Financial Specialist can travel to the applicant’s home. During this interview, the required documents are collected, the application is reviewed, and the required disclosures are signed and obtained from the applicant.

v. During this interview, the applicable program is discussed and explained in detail to answer any questions the applicant might have. The financial and technical timeline and workflow is discussed, along with how the loan amount is determined. The Housing Financial Specialist must explain that the loan amount will be more than the contract amount because of contingency, permit costs, advance costs, loan fees, and title costs, etc.
7.2 Income and Asset Information

i. The methodology for underwriting the income will be listed on the underwriting sheet. Copies of benefit letters, Federal Tax Returns with Schedules and Attachments, pay stubs, or asset statements are placed in the file. If there is any deviation from income history and anticipated income for the household during the next 12 months, it must be explained on the underwriting sheet or on a memo to the file.

   a) If the applicant or household member receives social security, a Social Security benefit letter will be required.

   b) If the applicant or household member receives a pension, a pension benefit letter or a check stub from the pension will be required.

   c) If the applicant or household member has pay stub employment, current pay stubs will be required, along with maximum of two-year federal tax history. A minimum of two recent pay stubs will be required. An adding machine tape indicating how the stubs were used to calculate annual income should be attached to one of the stubs.

   d) If the applicant or household member works at seasonal or temporary employment and that history is anticipated during the next 12 months, a maximum three-year federal tax return history will be required. Current year pay stubs can be required.

   e) If the applicant or household member is and has been self-employed, a three-year federal tax return history will be required for analysis.

   f) If there are assets, such as IRAs and Annuities, an account statement will be required and income will be determined based on HUD guidelines for assets under $5,000 and assets over $5,000.

ii. Regular gifted income must be evidenced by proof of such income, such as a check stub, or a signed, written statement or electronic mail, under penalty of perjury. The statement is required by the person gifting the funds and the person or household being gifted the funds.

iii. Adult persons in the household with non-verifiable income must submit a signed statement, under penalty of perjury, stating their monthly income, the source of that income, or the reason for lack of income.

iv. All other income criteria, inclusions to income, and exclusions to income are defined by HUD guidelines as stated in the Loan Origination Policy.
7.3 **Credit Report and Debts**

i. Within 2 days of receipt of application and preliminary income eligibility, a credit report shall be obtained on the applicant(s). The Housing Financial Specialist must obtain an Authorization to Verify Information prior to obtaining a credit report, or verifying any information with a third party.

ii. If the applicant is eligible for a deferred payment loan, the credit report should be reviewed to determine if any public liens in prior position to a City loan, or to verify the applicant’s actual debts to the debts listed on the application. The credit report should be used for verification of information. The credit score is not relevant for a deferred payment loan. Debt-to-income guidelines should be used to demonstrate the household’s ability to continue to live in the home. If household income is non-taxable, income can be grossed up for non-taxability. A guideline is a 25% gross up of income.

iii. If the applicant is eligible for an amortized loan, the credit report should be analyzed for credit score, verification of debts, ability and willingness to repay the loan. The Housing Financial Specialist can use current FHA allowable debt-to-income ratios as a guideline for payment affordability. If household income is non-taxable, income can be grossed up for non-taxability, using the 25% guideline. If the payment is not affordable or a hardship exists, the Housing Financial Specialist should discuss this with management. If a payment is affordable, but only up to a stipulated amount, the allowable loan amount must be documented and communicated to the Senior Housing Rehabilitation Specialist prior to the technical assistance.

iv. **Special Note**: Household income must be collected on all qualifying adult household members of the household per HUD guidelines. However, only the debts of the applicant will be used in the debt calculation. Adult members of the household who are not on title are not a party to the loan transaction.

7.4 **Title Reports/Searches**

i. The Housing Financial Specialist will order a Short Form Title Policy or Prelim from the service provider, depending on the projected loan amount.

ii. A short form title policy may be used for loans $50,000 and under. A full lender’s CLTA (California Lenders Title Insurance Association) must be used for loans over $50,000. Exceptions to this policy can be approved, in writing, with documentation, by the Deputy Director, Parks, Recreation, and Neighborhoods. Short form title policies are used in order to reduce the borrower’s costs and smaller dollar loans carry less risk.

iii. Invoices for title reports and mobilehome title searches are paid by the City and included in the loan. If a loan is withdrawn or denied, the title report fee is an administrative cost to the rehab budget.

iv. The title report will be reviewed to verify if there are other liens prior to a City loan, and if there is sufficient equity in the property for a City loan. Any clouds on title (any claim, condition or encumbrance that impairs title to real property) must be removed or included in the loan. If a loan is withdrawn or denied, the title report fee is an administrative cost to the rehab budget.
subordinated.

v. Stanislaus County Grant liens must be subordinated. Contact the Stanislaus County Revenue Recovery.

vi. Declarations of Homesteads may remain on title.

vii. Taxes must be paid current. Any tax deferment plan through the State must be added into the loan to value calculation.

viii. Mobilehomes-Order a check from Finance and request a State of California Title Search. This formal search is good for four months.

ix. **Special Note:** Other persons not living in the household may be on title. The program must benefit a low-income household who is living in the home. Persons not on title must complete an application and will be required to execute the loan documents. Their income, credit, debts may be used for re-payment purposes, if the loan requires monthly payments.

### 7.5 Loan-to-Value

i. If the loan is on real property, use the applicable City software program to obtain comparable sales. Analyze and determine if there is sufficient equity in the property. If a mobilehome, use multiple listing information and any other information that can be obtained to establish the value.

ii. Obtain a general cost estimate from Senior Housing Rehabilitation Specialist. If there is insufficient value in the property for ballpark cost estimate, advise the Senior Housing Rehabilitation Specialist as to what amount is available.

iii. If it is determined that a formal appraisal of the property needs to be obtained to verify the value of the property, the applicant must sign an Advance Payment Agreement for Professional Services, approved by management, and a formal appraisal will be ordered from a certified appraiser. The appraiser will be selected in accordance with the City's procurement policy.

### 7.6 Insurance

i. If the property owner does not have fire insurance, this must be brought to the attention of the Senior Housing Rehabilitation Specialist prior to technical assistance. The property owner must be informed that they should obtain fire insurance for their own protection.

ii. A proposed policy can be quoted from a service provider and submitted to the Housing Rehabilitation Loan Committee (HRCL) for inclusion in the loan. The property owner must apply for and be the owner of the policy. The coverage must be from loan closing to the estimated completion date, or longer. The loan should cover the minimum amount of time that can be purchased through the policy. The property owner is responsible for payment after the period purchased in the loan is expired.
7.7 Exceptions

Any exception to these procedures due to the special circumstances within a file or special circumstances relating to the applicant can be approved by the HUD Program Manager.

7.8 Conditional Eligibility

i. If the household is income eligible, and underwriting criteria meets the qualifications of the housing rehabilitation program, the property owner will be issued a conditional eligibility letter by the Housing Financial Specialist. The letter will notify the applicant if conditional eligibility is for a deferred payment loan or an amortized loan. If it is an amortized loan, the monthly payment amount will be estimated in the letter. The loan interest rate, loan term, and any loan conditions such as owner occupancy will be identified in the letter. The property owner is notified that the HRLC must approve the loan and updated income information could be required prior to the loan being submitted to the loan committee. The letter shall notify the applicant that any changes to number of persons in household or a change in household income could affect eligibility to the program.

ii. Upon conditional eligibility, the Housing Financial Specialist will prepare project folder for the Housing Rehabilitation Specialist. The folder will contain a blank conversation log, initial inspection information, property information, conditional eligibility information, and a memo on any special circumstances on payments or value that the Housing Rehabilitation Specialist needs to be aware of.

7.9 The File

i. The file should be kept in a neat and orderly manner and all papers should be fasted down. The file must be kept in a locked cabinet during non-working hours.

ii. The left inside cover will contain the telephone contact log(s) of the Housing Financial Specialist and any correspondence sent. The information will be in chronological order. The right inside cover will contain the Housing Rehabilitation Specialist’s log upon completion of the file.

iii. The title information and loan application and corresponding documentation should be kept in the marked stacking order in the middle sections of a six part legal file.

iv. The technical assistance information should be kept in the stacking order on the left back portion of the file. The disbursement information should be opposite the technical assistance information.

v. Upon completion of the file, the stacking order should be placed in the file, verified by the Housing Financial Specialist and reviewed by the Administrative Clerk.

7.10 Withdrawn and Denied Applications
A letter must be sent to the applicant per the Loan Origination Policy.

7.11 **Updating Documentation Prior to submission to the Housing Rehabilitation Loan Comm.**

i. If the household income changes each calendar year, such as SSA or SSI, the income should be updated if a new calendar year has occurred.

ii. If any of the household income is determined by underwriting by pay stubs, and the pay stubs in the file are more than 60 days old, the Housing Financial Specialist must request two recent pay stubs.

iii. If the credit report is more than 90 days old and the loan is an amortized loan, an updated credit report should be done. The Housing Financial Specialist may use discretion for deferred payment loans.

iv. Update title report if necessary or check Stanislaus County Recorder's website for any recordings under the applicant’s name.

v. Verify taxes are paid current through the Tax Collector's Office or through a Tax Supplement from the title company.

vi. Obtain written verification that property insurance is still in effect. If insurance is expired, obtain a new declaration page from the property owner or the insurance agent.

vii. The Housing Financial Specialist is responsible that HUD funds are available and there are funds in the City budget available for the loan.

viii. Submit an approved format City committee agenda report to management. Attach Summary information on the project and the household, and a copy of the Awarded Bid. Document the file with a map showing the addresses of current committee members to demonstrate there is no conflict of interest for any members, or alert management if there is any known conflict of interest.

ix. The HRLC agenda reports are distributed by the Administrative Clerk.
7.12 **Housing Rehabilitation Loan Committee**

i. The loan is submitted to the Housing Rehabilitation Loan Committee. Meetings are scheduled for the first and third Thursdays of each month.

ii. If the loan must be submitted to City Council, submit an approved format City Council agenda report to management. The report will not have the summary attachment that is used for HRLC. The relevant household information and project information must be contained in the text of the report.

iii. Committee or Council minutes (or Resolution) are filed with the applicable Committee of Council agenda report.

7.13 **Loan Approval or Denial**

i. If the HRLC denies the loan, the applicant must be sent a letter, as described in the Loan Origination Policy.

ii. If the loan is approved and if the applicant is not present at the meeting, the applicant is telephoned with the results of the meeting. If the loan is approved, the loan signing appointment can be made during the phone call.

iii. A loan approval letter must be sent to the borrower(s). The letter should state the loan terms and any conditions to the loan. The date and time of the loan signing appointment can be included in the letter.

7.14 **Executed Loan Documents**

i. All pro forma loan documents used in loan closing must be approved by the City Attorney’s office. If there is a unique situation on a loan requiring modification of the wording on any loan document, consult the City Attorney’s office. Loan documents are, but not limited to:
   - Promissory Note-Straight or Amortized
   - Deed of Trust (real property)
   - Security Agreement (mobilehome)
   - Loan Agreement
   - Loan Disclosure
   - Agreement to Furnish Insurance
   - Hold Harmless Letter
   - Notice of 3-Day Right of Rescission (owner occupied property only)
   - Trust Certification (for Revocable Living Trusts)

ii. The Housing Financial Specialist and City Notary meet with the borrower(s) to sign the loan documents. The borrower may sign the loan papers at the City offices, or if they are unable to come to City offices, the Housing Financial Specialist and Notary may travel to the home of the borrower. The signing should be in a location that offers confidentiality to the borrower. Copies of the documents are given to the borrower. The loan papers should be explained to the borrower in detail.
PARKS, RECREATION & NEIGHBORHOODS DEPARTMENT
Recreation & Neighborhood Services Division
Housing Rehabilitation Program

POLICIES FOR CONTRACTOR PAYMENTS
Chapter 8

8.1 CONTRACTOR PAYMENT GENERAL POLICY

i. Contractor payments from loan proceeds are disbursed through the City of Modesto Finance Department.

ii. In the event of property owners who are husband and wife in joint tenancy or tenants-in-common, the signature of either spouse will be sufficient for all Payment Requests. In the event of property owners who are unmarried individuals, the signatures of all those having legal interest shall be required on the Payment Request, unless Power of Attorney has been granted as specified.

8.2 SUBMITTING A REQUEST FOR PAYMENT

i. Upon completion of the work item(s) identified in the Property Improvement Agreement progress payment schedule, the contractor shall be responsible for contacting the city representative and requesting an inspection of the work and authorization of a disbursement from the owner’s loan funds.

ii. The contractor must provide an invoice to the City.

8.3 PROCESSING CONTRACTOR PAYMENT FOR TECHNICAL INSPECTION

i. The City representative will conduct a site inspection to verify that the work has been satisfactorily completed as per the Property Improvement Agreement

ii. The City representative shall request the property owner(s) and contractor to be present during the inspection. It is encouraged that the owner always be present, if possible.

iii. Upon finding that the work specified in the work write-up has been completed properly and that the work has passed any other required inspections, the City representative will complete a Payment Request form for the proper amount of the draw and any applicable change orders. The property owner and the City representative shall sign the form as evidence of satisfactory completion of work. The contractor may sign the Payment Request form.
8.4 PROCESSING CONTRACTOR PAYMENT

i. The Payment Request form and contractor invoice are processed by the assigned staff member in the housing rehabilitation program for the actual disbursement of funds.

ii. It is the responsibility of city staff to verify the disbursement is in accordance with the Property Improvement Agreement and any change orders to that agreement.

iii. Disbursements shall be made in the form of a City of Modesto check, made payable to the name on the contractor’s license.

iv. The final draw payment, excepting the 10% retention, will be conditional upon passing a Final Inspection by applicable State or City building inspector, Certificate of Completion, and a Certification of Pest Control Clearance, if required, and a Lead Based Paint Clearance, if required, or any other necessary inspections.

v. The 10% retention payment can be paid to Contractor thirty-five (35) calendar days after a notice of completion of the work has been recorded in the official real property records of Stanislaus County or ninety-five (95) calendar days after substantial completion of the work if no completion notice is recorded. These waiting periods may be waived if Contractor furnishes to the property owner, proof satisfactory to the City of Modesto, that contractor has completed the work free from liens or claims of any kind whatsoever affecting the property owner or owner’s property.

vi. After verification of funds and documentation, the assigned staff person will sign the Payment Request and submit the Payment Request, contractor’s invoice, and Check Request for authorized department signature. The documents are delivered and processed by the City Finance Department.

8.5 DISBURSEMENT OF CONTRACTOR PAYMENTS

i. Checks shall be made available to the payee in accordance with the processing schedule established by the City of Modesto Finance Department.

ii. After the contractor check is delivered from the Finance Department, the contractor may pick up disbursement checks from the City of Modesto or checks can be mailed to the contractor’s address on file. Contractors who pick up disbursement checks from the City of Modesto must sign for receipt of the check. Checks will not be released to any other person unless there is written authorization on file.
PARKS, RECREATION & NEIGHBORHOODS DEPARTMENT
Recreation & Neighborhood Services Division
Housing Rehabilitation Program

PROCEDURES FOR CONTRACTOR PAYMENTS
Chapter 8

8.1 SUBMITTING REQUEST FOR PAYMENT

i. Upon notification from the contractor that the work has been completed in accordance with the Property Improvement Agreement or per approved change orders, the Housing Rehabilitation Specialist shall conduct the inspection on the same business day, if possible, and no later than the next business day.

ii. The Housing Rehabilitation Specialist will contact the property owner and contractor by phone or in person to coordinate the inspection time.

iii. The contractor shall submit an invoice to the Housing Rehabilitation Specialist. The invoice shall describe the work completed: description or item numbers per the Property Agreement, description of Change Orders, or the permit cost, and the total amount that is due and payable to the contractor. Proof of the permit fee must be submitted if a permit reimbursement is requested. The invoice shall identify the Contractor’s name, mailing address, and State Contractors License number. The contractor shall sign the invoice.

8.2 PROCESSING CONTRACTOR PAYMENT BY HOUSING REHABILITATION SPECIALIST

i. A record of inspection shall be recorded in the ongoing contact record.

ii. The Housing Rehabilitation Specialist shall verify that the amount of the invoice is for the correct amount, per the Agreement or approved Change Orders.

iii. If the Housing Rehabilitation Specialist and the property owner find that the work has been satisfactorily completed as per Agreement or change orders, both parties shall sign the Payment Request. The contractor may sign the Payment Request, but the contractor’s signature is not required if the contractor has signed his/her invoice.

iv. The Payment Request must be filled out completely and accurately. Any cross outs to the document must be initialed by the property owner and the Housing Rehabilitation Specialist.

v. The Payment Request must clearly identify each numbered item completed as per the Property Improvement Agreement and/or change order number.

vi. The Housing Rehabilitation Specialist shall retain the applicable copy of the Payment Request for the rehab file, along with a copy of the contractor invoice.

vii. The Housing Rehabilitation Specialist shall deliver the signed original and one duplicate copy of the Payment Request, the original contractor invoice, and all other documents required by
the Agreement, to the Housing Financial Specialist no later than one business day after the site inspection. Attention should be given to the City’s check processing schedule.

8.3 PROCESSING CONTRACTOR PAYMENT BY HOUSING FINANCIAL SPECIALIST

i. The Housing Financial Specialist shall verify the amount of payment as per Agreement. The Housing Financial Specialist must verify that the items listed are in accordance with the Agreement. If any other inspections or documents are required by the Agreement, the Housing Financial Specialist must verify these are in file. If a Termite Clearance is required, the Housing Financial Specialist must verify that the report indicates that the property has been cleared of all infestation. A Lead Based paint report must indicate Clearance of hot areas. If the payment if the full payment, excepting the 10% retention, a Certification of Completion must be signed by the Housing Rehabilitation Specialist and property owner(s). If any building State or City Building Inspector or through the City’s Building Inspection software. If there is a Notice and Order on file, the City Building Inspector’s signature is required on the Certificate of Completion. If the payment is the 10% retention payment, the Housing Financial Specialist must receive Unconditional Lien Releases from the Housing Rehabilitation Specialist.

ii. The Housing Financial Specialist will complete the Accounting Box at the bottom of the Payment Request form. The applicable copy of the Payment Request (or photocopy) and a copy of the invoice must be filed in chronological order under the Disbursement Ledger in the file.

iii. The Housing Financial Specialist will enter the date, reason, and amount of disbursement on the Disbursement Ledger and place a current ledger in the file, on top of the disbursement documentation. The ledger must indicate amount remaining for the contract, contingency and fees. The ledger must indicate Change Orders paid and any pending Changes Orders by number.

iv. The ledger must indicate permit number, permit date, date of final, and dates of any other documents required by the Property Improvement Agreement.

v. The Housing Financial Specialist, or designee, shall prepare the Check Request and attach the original Payment Request form and original contractor invoice. An authorized department signature will be obtained on the Check Request. The Check Request will be notated for the check to be returned to the Housing Financial Specialist. Department Admin will deliver the Check Request to Finance and a copy to the Grant Accountant.

vi. In the absence of the Housing Financial Specialist, a supervisor shall verify and sign the Payment Request.

vii. The Housing Financial Specialist must have documented approval from management for any disbursement not in accordance with these procedures.
8.4 DISBURSEMENT OF CONTRACTOR PAYMENTS

i. The Housing Financial Specialist shall take delivery of check(s) issued by the Finance Department.

ii. The Housing Financial Specialist or designee shall contact the contractor via phone that the check is available for pick up. If the contractor asks the Housing Financial Specialist to mail the check, it will be mailed that day.

iii. Checks will be placed in the pick up area at the front counter. Personnel will have the contractor sign the check stub as evidence of receipt and the stub shall be placed in chronological order in the contractor file in the disbursement section. If the payment is a project retention payment and the contractor has not signed an Unconditional Lien Release, the contractor must sign an Unconditional Lien Release to receive the check. The signed check stub shall be filed with the copy of the Payment Request in the Housing Financial Specialist’s file.

8.5 TWO-PARTY CHECKS

i. Two-party checks may be issued as requested by the property owner, provided that the property owner is not one of the payees.

ii. Two-party checks shall be required under special circumstances, including: A Preliminary Lien Notice has been received by the property owner and the General Contractor is not able to furnish a Lien Release signed by the filing party prior to issuance of the progress payment.

8.6 SPECIAL CIRCUMSTANCES

i. In the event that a Mechanic’s Lien is filed against a property, the City Attorney’s office should be consulted for information and instructions on how to proceed with payments on that housing rehabilitation project.

ii. The Senior Housing Rehabilitation Specialist shall immediately freeze all payments on all rehabilitation jobs to a contractor who has had any subcontractor, supplier, employee, or other person file a recorded Mechanic's Lien against a property being rehabilitated. The contractor shall submit Lien Release with notarized signature(s) prior to disbursement of progress payments on all housing rehabilitation projects.
9.1 REHABILITATION WORK PRIOR TO ORDER TO PROCEED

i. An Advance Payment Agreement must be signed by the property owner and approved by management for any housing rehabilitation work done prior to the loan closing and the Order to Proceed.

ii. The rehabilitation work done under the Advance Payment Agreement is limited to emergency work needed for the health and safety of the occupants of the home.

iii. Bids must be obtained in accordance with City procurement policy.

iv. Staff must give written notice to contractor to perform any work as required by an Advance Payment Agreement.

v. Upon completion of the work to the satisfaction of the property owner, City staff, and any required Building Inspection, contractor shall be paid for the emergency work through a Payment Request.

9.2 COMMENCEMENT OF WORK

i. Contractor shall not commence rehabilitation work or order materials until an Order to Proceed has been signed by the property owner and forwarded to the contractor by City staff.

9.3 COMPLIANCE WITH WORK SPECIFICATIONS

i. The rehabilitation work must meet the specifications of the Property Improvement Agreement and attached Work Write-up for the project, known as the Agreement. The work must also meet the minimum requirements of the Rehabilitation Specifications Manual, in addition to any State or City Codes.

ii. City staff shall conduct regular site inspections to monitor the quality and timeliness of the work in progress by a contractor or by an approved owner-builder. City staff must maintain a written work log for dates, times, and comments on all site inspections.

iii. City staff shall issue a written notice to contractor of any and all corrections, or items or work that fails to meet compliance to the Agreement, or if the contractor is not in
compliance with State laws and regulations for contractors. The contractor will be out of compliance and not eligible for payment. All corrections must be completed and approved prior to the contractor receiving any progress payments.

9.4 WORK CHANGE ORDERS

i. Any Work Change Order must be executed for any alterations or deviation from the specification of the Agreement, including items with no cost differential. A City of Modesto Work Change Order form must be completed.

ii. The Work Change Order must signed by the property owner(s), the contractor, and City staff. The work cannot be done until the Work Change Order is approved by management and delivered to the contractor.

iii. Contractor cannot be issued Work Change Order cannot exceed the amount available in the loan unless approved by management.

iv. No oral agreements are allowed by any party involved in a housing rehabilitation project financed through the City of Modesto.

9.5 COMPLETION OF THE PROJECT

i. A Certificate of Completion shall be signed by City staff, the property owner, and the contractor when the work has been 100% completed to the satisfaction of all parties, and in accordance with the specifications of the Agreement, and passed the necessary inspections by the required Building Inspector.

9.6 GRIEVANCE/DISPUTE RESOLUTION/FORMAL ARBITRATION PROCEDURES:

i. If the property owner is not satisfied with the work completed, or the contractor has not completed the work in accordance with the Agreement, City staff will meet with the property owner and contractor and attempt to resolve the dispute.

ii. If such informal resolution is unsuccessful, the property owner and the contractor must follow the arbitration steps and procedures as outlined in the Agreement.

9.7 COLLECTION OF PAYMENTS AND DELINQUENCIES

i. All loan payments are made directly the City's loan servicer.

ii. The Housing Financial Specialist follows the following loans on a continual basis: loans with payments 3 months past due or more, previously modified past due loans, matured loans, and loans with conditions that are out of compliance.
iii. The Housing Financial Specialist contacts borrowers by phone or letter for collection of payments or loans within the allowed practice of the California Civil Code in regards to Debt Collection Practices.

iv. The Housing Financial Specialist prepares a report of on the Status of Delinquent, Matured or Modified Rehab/DPAP loans for the Housing Rehabilitation Loan Committee at a minimum of twice a year.

9.8 FORECLOSURE ACTION

i. The Housing Rehabilitation Loan Committee must recommend by vote of the committee any default and subsequent foreclosure action against a loan.

ii. The default of foreclosure action must be reviewed by the City Attorney's office.

iii. If default or foreclosure action is taken by the City, the action is outsourced to a provider for default and foreclosure action. Any funds that are advanced the service provider are advanced from CDBG funds.

APPEALS or do we just say follow City policy

i. Decisions of the housing rehabilitation program staff

a) Any affected person may informally appeal the decision of staff to the Deputy Director, Recreation and Neighborhood Services Division.

b) Any affected person may appeal a decision of the Deputy Director to the Director or Parks, Recreation and Neighborhoods.

c) Any affected person may appeal the decision of the Director to the Housing Rehabilitation Loan Committee, depending on the particular program they are concerned with, according to provision of this section

ii. Decision of the Housing Rehabilitation Loan Committee

a) Except as provided in this section, any affected person may appeal a decision of the Housing Rehabilitation Loan Committee to the Citizens Housing and Community Development Committee.

b) No appeal to the Citizens Housing and Community Development Committee shall be available from any decision of the Housing Rehabilitation Loan Committee on the determination of eligibility for assistance or the type and amount of assistance to be awarded under any program under its jurisdiction. Appeals in such cases shall be to the City Council in accordance with Chapter 4 of Title 1 of the Modesto Municipal Code.
Memorandum

To: Barbara Kauss
CC: Julie Hannon
From: Hal McMurphy
Date: 4/23/07
Re: Verification Results of Twelve Files For Office of Inspector General

1) Elena Cacerea-2524 Garvey Ave.
   - Sold house October 2004

2) Manuel Cortez 423 & 425 Pine St.
   - # 423 Bathroom 2 ea. towel bars missing- evidence that they were installed, 4
     mounting holes and mounting hardware visible.
   - # 425 No Garage- Garage no longer exists- now part of the living quarters of unit
     # 425.
   - No variations found.

3) James E. Jenness –2517 Strivens Ave.
   - Living room b) Pocket doors to be installed. Note: On pg. #5 of WW-Up / bid sheet “owner
     has decided not to install door as shown.”
   - Bedrooms a) room to be painted with satin finish- Walls are painted with flat. No difference
     in costs of paint finishes.
   - Bedrooms b) a new pair of bi-fold doors- owner said the bi-passing doors were supplied but
     owner ask that they not be installed, see photo of door lend against wall of bedroom.
   - Master Bathroom a) WW-up calls for a 60” vanity Cabinet- a 42” cabinet was installed, and
     an additional Oak double door linen closet was added (No WCO) see photo. Additional
     value at no additional cost to property owner.
   - Laundry Room: a) & b) painted semi-gloss, see pg. #6 of WW-up/Bid. No difference in
     costs of paint finishes.
   - No negative variations found.
4) Robert Wright/Judith Davidson – 2720 Sparks Way

  • No variations found.

5) James Mayhan- 613 Rose Ave.

  • Exterior: d) WW-up calls for a Chamberlin Lift Master Brand Garage Door Opener (see WW-up/Bid #16B). A Linear brand found. See photo, see comparison data sheets from Lowes and RCS Door Co. Chamberlain cost $127.00 and Linear model $295.00, also note that the warranty is longer on the Linear model. No variations found.

  • Exterior: f) says a detached garage, Garage is attached see photo from J.W. Mack take 11/18/2004. No variations found.

  • Bathroom: h) The existing vanity and medicine cabinet were to be reinstalled. See photo of pedestal sink, and WW-up/Bid sheet #13B. No variations found.

  • Bathroom: e) WW-up calls for 2-new grab bars in tub/shower area, only 1 ea. installed see photo. See WCO #5, changes shower surround to fiberglass, which eliminates the installing of a second grab bar. No variations found.

  • Bathroom: e) WW-up calls for 2-new grab bars around toilet, only 1 ea. installed see photo. The current cost of a 12" long grab bar $ 32.67 installed, as per 2007 R.S.Means.

6) Josefina Moreno 416 Maple Street-

  • No variations found.

7) Paul Kelly 1517 Victor Way.

  • Bathroom b) A new Handicap toilet see pg.#2 WW-up/Bid sheet. An elongated toilet was installed with a Grab Bar. (see photo).Cost to the property owner was $375.00.

  • No Variations found.

8) Betty Casaus 1613 Galvez –

  • No variations found.

9) Juanita J. Moffitt 3229 Para Dr.-

  • No variations found.

10) Mary Thorne 305 Longefellow Ave.-

  • No variations found.
11) Connie Pierson- 2220 Jeanine Dr.

- Unable to verify on 4/18/07. Not sure she will be able to reschedule for Thursday 4/26/07 due to medical problems. See Memo from Gregory dated 4/24/07.

12) Carolyn Michaels 1412 Del Monte Ave.-

- Refused to grant us access to property. She did state “I’m very pleased with the work, that the Contractor did, at my house.”

- No variations found.
GRANT DEED

The undersigned grantor(s) declare(s) that the documentary transfer tax is $275.00.

[ X ] computed on full value of property conveyed, or

[ ] computed on full value less value of liens or encumbrances remaining at time of sale.

[ ] Unincorporated Area  City of Modesto

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Ellma Caceres, Unmarried Woman

hereby GRANT(S) to Jose Velazquez, an Unmarried Man

the following described real property in the City of Modesto, County of Stanislaus, State of California:

Lot 7 in Block 7253 of HIGHWAY VILLAGE, as per map filed April 25, 1947 in Volume 16 of Maps, at Page 41, Stanislaus County Records.

DATED: October 15, 2004

STATE OF CALIFORNIA
COUNTY OF STANISLAUS

ON OCTOBER 15, 2004 before me, Laura A. Savo personally appeared

personally known to me (or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in their capacity, or that he/she/they executed the same in behalf of the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature

MAIL TAX STATEMENTS AS DIRECTED ABOVE
### Property Details

For Property Located At

**2524 Garvey Ave**
**Modesto, CA 95350-1710**
**Stanislaus County**

#### Owner Info:
- **Owner Name:** Velazquez Jose
- **Recording Date:** 10/29/2004
- **Tax Billing Address:** 2524 Garvey Ave
- **Annual Tax:** $2,628
- **Tax Billing City & State:** Modesto, CA
- **County Use Code:** Single Family Resid
- **Tax Billing Zip:** 95350
- **Universal Land Use:** SFR
- **Tax Billing Zip+4:** 1710

#### Location Info:
- **School District:** Modesto
- **Subdivision:** Highway Village
- **Waterfront Influence:** Type Unknown
- **Census Tract:** 8.03

#### Tax Info:
- **Tax ID:** 005-043-057-000
- **Alt APN:** 005-43-57-000
- **Tax Year:** 2006
- **Annual Tax:** $2,628
- **Homestead:** Homeowner
- **Assessment Year:** 2006
- **Land Assessment:** $102,000
- **Improved Assessment:** $153,000
- **Total Assessment:** $255,000
- **% Improv:** 60%
- **Tax Area:** 2006
- **Flood Zone Code:** X
- **Flood Zone Panel:** C603870005D
- **Carrier Route:** CO08

#### Characteristics:
- **Lot Frontage:** 50
- **Lot Acres:** .14
- **Building Sq Ft:** 1,058
- **Stories:** 1
- **Quality:** Average
- **Bedrooms:** 3
- **Total Baths:** 1
- **Full Baths:** 1
- **Heat Type:** Central
- **Garage Type:** Garage
- **Garage Capacity:** 1
- **Construction:** Wood
- **Year Built:** 1955
- **Gross Bldg Area:** 1,058
- **Subdivision:** Highway Village
- **Block ID:** 7253
- **Lot Number:** 7
- **Block Number:** 900-1814

#### Last Market Sale:
- **Recording Date:** 10/29/2004
- **Settle Date:** 10/15/2004
- **Sale Price:** $250,000
- **Deed Type:** Grant Deed
- **Owner Name:** Velazquez Jose
- **Seller:** Caceres Elena

#### Sales History:
- **Recording Date:** 10/29/2004
- **Sale Price:** $250,000
- **Deed Type:** Grant Deed
- **Owner Name:** Velazquez Jose
- **Seller:** Caceres Elena
- **Document No:** 179287
- **Document Type:** Grant Deed
- **Recording Date:** 11/30/1999
- **Sale Price:** $70,500
- **Deed Type:** Grant Deed
- **Owner Name:** Caceres Elena
- **Seller:** Moore Garrett D
- **Document No:** 600-1814
- **Document Type:** Grant Deed
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The data within this report is compiled by First American Real Estate Solutions from public and private sources. If desired, the accuracy of the data contained herein can be independently verified by the recipient of this report with the applicable county or municipality.
EXTERIOR:
a) Both units got new 25 year composition roof installed on both units. The rafter tails were to be cut back, due to dry rotted.  
   Y
b) Both units got new 100AMP service panels.  
   Y
c) A 120 liner feet of French drain was installed.  
   Y
d) Both units got new dual-glazed, horizontally sliding, aluminum frame windows.  
   Y
e) New 7/16” pre-painted siding was installed on the rear unit.  
   Y
f) A new gas meter was installed at the rear unit.  
   Y

UNIT #423

BATHROOM:
a) New GFCI protected outlet was installed.  
   Y
b) New toilet, steel enameled tub with new chrome control valve & shower head, and 18” x 19” vanity cabinet with cultured marble countertop with basin and chrome single lever faucet was installed.  
   Y
   a) New aluminum frame bathtub sliding temper, obscured glass doors was installed.  
   Y
   b) New mirror medicine cabinet was installed above the vanity.  
   Y
   c) New sheet vinyl floor covering was installed.  
   Y
d) The bathroom was painted semi-gloss.  
   Y
e) 2-new 30” towel bars and toilet paper holder was installed.  
   Y/N *

*Appears 2 towel bars were installed at the time of rehab as evidenced by remaining hardware holes and partial hardware present.

BEDROOM:
a) New hardwired, battery back-up smoke detector was installed in the bedrooms and hallway given access to the bedrooms.  
   Y
b) New hollow core, solid wood styles and rails door was installed at the closet.

REAR PORCH:

a) A new 30 gallon, energy efficient, gas water heater was installed. 

b) New vinyl sheet floor covering was installed.

UNIT #425

DOORS:

a) 3-solid core, masonite, prime coat doors was installed at the front, rear, and north east room of the house.

LIVING ROOM:

a) A single sided wall heater or furnace was installed.

b) New baseboard, trim and molding was installed throughout the unit.

c) The living room was painted semi-gloss.

BATHROOM:

a) New GFCl protected outlet was installed. New toilet, fiberglass shower stall with new chrome control valve, and 18” x 19” vanity cabinet with cultured marble counter top with basin and chrome single lever faucet was installed.

b) New aluminum frame bathtub sliding temper, obscured glass doors was installed.

c) New mirror medicine cabinet was installed above the vanity.

d) New sheet vinyl floor covering was installed.

e) The bathroom was painted semi-gloss.

f) 2-new 30” towel bars and toilet paper hold was installed.

g) A linen closet with shelving was built with a 30” x 6-'8” hollow code, solid wood styles and rail door.

BEDROOM:

a) The north east bedroom window was frame-in.

b) A new closet was built in the north-east bedroom with bi-pass doors and rod/shelf.

c) The bedroom was painted semi-gloss.
KITCHEN:
a) New base and upper cabinets and formica countertops,
   33" x 21" stainless steel double bowl, self-rimming
deck-mounted sink with chrome, single lever faucet with
   sprayer, and 30" white range hood was installed.   Y
b) The kitchen was painted semi-gloss.           Y

GARAGE:
a) The garage door was removed and re-frame for a new door Y/N*
   and window opening of 40° x 40° opening. New siding was
   installed to match the existing siding.

* No garage

LEE GONZALES
Supervising Building Inspector
EXTERIOR:
  a) A new patio slab was pour with a new patio cover. Y
  b) Addition was built-on to the house with new 3-coat stucco system and the existing stucco got color coated. Y
  c) All the windows got replaced with dual-glazed, aluminum frame windows. The existing window opening in the living room was reframe for (3) 2' x 5' vertical windows with lower half to open. Y
  d) (3) doors got replaced and they are the front door, house to garage door, and garage to patio door. The type of door is a solid core, colonial-steel clad with raised panels. Y
  e) The main electrical service panel was change to a 200 AMP main electrical service panel. Y
  f) 3-new hose bibs were installed around the addition. Y
  g) A new sectional roll-up garage door was installed. Y

MECHANICAL:
  a) The existing furnace was removed and a new roof mounted, 21/2-Ton dual-pack unit was installed. Where the furnace was removed a new 32" x 24" under floor access opening was installed. Y
  b) A new energy efficient 40 gallon, gas water heater was installed with a new door to the water heater closet. Y

LIVING ROOM:
  a) The living room was painted with a satin finish. Y
  b) A new pair of pocket doors was installed. N/A
  c) New carpet was installed. Y

DINING ROOM:
  a) The room was painted with a satin finish. Y

BEDROOMS:
  a) All the bedrooms were painted with a satin finish. N
  b) A new pair bi-fold doors was installed. N
c) New carpet was installed in all the bedrooms.  

MASTER BATHROOM:
  a) New white enameled cast-iron bathtub with polished single control and washer-less faucet. Y/N*
  New culture marble surround with soap dish, toilet, and 60" vanity cabinet with cultured marble top and bowl. A chrome single lever faucet was installed. Y
  b) The master bathroom was painted semi-gloss. Y
  c) New vinyl sheet floor covering was installed. Y

* 42" Cabinet installed

LAUNDRY ROOM:
  a) The laundry room was painted semi-gloss. N
  b) New sheet vinyl flooring was installed in the laundry room. Y

HALLWAY:
  a) A linen cabinet was installed Y
  b) New carpet was installed. Y

LAUNDRY ROOM:
  a) A molded access box with the water supply and standpipe for the washing machine was installed. Y
  b) The laundry room was painted semi-gloss. N
  c) New vinyl sheet floor covering was installed. Y
# Doors

Provide all labor and material to complete as follows:

- As per attached plans, install four (4) hollow core interior doors, made with solid wood styles and rails, natural wood veneer, each hung with one pair of butt hinges and polished brass passage latch sets as manufactured by Kwikset.

- As per plans, install two (2) pairs natural wood bifold doors, to fit opening. Units shall be assembled with concealed hinges and include complete hardware, pull knob and catch latch as per manufacturer's instructions.

Install two hollow core doors, made with solid wood styles and rails, complete with pocket frame and track hardware. Door pull to be polished brass as per manufacturer's instructions.

Note: Plans indicate pocket door at dining area, owner has decided not to install door as shown.

### Insulation

Provide all labor and material to complete as follows:

- Under raised floor of new addition, install fiberglass batts backed with vapor barrier and having an R-14 rating.

- Install blown fiberglass insulation having an R-38 rating in attic space of house, including addition.

- At existing perimeter walls, mechanically drill from exterior and install blown fiberglass insulation having an R-14 rating in the wall cavities, then properly patch exterior.

- At addition, install fiberglass batts, backed with vapor barrier in exterior wall cavities with R-14 rating.

### Gypsum Board

Provide all labor and material to complete as follows:

- At room addition, furnace closet and wall/window alterations, install 1/2" gypsum board, then tape, top, and texture. Note that surface texture shall be selected by owner or be compatible to existing surfaces in home. At firewall separating house and garage all voids in firewall are to be properly repaired.

### Clothes Rod and Shelves for Closets

Provide all labor and material to complete as follows:

- In all closets, install nominal 1" x 12" #2 pine shelving and 1-5/16" full round DF closet rods supported on metal brackets.

### Trim, Molding, and Baseboards

Provide all labor and material to complete as follows:

- At addition and all existing room areas, install door/window trim, sills, moldings and baseboards to match existing used in house and all closets, install nominal 1" x 12" #2 pine shelving and 1-5/16" full round DF closet rods supported on metal brackets as per plans.

---

*Note: Plans indicate pocket door at dining area, owner has decided not to install door as shown.*

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
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<tbody>
<tr>
<td>Doors</td>
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<td>Gypsum Board</td>
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<td>Clothes Rod and Shelves for Closets</td>
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<td>Trim, Molding, and Baseboards</td>
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<tr>
<td>From James E. Jennings 5W-00 S. 500.00</td>
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</tbody>
</table>
Interior Painting

Provide all labor and material to complete as follows:

Through-out entire unit, prepare and paint as per following: At existing walls, Wash walls, ceilings, and wood trim with a solution of trisodium phosphate (TSP). Scrape and/or sand chipped, peeled or loose paint. Fill cracks and holes. To existing cabinetry and new cabinetry apply a satin finish stain/sealer to match existing color. Apply one (1) coat primer to wall and ceiling surfaces of room addition. Kitchen, bathrooms, laundry room and hall areas: Two coats semi-gloss interior latex. All doors, trim, woodwork, baseboards and windowsills: Two coats semi-gloss latex. Walls and ceiling, including closets: Two coats flat interior latex. Touch-up where paint coverage is inadequate. Owner has choice of colors, with a maximum of one color per room.

Resilient Flooring

Provide all labor and material to complete as follows:

In kitchen, dining, bathrooms and laundry areas prepare existing floor surface by removing existing floorcoverings and underlayment. Installing 1/2 inch particle board. Do not glue underlayment down. Install "no-wax" sheet vinyl floor cover with 4" high integral cove (over cove stick), capped with metal trim. Owner is to select color and pattern within the maximum of $15.95 per yard for material only.

Carpeting

Provide all labor and material to complete as follows:

In livingroom, bedrooms, hall and closets prepare floor surfaces by removing any existing coverings, cleaning and removing high spots, and/or filling depressions in any areas where tile or flooring is missing. Install 4 lb. rebound padding, (minimum 4 lb. per yard) and perimeter tack strips. Install new carpeting as per manufacturer's recommendations. Padding shall meet minimum FHA Standards). Owner to select color, pattern, and fiber within the maximum of $13.95 per yard for material.

Note: Doors to operate without drag over new carpet.

Exterior Paintings

Provide all labor and material to complete as follows:

Prepare and paint all paintable surfaces on exterior of house/garage/patio not covered by stucco. Wash down the exterior with water and brush or high pressure water spray to remove dust and dirt. Scrape, wire brush, and/or sand all loose, chipped and peeled paint. Reset nails where exposed. Prime all wood and sheetmetal surfaces with a primer undercoat. Apply two (2) finish coats of exterior latex. Owner has choice of color from standard mix with a two color scheme.

Copy of James E. Jenness Ww-w Bid

Page 6 - 700.00
ROBERT WRIGHT/JUDITH DAVISON  2720 SPARKS WAY

Legends
Y-Yes
N-No

EXTERIOR:
  a) The existing roof was strip and two (2) torches down roof system were installed.  Y
  b) The exterior of the house was painted.  Y
  c) A GFCI protected outlet was installed.  Y

KITCHEN:
  a) New vinyl sheet floor covering was installed.  Y
  b) New GFCI protected outlets was installed.  Y
  c) Drywall damage repair was done around the window.  Y
  d) The standpipe was change to a 2” standpipe.  Y

HALLWAY:
  a) The furnace door was repaired and painted semi-gloss.  Y
  b) The furnace vent was flue was extended and strap in placed.  Y
  c) The water heater vent was extended and strap in placed.  Y

BEDROOMS:
  a) A hardwire or battery operated smoke detector was installed in each bedroom and hallway.  Y
  b) Drywall repair was done on the wall in bedroom #1 next to the door.  Y
  c) Bedroom #1 was painted semi-gloss.  Y
  d) A new hollow core, paint grade with flush panel door was installed.  Y

BATHROOM:
  a) A new cast iron tub was installed.  Y
  b) A new cultured marble surround was installed with a soap dish.  Y
c) New carpet was installed in all the bedrooms.

MASTER BATHROOM:
a) New white enameled cast-iron bathtub with polished single control and washer-less faucet.
   New culture marble surround with soap dish, toilet, and 60” vanity cabinet with cultured marble top and bowl. A chrome single lever faucet was installed.
b) The master bathroom was painted semi-gloss.
c) New vinyl sheet floor covering was installed.

* 42” Cabinet installed

LAUNDRY ROOM:
a) The laundry room was painted semi-gloss.
b) New sheet vinyl flooring was installed in the laundry room.

HALLWAY:
a) A linen cabinet was installed
b) New carpet was installed.

LAUNDRY ROOM:
a) A molded access box with the water supply and standpipe for the washing machine was installed.
b) The laundry room was painted semi-gloss.
c) New vinyl sheet floor covering was installed.
Legends
Y-Yes
N-No

EXTERIOR:
a) A new patio cover was built with 5/8" T&G sheathing over 2x rafters with a torch down roof covering. 50 linear feet of galvanized rain gutters and downspouts was installed.  
   a) Y
b) A new 30 year composition with 80 linear feet of galvanized rain gutters and (5) downspouts was installed.  
   b) Y
c) A new 2 ½-Ton, roof mounted, dual-pack unit was installed, along with (1) return air and (8) HVAC vents.  
   c) Y
d) A new 10' x 7' four panel sectional roll-up garage door was installed with a new “Chamberlin Lift Master” garage door opener.  
   d) N*
a) A new ceiling electrical outlet was installed the garage ceiling for the garage door opener.  
   a) Y
f) The detached garage was painted with an acrylic latex paint color.  
   f) N*
g) A new side redwood gate was installed.  
   g) Y

* garage not detached
* Incorrect opener model

BATHROOM:
a) A new 3'-0" x 6'-8" hollow core, paint grade was installed  
   a) Y
b) A new 3-bule light bar light fixture was installed above the vanity.  
   b) Y
c) A new GFCI protected outlet was installed.  
   c) Y
e) 2- new grab bars was installed in the tub/shower area and 2-new grab bars was installed around the toilet area.  
   e) N
f) A new exhaust fan was installed  
   f) Y
g) New 12” x 12” ceramic tiles were installed  
   g) Y
h) The existing vanity and medicine cabinet was reinstalled.  
   h) N
i) The bathroom was painted semi-gloss.  
   i) Y

KITCHEN:
a) New GFCI protection was installed.  
   a) Y
c) New GFCI protected outlet was installed. Y

d) The wall was repaired and painted semi-gloss. Y

e) New vinyl sheet floor covering was installed. Y
14B Ceiling Exhaust Fan Installation

Provide all labor and material to complete as follows:

In Bathroom, install one new exhaust fan with a separate wall-mounted switch such as manufactured by Scovill Nutone or the equivalent. Include flue assembly for exterior discharge, back-flow gate, and weather cap.

Note: Gypsum board wall contain by definition lead-based paint. When impacting these surfaces, the use of proper lead-based paint safe work practices shall be acceptable. A clearance will be preformed on the property upon completion of the rehabilitation work. Refer to attached report.

$200.00

15B Replace Garage Door - Enameled Steel

Provide all labor and material to complete as follows:

Install a 10' x 7' four-panel sectional roll-up enameled steel garage door with all hardware, including heavy-duty weather stripping on bottom of door.

$800.00

16B Garage Door Opener

Provide all labor and materials to complete as follows:

Install a 1/2 hp chain drive Chamberlin Lift Master automatic garage door opener, including one (1) programmable digital radio control unit. Provide one (1) wall-mounted switch near 3-0 door.

$300.00
Linear LD050 Residential Garage Door Openers

1/2 HP Deluxe Garage Door Operator
Model Number: LD050

Product Links:
- Manual 1
- Manual 2
- Literature
- Accessories for use with the LD050
- Models compatible with the LD050

Features
- Deluxe Wall Station STANDARD
- Two Button Remote Control STANDARD
- Open/Close/Park Door in EITHER direction STANDARD
- Automatic Courtesy Light STANDARD
- Warranty: Lifetime on Motor; 5 years on Mechanical; 1 year on Electronics
- Replacement parts diagram click here.

Product Number: LOOSO

http://www.aaaremotes.com/ldo50.html

Chamberlain
1/2-HP Chain Drive Garage Door Opener

Item #: 248730  Model: 248730

$127.00

Description

Strong and reliable chain drive system
6-year motor warranty
Includes illuminated push button door control and single-button remote control
The Protector System® Safety Sensors detect obstructions and reverse a closing door before contact is made
Garage door opener lights turn on anytime the Protector System beam is obstructed
Quick connect terminals enable easy installation of the Protector System® and door control wires
Quick-install 5-piece rail system

Customer Ratings

Need Help?

- Help
- Contact Us
- Find Your Location
- Rebate Center

Inspiration and Guides

- Product Guides
  Be informed before you buy
- How-To Library
  Projects and ideas for do-it-yourselfers.
- Project Calculator
  Plan your projects with these helpful tools.

Lowe's Credit

Finance your ideas
No annual fee
- Monthly payment

J. W. MACK CONSULTING

RESIDENTIAL & COMMERCIAL
ASBESTOS
LEAD/BASED PAINT
ENVIRONMENTAL CONSULTING

1502 GLENN AVENUE
MODESTO, CA 95358
PHONE AND FAX
(209) 581-9646

PAINT CHIP SAMPLING
613 ROSE AVE., MODESTO, CA 95355

11/18/2004
11B **Interior Painting - Semi Gloss Latex**

Provide all labor and material to complete as follows:

In **bathroom**, prepare and paint, as per following: Wash walls, ceilings, and wood trim with a solution of trisodium phosphate (TSP). Scrape and/or sand chipped, peeled or loose paint. Fill cracks and holes. Note: If surfaces have evidence of water stain, apply a pigmented sealer/primer stain killer to all affected areas before water-base primers are used. Apply one (1) coat primer to remaining prepared surfaces. On all paint-able surfaces, apply 2 coats semi-gloss latex paint. Touch-up where paint coverage is inadequate. Owner has choice of colors, with a maximum of two colors.

$300.00

12B **Tile Floor Bathroom**

Provide all labor and materials to complete as follows:

In **bathroom** remove existing tile flooring and substrate material, and install manufactured concrete backer board as per manufacturers specifications. Install new 12"X12" ceramic tile over thin set, grout joints with sanded latex-portland cement. Owner will choose tile and grout from standard colors. Allow maximum $2.75 per Sq. Ft. for floor tile material.

$800.00

13B **Reinstall existing Lavatory Sink / Medicine Cabinet/ Mirror**

Provide all labor and materials to complete as follows:

Reinstall existing lavatory sink, replace supply lines and angle stop shut off valves. Reinstall existing medicine cabinet and mirror.

$300.00
5B Tub/Shower Surround

Provide all labor and material to complete as follows:

Remove and dispose of existing tub and shower surround. Install new cast iron tub (white). Over mud bed float install standard 4-1/4" x 4-1/4" ceramic tiles set in mastic to six (6) feet high above floor/top of window on the three walls of tub/shower surround, including window sill and side and top jambs and a self-draining ceramic soap dish. Remove and dispose of existing shower doors. Grout joints with white latex non-sanded grout. Owner has choice of standard tile colors.

Note: Masonry wall contain by definition lead-based paint. When impacting these surfaces, the use of proper lead-based paint safe work practices shall be acceptable. A clearance will be performed on the property upon completion of the rehabilitation work. Refer to attached report.

Note: Gypsum board wall contain by definition lead-based paint. When impacting these surfaces, the use of proper lead-based paint safe work practices shall be acceptable. A clearance will be performed on the property upon completion of the rehabilitation work. Refer to attached report.

$4,500.00

6B Toilet

Provide all labor and material to complete as follows:

In bathroom, install new white vitreous china (Class A) toilet, new polished chrome plated brass angle stop and water supply, new mounting bolts, closet flange, new wax ring and new toilet seat.

Note: Toilet must remain functional during entire project.

$100.00
WORK CHANGE ORDER # 5

PROJECT ADDRESS: 613 Rose Ave

OWNER: James/Begina Mayhan

TO: Daniel Hoffman

IN ACCORDANCE WITH PARAGRAPH NUMBER 15 OF REAL PROPERTY IMPROVEMENT AGREEMENT (Contract), DATED Jan 19, 2005, THE UNDERSIGNED OWNER HEREBY DIRECTS THE ABOVE-NAMED CONTRACTOR TO MAKE THE FOLLOWING CHANGES IN THE WORK WRITE-UP SPECIFICATIONS AND/OR PLANS, AFTER RECEIVING WRITTEN APPROVAL BY THE HOUSING REHABILITATION SPECIALIST:

Change item 5B of WWP attached to Real Property Improvement Agreement. See attached contractor detailed proposal for itemized breakdown of additional changes and costs. The proposal was submitted per owner's request.

This Change order must be signed by the Housing Rehabilitation Specialist, the property owner(s) and contractor before the contractor begins these repairs.

The undersigned contractor hereby agrees to perform the above-described work for the sum of: $ 0

The above changes also require an extension to the completion date specified in the Real Property Improvement Agreement referred to above. Therefore, we agree to extend the completion date to 3-25-05.

Property Owner's Signature

Contractor's Signature 3-25-05

Property Owner's Signature

Housing Rehab Spec. Signature

Orig - Financial Specialist
Yellow - Rehab Specialist
Revised 03/27/01

Pink - Property Owner
Golden - Contractor

Rehab Form\Work Change Ord
Proposal

Daniel R. Hoffman,
General Contractor License #644057
132 N. Santa Ana Ave.
Modesto Ca. 95354

Date: 03/22/05
Home: 209-575-3748
Cellular: 209-605-2668

Proposal Submitted To: Darin Sims
For
James And Regina Mayhan

Work to be performed at:
613 Rose Ave.
Modesto CA.

PROJECT:
1) Rebate for changing from cast iron tub and 4x4 ceramic tile. Labor and materials $1,500.00
2) New tub and enclosure Labor and materials $700.00
3) Framing to include firing block wall, plumbing wall, labor and materials $500.00
4) Plumbing to include install P trap to code, waste overflow, lower shower neck for new enclosure, provide and install new fixtures. Labor and materials $250.00
5) Replace broken electrical box in adjoining room and move electrical box on fired out wall. Labor and materials $50.00

Total cost for labor and materials $4,500.00

Daniel R. Hoffman.
Provide and install a 12" grab bar $32.67
1. A new 30 year composition roof with galvanized rain gutters and downspout was installed.

2. The floor furnace was removed and frame-in.
   A new 2 1/2 -Ton roof mounted dual pack unit was installed.
BATHROOM:

a) A new 42” x 42” shower stall with sliding hand held shower head was installed.

b) A new handicap toilet 24” and 18” grab bar was installed along with a toilet paper holder.

c) 18” x 42” vanity cabinet with cultured marble top and bowl. New chrome single lever faucet was installed.

d) New 2’-10” x 6’-8” hollow core, paint grade door with solid wood style was installed.

e) The bathroom was painted semi-gloss.

BEDROOM:

a) New 2’-10” x 6’-8” hollow core, paint grade door with solid wood style was installed.

b) The bedroom was painted flat latex paint color.

MECHANICAL:

a) There was a new furnace installed in the attic with a new light fixture in the attic with a switch to control.

b) There were new HVAC vents installed in the kitchen, dining room, and living room.

c) The wall A/C unit was removed and the opening frame-in.
1B Demolition

Provide all labor and material to complete as follows:

Remove and dispose of existing shower stall including pan and mixer valve, vanity, vanity cabinet and toilet. Cutback sheetrock on existing walls to be framed-in at doorways and remove non-bearing bathroom wall as per plans.

2B No-Dam Shower Bathroom Conversion

Provide all labor and material to complete as follows:

Remove floor covering install approved material to achieve a 1/4 inch per foot slope to drain there is to be no greater than 3/8 inch difference between finished floor height of bathroom and bedroom. Install 2"x6" backing (location to be centered 36" above finish floor height) along all sides of shower. And toilet. Install new shower drain in shower area, connected to existing building drain. Install "Delta Model #602 mixer valve and Model #RP6212MS slide "Bar Hand Held shower head" or equal. Install 42" X 42" hot tar shower pan consisting of 4 layers asphalt mopped type 4 fiberglass ply sheet or approved equal, turned up walls 12 inches. Install new cement-mortar-backed standard 6" x 6" ceramic tiles on floor. Wall areas to receive tile, install Durock, Wonder Board or the equivalent, taped and sealed (vapor barrier) to receive tile. Seal walls with a coat of thin-set and install standard 4\(\frac{3}{4}\)" x 4\(\frac{3}{4}\)" ceramic tiles set in thin-set to six (6) feet high above drain on the two walls of shower extending two feet from inside wall of shower including a self-draining ceramic soap dish. Grout joints with white latex-portland cement. Owner has choice of standard tile colors. Note: Toilet base should be at least 1\(\frac{1}{4}\)" above the flood plane of finish floor.

3B Relocate Toilet and Vanity

Provide all labor and material to complete as follows:

Relocate toilet and vanity waste and supply lines as per plans

Rough-in waste and supply lines as per code. Clean-outs are to be installed according to code. Note: All waste lines are to be tied into existing vents and supported horizontally.

4B Toilet

Provide all labor and material to complete as follows:

Install new white vitreous china (Class A) ADA Handicap complying 1.6 GPF elongated toilet, new polished chrome plated brass angle stop and water supply, new mounting bolts, closet flange, new wax ring and new toilet seat.

Signature:

Pg #2 of Paul L. Kelly 1517 Victor

Page 2 of 2
1. Replaced the dry rotted eves.
2. A new 30 year composition roof with 60 liners feet of galvanized gutters and (4) downspouts was installed.

Legend

Y = Yes
N = No

NICK KELLER
Senior Building Inspector
EXTerior:
- a) A new 30 year composition roof was installed.

kitchen:
- a) New upper and base cabinets, 1/16” thick pressure melamine laminate plastic counter top was installed.
- b) Existing sink and faucet was reinstalled.
- c) New 30” white enameled steel range hood, garbage disposal, and dishwasher was installed.
- b) New vinyl sheet floor covering was installed.

Dining room:
- a) New vinyl sheet floor covering was installed.
HALF BATHROOM:

a) A new GFCI protection was installed.

b) A new 30" vanity cabinet and ceramic tile countertop was installed with "Kohler" self-rimming/Deck mounted white cast iron basin with "American Standard" faucet.

c) Half bath was painted semi-gloss.

d) New sheet vinyl floor covering was installed.

HALL BATHROOM:

a) New light switch was installed to control the incandescent light fixture.

b) New GFCI protection was installed.

c) New "Nuton" ceiling exhaust fan with switch was installed.

d) A new 2'-10" x 1'-0" dual glazed, aluminum frame window was installed.

e) New color coat was installed around the new window.

f) New 2'-4" x 6'-8" hollow core, paint grade, solid wood styles rails door was installed and stain to match the hall doors.

g) A new "Kohler" 60" x 32" x 16" white cast iron tub with "American Standard" pressure balance faucet was installed.

h) New ceramic tile surround was installed.

i) A set of tempered obscured glass sliding tub doors with aluminum frame was installed.

j) A new "American Standard" white, cadet toilet was installed.

k) A new 36" vanity cabinet with cultured marble counter top with bowl. New chrome single lever faucet was installed.

l) A new recessed medicine cabinet was installed.

m) 1-18" towel bar, 1-30" towel bar was installed behind the toilet, and 1-36" towel bar on the wall opposite side of the toilet and vanity wall was installed.

n) The bathroom was painted semi-gloss.

O) New sheet vinyl floor covering was installed.

CHECK SWEEP WEATHERSTRIP ON DOOR.
ITEM NO. | DESCRIPTION OF WORK TO BE PERFORMED
--- | ---
3 | **Reset Toilet**

Provide all labor and material to complete as follows:

In ½ bath, re-install existing toilet on new wax ring and closet flange, new mounting bolts with new polished chrome plated brass angle stop, and new nylon flexible water supply.

$100.

13B | **Vanity Cabinet with Integral Basin and Counter Top**

Provide all labor and material to complete as follows:

In hall bathroom, install 36 inch *custom manufactured* vanity cabinet. Cabinet to be made of solid hardwood birch fronts and hardwood birch veneer doors, drawer facing, and end panel complete with drawers and storage below. Doors and drawer fronts to be inverse beveled for opening handle. Owner has choice of stain color and high gloss/satin finish.

Install a 37” x 22” one piece counter top and basin made of cultured marble. Owner to select basin size and style, and drip or non-drip edge.

Note – faucet mounts on 4” centers.

Install an **AMERICAN STANDARD – Reliant+ Lavatory Faucet, #1495.400** in polished brass finish, and p-trap, drain tubes, angle stops, and nylon flexible water supply tubing.

Install water supply and drain lines to new vanity location.

$700.

14B | **Vanity Cabinet with Basin and Tile Counter Top**

Provide all labor and material to complete as follows:

In ½ bath, install a 30 inch *custom manufactured* vanity cabinet. Cabinet to be made of solid hardwood birch fronts and hardwood birch veneer doors, drawer facing, and end panels complete with drawers and storage below. Doors and drawer fronts to be inverse beveled for opening handle. Owner has choice of stain color and high gloss/satin finish. Counter top to be 4 1/4” x 4 1/4” DAL, Group #1 ceramic tiles with trim cap set in mortar and two (2) tile-high back and end/sidesplash. Owner has choice of tile colors.

At vanity counter top, install a **KOHLER, Farmington, K-2905-4, 19 1/4" x 16 1/4" self rimming/deck mount white enameled cast iron basin with overflow, including an **AMERICAN STANDARD – Reliant+ Lavatory Faucet, #1495.400** in polished brass finish, and pop-up drain, p-trap, drain tubes, angle stops, and nylon flexible water supply tubing.

$700.

15B | **Medicine Cabinet**

Provide all labor and material to complete as follows:

In hall bathroom centered over basin, install a mirrored medicine cabinet. Medicine cabinet to be recessed in wall. Owner’s choice of medicine cabinet not to exceed $85.

$150.
MEMO

I called Ms. Connie Pierson at 2220 Jeanine Dr. to set-up appointment for the IG inspection. She has a doctor appointment today and Wednesday was not a good day, so I ask her about Thursday afternoon, she said she would call if Thursday would be a good day. Ms. Pierson has rheumatoid arthritis so it’s hard for her to get around.

Gregory Williams
Housing Rehab Specialist II
A RESOLUTION AUTHORIZING THE PURCHASE OF REPLACEMENT PLAY EQUIPMENT AND ENGINEERED WOOD FIBER SAFETY SURFACING FOR PIKE PARK AT AN ESTIMATED COST OF $46,697 AND AUTHORIZING STAFF TO HIRE A CONTRACTOR TO INSTALL THE ENGINEERED WOOD FIBER AND SUPERVISE THE PARK PARTNER VOLUNTEER EFFORT TO INSTALL THE NEW PLAY EQUIPMENT AT AN ESTIMATED COST OF $7,450.00, FOR A TOTAL PROJECT COST OF $54,147.

WHEREAS, in 2005, winter storms damaged trees in Pike Park resulting in large limbs falling on the existing play equipment and damaging the play equipment sufficiently to require that it be removed, and

WHEREAS, a claim for damage was submitted to insurance and a check was received in the amount of $20,146.00 which has been deposited into account number 1400-310-M185-8122 to partially fund the replacement of the play equipment, and

WHEREAS, the remaining funding will come from CDBG Public Facility and Improvement account #1130-320-3236, and

WHEREAS, the Pike Park project involves the replacement of storm-damaged play equipment and is using volunteers as part of the City's Park Partners program, and

WHEREAS, under Article XIII. Fiscal Administration, Section 1307, the City Charter allows that park or parks playground projects otherwise subject to the public bidding requirements of this section that involves any donated labor and/or material to be excluded from the normal bidding process, and

WHEREAS, this project involves the donated labor by community members for the installation of the play equipment and meets the requirements of this section, and
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the purchase of replacement play equipment and engineered wood fiber safety surfacing for Pike Park at an estimated cost of $46,697.

BE IT FURTHER RESOLVED that staff is hereby authorized to hire a contractor to install the engineered wood fiber and supervise the Park Partner volunteer effort to install the new play equipment at an estimated cost of $7,450.00.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-297

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE
FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF RUBBER
SIDEWALK MATERIALS AND ACCESSORIES MADE FROM CALIFORNIA
WASTE TIRES FOR THE PARKS, RECREATION AND NEIGHBORHOODS
DEPARTMENT, SOLID WASTE MANAGEMENT DIVISION AND THE
PUBLIC WORKS DEPARTMENT, FORESTRY DIVISION FOR A THREE (3)
YEARS AGREEMENT, FOR AN ESTIMATED TOTAL COST OF $100,650, OF
WHICH $51,300 IS GRANT FUNDED.

WHEREAS, the California Integrated Waste Management Board (CIWMB)
offers grants to communities to encourage the use of products made from recycled rubber
extracted from California waste tires, and

WHEREAS, on December 14, 2004, by Resolution No. 2004-669, the Council
authorized the City Manager to submit applications and grant related documents, accept
awards and amend the annual budget for all grants offered by the CIWMB, and

WHEREAS, the City of Modesto was awarded a $51,300 grant from CIWMB to
purchase and install 11,400 square feet of rubber sidewalks and

WHEREAS, the City of Modesto will match the grant funds with approximately
$49,000 to be pooled from the Parks, Recreation and Neighborhoods Department, Solid
Waste Division and the Public Works Department, Forestry Division to be spread out
over the three (3) year grant cycle, 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 Bids for the purchase of rubber sidewalks and accessories made from California waste tires and contain no tire buffings will conform to code, and

WHEREAS, funds are budgeted and available in accounts 0410-355-4436-0237, 310-355-4402-0237 and 0700-480-4724-0360 for the purchase of rubber sidewalk materials and accessories in Fiscal Years 06/07, 07/08 and 08/09,

NOW, THEREFORE, BE IT 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 rubber sidewalk materials and accessories made from California waste tires and contain no buffings, for a three (3) year agreement 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 22nd day of May, 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 Acalana Wood, City Attorney
A RESOLUTION APPROVING A REQUEST FOR PROPOSAL (RFP) APPLICATION FOR THE CITY OF MODESTO TO APPLY TO BECOME A “HOST CITY” FOR THE THIRD-ANNUAL AMGEN TOUR OF CALIFORNIA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE APPLICATION AND RELATED DOCUMENTS.

WHEREAS, in February 2007, the Amgen Tour of California swept down the California Coast for eight days and generated over $100 million of economic impact to the 12 host cities and the state with over one billion marketing impressions created worldwide, and

WHEREAS, the Amgen Tour of California has posted their Request for Proposal (RFP) application for response from cities who wish to be considered as a “Host City” for the third Annual Amgen Tour of California in February 2008, and

WHEREAS, Modesto is centrally located and has access to bike paths and trailways both toward the west and east as well as along the north-south corridors, and

WHEREAS, this would be a unique and exciting opportunity for the city to showcase its accommodations and amenities as well as produce a revenue enhancing project for the community, and

WHEREAS, the City of Modesto has the desire to become a “Host City” for the Amgen Tour of California in February 2008, and

WHEREAS, the City of Modesto has read the requirements exhibited in Amgen’s RFP and agrees to abide by the requirements listed within the RFP,

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

1. The filing of an RFP for the City of Modesto to become a “Host City” for the 2008 Amgen Tour of California is hereby approved.
2. The City Manager, or his designee, is hereby authorized as agent of the applicant to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws, which may be necessary for the completion of the aforementioned Project upon acceptance of said RFP by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-299

A RESOLUTION APPROVING A HOME LOAN IN THE AMOUNT OF $785,307 TO THE HOUSING AUTHORITY OF STANISLAUS COUNTY, TO INCREASE THE NUMBER OF HOME UNITS IN THE VILLAGE ONE TOWN CENTER PROJECT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LOAN AGREEMENT AND RELATED DOCUMENTS.

WHEREAS, in fiscal year 2002-2003, the City of Modesto allocated $245,000 to the Housing Authority of Stanislaus County (Housing Authority) to fund project pre-development costs, and

WHEREAS, in response to the neighborhood meetings, the Housing Authority created a design committee with residents from Village One, and City and Housing Authority staff, and

WHEREAS, the City has pledged $933,600, 80% of that year's HOME funds, for the construction of this project, and

WHEREAS, on October 26, 2004, by Resolution No. 2004-564, the City Council approved an additional allocation of $1,030,791 from Fiscal Year 2004-2005 HOME funds to the Housing Authority of Stanislaus County for the development of the Village One multi-family housing project, and

WHEREAS, on February 5, 2007, Bill Fagan, Executive Director for the Housing Authority of Stanislaus County, submitted a letter to the City of Modesto, Parks, Recreation and Neighborhoods Department (PRND) requesting additional HOME funds for the Village One Town Center Project, and

WHEREAS, the letter confirmed that the Housing Authority’s Village One Town Center project is a twenty unit development consisting of ten 3-bedroom units and ten 2-bedroom units, and that the total development costs for the project are currently estimated at $7,246,819 or $362,341 per unit, and
WHEREAS, after reviewing the project Operating Income and Expense Projection, City staff requested that the Housing Authority increase the number of HOME units from 8 to nineteen, giving the City eleven additional affordable housing units, and

WHEREAS, if this funding is not allocated before July 31, 2007, HUD may elect to re-capture the funds, and

WHEREAS, the Housing Authority initially requested $842,802, but City staff is recommending allocating $785,307, as this is the maximum amount of subsidy allowed by HUD with the proposed affordability mix and to meet the commitment level required by HUD, and

WHEREAS, the Citizens Housing and Community Development Committee met on March 5, 2007, and March 27, 2007, and supported staff's recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a HOME loan in the amount of $785,307 to the Housing Authority of Stanislaus County, to increase the number of HOME units in the Village One Town Center project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement and related loan documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 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
A RESOLUTION AMENDING THE FY 06-07 OPERATING BUDGET TO APPROPRIATE $785,307 IN FY 05-06 HOME ENTITLEMENT FUNDS FROM 1170-800-8000-8003, HOME FUND RESERVE, TO 1170-320-3259-0497, DIRECT LOANS, TO FULLY FUND THE VILLAGE ONE TOWN CENTER PROJECT.

WHEREAS, in fiscal year 2002-2003, the City of Modesto allocated $245,000 to the Housing Authority of Stanislaus County (Housing Authority) to fund project pre-development costs, and

WHEREAS, in response to the neighborhood meetings, the Housing Authority created a design committee with residents from Village One, and City and Housing Authority staff, and

WHEREAS, the City has pledged $933,600, 80% of that year’s HOME funds, for the construction of this project, and

WHEREAS, on October 26, 2004, by Resolution No. 2004-564, the City Council approved an additional allocation of $1,030,791 from Fiscal Year 2004-2005 HOME funds to the Housing Authority of Stanislaus County for the development of the Village One multi-family housing project, and

WHEREAS, on February 5, 2007, Bill Fagan, Executive Director for the Housing Authority of Stanislaus County, submitted a letter to the City of Modesto, Parks, Recreation and Neighborhoods Department (PRND) requesting additional HOME funds for the Village One Town Center Project, and

WHEREAS, the letter confirmed that the Housing Authority’s Village One Town Center project is a twenty unit development consisting of ten 3-bedroom units and ten 2-
bedroom units, and that the total development costs for the project are currently estimated at $7,246,819 or $362,341 per unit, and

WHEREAS, after reviewing the project Operating Income and Expense Projection, City staff requested that the Housing Authority increase the number of HOME units from 8 to nineteen, giving the City eleven additional affordable housing units, and

WHEREAS, if this funding is not allocated before July 31, 2007, HUD may elect to re-capture the funds, and

WHEREAS, the Housing Authority initially requested $842,802, but City staff is allocating $785,307, as this is the maximum amount of subsidy allowed by HUD with the proposed affordability mix and to meet the commitment level required by HUD, and

WHEREAS this funding is available in the HOME Fund Reserve, 1170-800-8000-8003, and

WHEREAS, the Citizens Housing and Community Development Committee met on March 5, 2007, and March 27, 2007, and supported staff’s recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 06-07 operating budget to appropriate $785,307 in FY 05-06 HOME Entitlement Funds from 1170-800-8000-8003, HOME Fund Reserve, to 1170-320-3259-0497, Direct Loans, to fully fund the Village One Town Center project.

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 22nd day of May, 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
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 CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classification of City Engineer. The job specification for this classification is being created to assist the Public Works Director in the planning, organizing, coordinating, and direction of the engineering programs; to coordinate the engineering aspects of public works land development activities; and to provide highly complex technical staff assistance to the City Manager and other department directors. The job specification for the classification of City Engineer, 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 May 22, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 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

(Seal)
CITY ENGINEER

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 assist the Public Works Director, in the planning, organizing, coordinating and direction of the engineering programs; to coordinate the engineering aspects of public works land development activities; and to provide highly complex technical staff assistance to the City Manager and other department directors.

SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the Public Works Director.

Exercises direct supervision over professional, technical and clerical staff.

Exercises responsible charge of assigned engineering, and related functions.

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

Essential Functions:

Performs the responsibilities of the City Engineer.

Approves and signs all tentative and final subdivision maps.

Plans, organizes, coordinates and directs through subordinate supervisors the work of the development services division.

Coordinates and assists subordinate supervisors in evaluating development proposals; responds and comments on impacts and mitigation of project impacts and communicates staff's comments to other agencies, departments, developers, Planning Commission, Boards, and/or City Council as necessary.

Develops and maintains City standard specifications.

Develops and directs the implementation of goals, objectives, policies, procedures and work standards for the division.

Develops and implements management systems, procedures, and standards for program evaluation.

Exhibit "A"
Essential Functions: (Continued)

Assists in the preparation of a variety of studies and reports relating to current and long-range City capital improvement needs and develops specific proposals to meet them; provides technical assistance to staff.

Plans and directs project management activities for a variety of capital improvement projects, including the preparation of plans, specifications and designs; estimates, schedules, inspections and project monitoring.

Manages the review and oversees the inspection of public works improvements constructed by private developers.

Confers with developers and others to resolve issues relating to public improvement requirements for subdivisions

Directs the preparation and administration of the division's budget.

Assists with the preparation of operating and capital improvement budgets and control of expenditures.

Directs the selection, supervision and work evaluation for division staff and provides for their training and professional development.

Participates in recommending the appointment of personnel; provides or coordinates staff training; works with employees to correct deficiencies; implements discipline procedures; establishes performance standards and evaluates the performance of subordinate personnel.

Assists in planning, directing, supervising, and coordinating departmental and divisional operations; assigns work activities, projects and programs; monitors work flow; reviews and evaluates work products, methods and procedures.

Coordinates the work of the division with that of other divisions.

Monitors developments related to public works engineering, evaluates their impact on City operations and implements policy and procedure improvements.

Ensures adherence to codes, applicable laws, regulations and guidelines relating to engineering activities.

Appears before City Council, Boards, Commissions, Committees, and numerous civic organizations representing the Department.

Coordinates Department activities with those of other departments and outside agencies and organizations; provides staff assistance to the Deputy Director of Public Works (Traffic & Development Services); prepares, reviews, and presents staff reports and other necessary correspondence.
Essential Functions: (Continued)

Coordinates, assists, and manages functions of other divisions within Public Works Department and assists the Director and Deputy Director

Assists in orderly management of land development and growth of the City and its infrastructure requirements.

Maintains regular contact with consulting engineers, consulting project managers, construction project engineers, City, County, State, and Federal agencies, professional and technical groups, and the general public regarding Public Works’ Department activities and services.

Prepares a variety of correspondence general special reports.

Ensures adherence to codes, regulations, and guidelines related to engineering and construction activities.

Marginal Functions:
Performs related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles and practices of civil engineering as applied to the field of municipal public works, including planning, development, design, and construction.

Theories, principles, techniques and equipment used in construction.

Federal and State regulations, rules, and requirements.

Legal guidelines for public works engineering activities.

Technical, legal, and financial problems involved in the conduct of a municipal public works program.

Principles and practices of civil engineering, including project management, design, contract administration, and construction management; reports and recommendations relating to proposed public works projects.

Procedures, materials, equipment, and methods used in all areas of public works activities.

Principles and practices of budget development, administration, and expenditure control.

Administrative principles and methods, including goal setting, program development and implementation, and employee supervision.

Exhibit “A”
Ability to

Manage, direct and continually improve the development services program.

Demonstrate leadership and provide customer service.

Select, motivate and evaluate staff and provide for their training and professional development.

Develop, interpret, and implement goals, objectives, policies, procedures, work standards and internal controls.

Exercise sound, independent judgment within general policy guidelines.

Plan, organize, direct, and coordinate a variety of functional specialties with overlapping work areas.

Analyze complex technical and administrative problems, evaluate alternatives, and implement creative but sound alternatives.

Prepare and present clear, concise, competent reports, correspondence, and other materials both orally and in writing.

Coordinate the activities of a number of sections within the Department.

Assist with the preparation of divisional operating and capital improvement budgets and control budget expenditures.

Manage performance of a variety of technical and engineering research and prepare reports of findings.

Effectively manage assigned areas of the departmental program.

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

Effectively utilize personal computers, standard office software and specialized engineering and project management software.

Willingness and ability to work extended hours as required.

Experience and Training Guidelines

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

Exhibit “A”
Experience

Five years of increasingly responsible professional civil engineering experience, including at least two years in a supervisory or administrative capacity in public works design, project management work, and development services..

Education

Equivalent to a Bachelor's Degree from an accredited college or university with major coursework in civil engineering or a related field.

License or Certificates

Possession of a valid California Professional Engineer Certificate and/or a Certificate of Registration as a Civil Engineer issued by the California State Board of Registration for Professional Engineers is required. If licensed in another state, candidates will have six (6) months to obtain California Registration.

Possession of, or ability to obtain, an appropriate, valid California Drivers License.

WORKING CONDITIONS

Environmental Conditions:

Work is performed mostly in an office setting. Some outdoor work is required in the inspection of various land use developments, construction sites, or public works facilities.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for standing, walking or sitting for prolonged periods of time; traveling to and from sites and attending meetings. Must be physically capable of moving about on construction work sites and under adverse field conditions.
A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2005-602 TO REVISE THE CLASS RANGE TABLE FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO ESTABLISH A SALARY RANGE FOR CITY ENGINEER AT SALARY RANGE 2452.

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2005-602, which approved the Class Range Table for Unrepresented Management and Confidential Non-Sworn Classes,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2005-602. Exhibit "A" entitled, "City of Modesto Class Range Table Unrepresented Management and Confidential Non-Sworn Classes Effective December 6, 2005," attached to Resolution No. 2005-602, is hereby amended as shown on the amended Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective December 6, 2005," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" establishes the salary range for City Engineer at range 2452.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after May 22, 2007.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on 22nd day of May, 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

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
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Exhibit “A”
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Exhibit “A”
FINANCE CHECKLIST

To: Finance Department

From: Barbara Santos
Name
75466
Extension
Personnel
Department

Subject: Adoption of a resolution revising the Position Classification Plan for the City of Modesto to create the classification of City Engineer. Adoption of a resolution to revise the Class Range Table for Unrepresented Management and Confidential Non-Sworn Classes to establish the salary range for City Engineer at range 2452.

Attachments:

☐ Draft Bluesheet: Are the account numbers and dollar amounts listed?

☒ Draft Staff Report: Are the account numbers and dollar amounts listed in the Fiscal Impact section?

☐ Draft "Request for Budget Adjustment" Form. Is the budget adjustment form completed for any transfer(s) required for this staff report?

☐ Draft Fiscal Resolution. Are the account numbers and dollar amounts listed in the resolution for any requests that amend the budget or approve an appropriation transfer (i.e., increase revenue and/or appropriation).

Approved by:

[Signatures]
Terry Hidrozo
Budget Analyst

Date 5-7-07

[Signature]
Accounting Manager

Date

[Signature]
Finance Director

Date 5/8/07

When approved, contact Anna Gallego
Name
Ext
75408
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-303

A RESOLUTION AUTHORIZING THE CITY OF MODESTO'S PARTICIPATION IN THE 2010 WESTERN STATES POLICE AND FIRE GAMES AND COMMITMENT OF THE EQUIVALENT OF ONE FULL-TIME POLICE SERGEANT POSITION, OR TWO PART-TIME RETIRED POLICE SERGEANT POSITIONS, FOR ONE YEAR AS GAMES COORDINATOR(S) AND ANOTHER PART-TIME POSITION, YET TO BE IDENTIFIED, FOR ABOUT SIX MONTHS TO ASSIST WITH THE 2010 WESTERN STATES POLICE AND FIRE GAMES AT AN ESTIMATED JUNE 2008 COST OF $109,872-$201,231; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS.

WHEREAS, the 2010 Western States Police and Fire Games Committee is soliciting “Letters of Intent” from cities interested in hosting this event, and

WHEREAS, the Modesto Convention and Visitors Bureau (CVB) is submitting a “Letter of Intent” for the city of Modesto and surrounding communities, and

WHEREAS, the host committee must obtain full government commitment by obtaining resolutions or letters by June 2007, and

WHEREAS, the CVB is requesting the partnership and assistance of the Modesto Police, Fire and Parks Recreation and Neighborhoods Department in hosting this event, and

WHEREAS, the 2010 Western States Police and Fire Games will bring great recognition, positive media coverage and huge economic impact to Modesto and the county, and

WHEREAS, it will also allow the City an opportunity to recruit from the very best and most fit officers and firefighters from the surrounding states, and

WHEREAS, the City’s participation in this event will include a commitment of the equivalent of one full-time Police Sergeant, or two part-time retired Police Sergeant...
positions for one year as Games Coordinator(s) and another part-time position, yet to be identified, for about 6 months to work on the 2010 Western States Police and Fire Games, and

WHEREAS, the 2010 Western States Police and Fire Games will generate General Fund revenue through the Transient Occupancy Tax and sales tax as well as rental revenue from city-owned facilities such as the Modesto Centre Plaza and John Thurman Field, and

WHEREAS, profits from the event will be donated back to local non-profit organization, and

WHEREAS, at its meeting held on April 2, 2007, the Safety and Communities Committee recommended forwarding this item to full Council for consideration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the the City of Modesto’s participation in the 2010 Western States Police and Fire Games and commitment of the equivalent of one full-time Police Sergeant position, or two part-time retired Police Sergeant positions for one year as Games Coordinator(s) and another part-time position, yet to be identified, for about six months to assist with the 2010 Western States Police and Fire Games at an estimated June 2008 cost of $109,872-$201,231.

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 22nd day of May, 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

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney

5/22/07/Police/KRabb/item21
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-304

A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT TO DOCTORS JOCELYN E. ROLAND AND PHILIP S. TROMPETTER OF MODESTO, CA FOR PSYCHOLOGICAL SERVICES FOR THE POLICE DEPARTMENT FOR A FIVE (5) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL 2007/08 COST OF $60,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, March 6, 2007, Council approved Resolution No. 2007-158 authorizing the Request for Proposal for Psychological Services for the Police Department, and

WHEREAS, this independent contractor services agreement will provide counseling/therapy 24-hours a day, participation in Modesto Police SWAT activations and hostage negotiations, consultation on cases with the Investigative Services Division and Administration, and provides crisis debriefing, and

WHEREAS, the Modesto Police Officers Association Memorandum of Understanding requires these services be provided to full-time sworn police personnel, and

WHEREAS, the Modesto Police Department would like to continue to provide these services, and

WHEREAS funds will be included in the Police Department 2007/08 Operating Budget and available in the following account for psychological services:

01000190-1921-0235 $60,000 Psychological Services

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract to Doctors Jocelyn E. Roland...
and Philip S. Trompetter of Modesto, CA for the furnishing of Psychological Services for
the Police Department for a five (5) year agreement, with three (3) one-year extension
options at the sole discretion of the City, for a total estimated annual 2007/08 cost of
$60,000,

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 22nd day of May, 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
(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE
FORMAL REQUEST FOR PROPOSALS (RFP) FOR THE PURCHASE OF IN-
CAR CAMERAS (SOFTWARE AND HARDWARE) FOR THE MODESTO
POLICE DEPARTMENT, FOR A TOTAL ESTIMATED COST OF $199,500.

WHEREAS, many municipalities and other government agencies across the
United States have implemented in-car video surveillance programs, and

WHEREAS, based on the success of these deployments, the Modesto Police
Department has expressed a growing interest in the benefits of an in-car video program,

WHEREAS, videos of events could provide evidence of officer and offender
actions pre-and post-event, and

WHEREAS, the videos will allow operators from in the field and remote
locations such as the Watch Commanders Office, to monitor activities of contacts made
by officers in the field, and

WHEREAS, recording will occur when there is a need for directed services or
reasonable cause exists that a crime will or has occurred, and

WHEREAS, active recordings will be held for a minimum of one year, or longer,
and

WHEREAS, video images that are captured due to criminal behavior will be
subject to disclosure as outlined in the Government Code (Public Records Act), and

WHEREAS, a draft policy and guidelines document that specifies rules of
acceptable usage was developed and will continue to be evaluated and corrected yearly as
per CALEA Accreditation standards, and
WHEREAS, on November 9, 2005, a public hearing was held to consider the City of Modesto’s 2005/06 expenditures for allocation of $299,591 from the State of California Supplemental Law Enforcement Services Fund (SLESF), and

WHEREAS, Council Resolution No. 2005-564 approved the allocation of $99,500 for in-car videos, and

WHEREAS, on October 10, 2006, a public hearing was held for the 2006/07 SLESF expenditures for allocation of $405,053, and

WHEREAS, Council Resolution No. 2006-650 approved the allocation of $100,000 for the purchase of in-car cameras as part of the expenditures, and

WHEREAS, the Safety and Communities Committee at their May 7, 2007 meeting reviewed and approved staff’s recommendation for the purchase of in-car cameras,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue formal Request for Proposals (RFP) for the purchase of in-car cameras (software and hardware) for the Modesto Police Department, for a total estimated cost of $199,500.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to call for public competitive sealed proposals for the purchase of in-car cameras (software and hardware) to be opened in the Office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed proposals in the time, form, and manner provided by law.
BE IT FURTHER RESOLVED that after the sealed proposals are opened they will be tabulated and analyzed by the Purchasing Division and the Modesto Police Department 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 22nd day of May, 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

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE SHADE STRUCTURES FOR MODESTO PARKS PROJECT, ACCEPTING THE BID AND APPROVING A $143,813.00 CONTRACT WITH HARRIS BUILDERS, INC., FOR THE PROJECT TITLED “SHADE STRUCTURES FOR MODESTO PARKS (GEORGE ROGERS, STOCKARD COFFEE PARK AND ROBERTSON ROAD PARK),” AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the project titled “Shade Structures for Modesto Parks” and City staff recommends approval to the City Council, and

WHEREAS, the bids received for “Shade Structures for Modesto Parks” were opened at 11:00 a.m. on April 10, 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 $143,813.00 received from Harris Builders, Inc., be accepted as the lowest responsible bid and the contract be awarded to Harris Builders, 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 by Harris Builders, Inc., in the amount of $143,813.00, and hereby awards Harris Builders, Inc., the contract titled “Shade Structures for Modesto Parks.”

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 22nd day of May 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-307

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH ASSOCIATED ENGINEERING GROUP, INC. TO DESIGN THE CLARATINA AVENUE – MCHENRY AVENUE TO COFFEE ROAD 4-LANE WIDENING IN THE NOT-TO-EXCEED AMOUNT OF $65,508, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Claratina Avenue from McHenry to Coffee is currently a 2-Lane roadway with unimproved shoulders, and

WHEREAS, development in the surrounding area is requiring the City to move forward with the design and right-of-way acquisition for the ultimate expressway, and

WHEREAS, this project will prepare the design for a 4-lane interim facility, and complete maps and legal descriptions to acquire the ultimate right-of-way needed for a future expressway, and

WHEREAS, Capital Improvement Program budgets in future years will allow for right-of-way acquisition, then ultimate construction of the interim roadway, and

WHEREAS, the selection for engineering design services followed the City’s selection procedures for professional consultants as outlined in Administrative Directive 3.1, Capital Improvement Services (CIS) staff sent a Request for Qualifications for engineering design services to over 100 civil engineering firms that had previously indicated an interest in providing design services to the City, and

WHEREAS, eight consulting firms were asked to provide a proposal on various projects and were interviewed by City staff, and
WHEREAS, the local firm of Associated Engineering Group, Inc. was considered to be the most qualified for the Claratina Avenue - McHenry Avenue to Coffee Road 4-Lane widening design project, and

WHEREAS, Associated Engineering Group, Inc. prepared the plans and specifications for the 2336 Sylvan Avenue roadway widening, and the Village One Storm Drain Force Main projects, and City staff was pleased with their performance on those projects. In addition, Associated Engineering Group, Inc. completed subdivision improvement plans on the south side of Claratina and are very familiar with the area, and

WHEREAS, this project is very similar to the previous projects and Associated Engineering Group, Inc. has an aggressive schedule to complete the plans and specifications for right-of-way acquisition and construction, and

WHEREAS, Capital Improvement Services staff recommends that an Agreement with the consulting firm of Associated Engineering Group, Inc., be approved to perform the design services as current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, City desires to enter into an Agreement with Associated Engineering Group, Inc., in an amount not-to-exceed $65,508 to perform design services of the Claratina Avenue - McHenry Avenue to Coffee Road 4-Lane widening project, and

WHEREAS, Associated Engineering Group, 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 the Agreement with Associated Engineering Group, Inc., in an
amount not-to-exceed $65,508 for design services of the Claratina Avenue - McHenry Avenue to Coffee Road 4-Lane widening 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 22nd day of May, 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: [Signature]

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-308

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH ASSOCIATED ENGINEERING GROUP, INC. TO DESIGN THE MERLE AVENUE ROAD IMPROVEMENT PROJECT AT THE CENTRAL STORM DRAINAGE BASIN IN THE NOT-TO-EXCEED AMOUNT OF $26,747, AND AUTHORIZING THE COMMUNITY FACILITIES DISTRICT ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Merle Avenue remains unimproved on the south side in front of the Village One Central Storm Drainage Basin, and

WHEREAS, this project will install curb, gutter, sidewalk, landscaping and irrigation, and

WHEREAS, in addition, a section of 30” storm drain pipeline will be installed from the Merle/Dermond intersection to the Central Storm Drainage Basin to facilitate the flow of storm water, and

WHEREAS, the selection for engineering design services followed the City’s selection procedures for professional consultants as outlined in Administrative Directive 3.1, Capital Improvement Services (CIS) staff sent a Request for Qualifications for engineering design services to over 100 civil engineering firms that had previously indicated an interest in providing design services to the City, and

WHEREAS, eight consulting firms were asked to provide a proposal on various projects and were interviewed by City staff, and

WHEREAS, the local firm of Associated Engineering Group, Inc. was considered to be the most qualified for the Merle Avenue Road Improvement project at the Central Storm Drainage Basin design project, and
WHEREAS, Associated Engineering Group, Inc. prepared the plans and specifications for the 2336 Sylvan Avenue roadway widening, and the Village One Storm Drain Force Main projects, and City staff was pleased with their performance on those projects, and

WHEREAS, this project is very similar to the previous projects and Associated Engineering Group, Inc. has an aggressive schedule to complete the plans and construction, and

WHEREAS, Capital Improvement Services staff recommends that an Agreement with the consulting firm of Associated Engineering Group, Inc., be approved to perform the design services as current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, City desires to enter into an Agreement with Associated Engineering Group, Inc., in an amount not-to-exceed $26,747 to perform design services of the Merle Avenue Road Improvement project at the Central Storm Drainage Basin, and

WHEREAS, Associated Engineering Group, 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 the Agreement with Associated Engineering Group, Inc., in an amount not-to-exceed $26,747 for design services of the Merle Avenue Road Improvement project at the Central Storm Drainage Basin.

BE IT FURTHER RESOLVED that the Community Facilities District Administrator, 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 22nd day of May, 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:

ATTEST: 

JEAN MORRIS, City Clerk

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-309


WHEREAS, City staff has reviewed the plans and specifications for the project titled, “Merle Avenue and Maid Mariane Lane Roundabout Improvements,” and recommends approval to the City Council, and

WHEREAS, staff applied for, and received, Congestion Mitigation Air Quality (CMAQ) funds for the construction of this roundabout, and

WHEREAS, the bids received for this project were opened on April 3, 2007, and

WHEREAS, staff recommends the bid of $162,306.50 received from Cunningham & Sons, Inc., be accepted as the lowest responsible bid and the contract be awarded to Cunningham & Sons, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the project titled, “Merle Avenue and Maid Mariane Lane Roundabout Improvements,” accepts the bid of Cunningham & Sons, Inc., in the amount of $162,306.50, and hereby awards Cunningham & Sons, Inc., the contract titled, “Merle Avenue and Maid Mariane Lane Roundabout 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 22nd day of May, 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

(SEAL)

APPROVED AS TO FORM:

By: ________________________________
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-310

A RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1 – 6, AND SETTING A PUBLIC HEARING ON THE PROPOSED ASSESSMENTS TO BE HELD ON JULY 10, 2007.

WHEREAS, Resolution No. 88-935, adopted by the Council of the City of Modesto on December 13, 1988, initiated proceedings for the formation of Landscape Assessment District No. 1 for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6, and

WHEREAS, said assessment district was formed in accordance with the “Landscape and Lighting Act of 1972”, (Street and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22623 of the Streets and Highways Code requires the City Engineer, the person designated by this Council as Engineer of Work for Assessment District No. 1, to prepare and file an annual report, and

WHEREAS, the City Engineer, said Engineer of Work, has prepared and filed said annual report with the City Clerk, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, Section 22623 of the Street and Highways Code requires the legislative body (the City Council) to adopt a resolution of intention which shall include the following:
a. Declaration of intention of the legislative body (the City Council) to levy and collect assessments within the assessment district for the fiscal year stated in the annual report.

b. General description of the existing improvements and proposed improvements and any substantial changes proposed to be made in the existing improvements.

c. Reference to the assessment district by its distinctive designation and indication of the general location of the district.

d. Reference to said annual report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.

e. Notice of the time, as fixed by the Streets and Highways Code Section 22625, and the place for hearing by the legislative body (the City Council) on the levy of the proposed assessment.

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

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 1 during the fiscal year 2007-08.

2. There are no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 1-6 and that
the existing improvements to be made in said assessment district are generally described as follows:

The City shall provide maintenance, in perpetuity, of landscaping and any and all improvements required for such maintenance including, but not limited to landscape irrigation systems in the following locations:

a. Street medians in Creekwood Drive
b. Areas adjacent to the access control walls along Creekwood Drive
c. Areas adjacent to the access control walls along Claus Road

3. Landscape Maintenance Assessment District No. 1 is located in the County of Stanislaus, within the City Limits of the City of Modesto and is more specifically located on the west side of Claus Road, between Modesto Irrigation District Lateral No. 2 and State Route 132 (Yosemite Boulevard).

4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance Assessment District No. 1.

5. On Tuesday, the 10th day of July, 2007, at the hour of 5:30 p.m., the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at the meeting place of the City Council.
located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.

6. The City Clerk is authorized and directed to give the notice of hearing required by the “Landscape and Lighting Act of 1972”.

7. The levy and collection of assessments as set forth in this resolution are exempt from the procedural and substantive requirements of Proposition 218 pursuant to Article XIII, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 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

(SEAL)

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
A RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION AND YOSEMITE MEADOWS SUBDIVISION UNITS 1 & 2; AND SETTING A PUBLIC HEARING ON THE PROPOSED ASSESSMENTS TO BE HELD ON JULY 10, 2007.

WHEREAS, Resolution No. 89-460 adopted by the Council of the City of Modesto on April 4, 1989, initiated proceedings for the formation of Landscape Assessment District No. 2 for the purpose of administering the maintenance of landscaping in the public right of way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision and Yosemite Meadows Subdivision Units Nos. 1 & 2, and

WHEREAS, said assessment district was formed in accordance with the “Landscaping and Lighting Act of 1972”, (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22623 of the Streets and Highways Code requires the City Engineer, the person designated by this Council as Engineer of Work for Assessment District No. 2, to prepare and file an annual report, and

WHEREAS, the City Engineer, said Engineer of Work, has prepared and filed said annual report with the City Clerk, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, Section 22623 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution of intention which shall include the following:
a. Declaration of intention of the legislative body (the City Council) to levy and collect assessments within the assessment district for the fiscal year stated in said annual report.

b. General description of the existing improvements and proposed improvements and any substantial changes proposed to be made in the existing improvements.

c. Reference to the assessment district by its distinctive designation and indication of the general location of the district.

d. Reference to said annual report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.

e. Notice of the time, as fixed by Streets and Highways Code Section 22625, and the place for hearing by the legislative body (the City Council) on the levy of the proposed assessment.

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

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 2 during the fiscal year 2007-08.

2. There are no proposed new improvements or any substantial changes in the existing improvements within the existing Landscape Maintenance
Assessment District No. 2, and the existing improvements to be made in said assessment
district are generally described as follows:

The City shall provide maintenance, in perpetuity, of landscaping and any
and all improvements required for such maintenance including, but not
limited to landscape irrigation systems in the following locations:

a. Street medians in Creekwood Drive
b. Areas adjacent to the access control walls along Creekwood Drive
c. Areas adjacent to the access control walls along Claus Road

3. Landscape Maintenance Assessment District No. 2 is located in the
County of Stanislaus, within the City limits of the City of Modesto and is more
specifically located on the west side of Claus Road, between Modesto Irrigation District
Lateral No. 2 and State Route 132 (Yosemite Boulevard).

4. Said annual report filed with the City Clerk and approved by the
Council by motion does provide a full and detailed description of the improvements, the
boundaries of the assessment district and any zones therein, and the proposed
assessments upon assessable lots and parcels of land within Landscape Maintenance
Assessment District No. 2.

5. On Tuesday, the 10th day of July, 2007, at the hour of 5:30 p.m.,
the City Council will conduct a public hearing on the question of the levy of the proposed
annual assessment. The hearing will be held at the meeting place of the City Council
located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.

6. The City Clerk is authorized and directed to give the notice of hearing required by the “Landscaping and Lighting Act of 1972”.

7. The levy and collection of assessments as set forth in this resolution shall follow the procedural and substantive requirements of Proposition 218 pursuant to Article 13D, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 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

(SEAL)

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AUTHORIZING THE MODESTO IRRIGATION DISTRICT TO EXECUTE A CONSTRUCTION CONTRACT WITH WESTERN SUMMIT CONSTRUCTORS, INC., IN AN AMOUNT NOT TO EXCEED $57,333,903, TO CONSTRUCT THE MODESTO REGIONAL WATER TREATMENT PLANT PHASE TWO EXPANSION PROJECT, AND AUTHORIZE A CHANGE ORDER AUTHORITY TO THE MODESTO IRRIGATION DISTRICT GENERAL MANAGER FOR UP TO FIVE PERCENT OF THE CONSTRUCTION CONTRACT AMOUNT, PROVIDED THAT SUCH CHANGE ORDERS HAVE BEEN APPROVED THROUGH THE PROCESS DESCRIBED IN THE AMENDED AND RESTATED TREATMENT AND DELIVERY AGREEMENT

WHEREAS, on October 11, 2005, by Resolution No. 2005-516, the Council of the City of Modesto approved the Amended and Restated Treatment and Delivery Agreement (ARTDA) with the Modesto Irrigation District (MID) that contemplates the design, construction, and operation of the Modesto Regional Water Treatment Plant (MRWTP) Phase Two Expansion project, and

WHEREAS, the City of Modesto (City) and Modesto Irrigation District (MID) have been working together for several years planning for the MRWTP Phase Two Expansion project from its existing capacity of 36 million gallons per day (mgd) to 72 mgd, and

WHEREAS, it has been well documented that the MRWTP Phase Two Expansion project is needed to provide existing users with a reliable water source and to keep pace with the City’s projected growth, and

WHEREAS, as required by the ARTDA between the City and MID, the City Council, on February 13, 2007, by Resolution No. 2007-125, approved the plans, specifications, and cost estimate for the MRWTP Phase Two Expansion and authorized the MID to solicit bids for its construction, and

WHEREAS, on April 26, 2007, construction bids were received from three pre-qualified general contractors, and
WHEREAS, a review of the bid forms submitted by the two lowest bidders indicates that both forms contain minor irregularities that would require information from the escrow documents submitted as part of the bid process, and

WHEREAS, after a review of those documents, the design engineer, Black & Veatch (B&V) is recommending that the construction contract be awarded to Western Summit Constructors, Inc. (WSCl), and

WHEREAS, Kiewit Pacific Co. has filed a bid protest that alleges that WSCI’s bid is flawed and therefore it must be rejected, and

WHEREAS, upon a legal analysis by McCormick-Barstow LLP, Attorneys at Law representing MID, and the recommendations of B&V, MID staff will be recommending to the MID Board that the bid protest of Kiewit Pacific Co. be rejected and that the construction contract be awarded to WSCI, and

WHEREAS, MID staff recommends that the MID General Manager be authorized to execute future change orders in connection with the project in an amount not-to-exceed five percent of the contract price, provided that such change orders have been approved through the process described in the ARTDA, which requires Technical Committee approval for amounts between $5,000-$100,000, and Policy Committee approval for amounts greater than $100,000, and

WHEREAS, the purpose for providing change order authority to the MID General Manager is to help streamline a multi-layered and time consuming approval process, as outlined in the ARTDA, so that decisions may be made in a timely manner, thereby reducing the potential for delay claims from the contractor, and

WHEREAS, On May 8, 2007, by Resolution No. 2007-275, the City Council approved the issuance of bonds by MID for up to $97 million to finance the expected costs of the project, and
WHEREAS, bonds would be issued by MID to front the costs of constructing the facilities, and as with many other aspects of this project, MID will be reimbursed per the ARTDA from the City for such costs once the project's financing structure is in place,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Modesto Irrigation District to execute a construction contract with Western Summit Constructors, Inc., in an amount not to exceed $57,333,903, to construct the Modesto Regional Water Treatment Plant Phase Two Expansion project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes a change order authority to the Modesto Irrigation District General Manager for up to five percent of the construction contract amount, provided that such change orders have been approved through the process described in the Amended and Restated Treatment and Delivery Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 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, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: \underline{Jean Morris}, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: \underline{SUSANA ALCALA WOOD}, City Attorney
A RESOLUTION INITIATING A PROPOSITION 218 PROTEST PROCESS TO ADJUST SEWER RATES, AS RECOMMENDED IN THE “SEWER RATES REPORT” PREPARED BY BROWN AND CALDWELL, TO CONSTRUCT NECESSARY SEWER SYSTEM IMPROVEMENTS, AS IDENTIFIED BY CAROLLO ENGINEERING IN THE “ENGINEER’S REPORT”

WHEREAS, in May 2006, Council directed staff to undertake the necessary steps to initiate implementation of sewer rate increases for the sewer utility, and

WHEREAS, Council took this action based upon a review of sewer system needs and financial obligations, and

WHEREAS, on August 9, 2005 Council adopted Resolution 2005-412 establishing a uniform sewer rate structure, and

WHEREAS, following Council’s action, the City established a Sewer Rate Task Force, which included members from various City departments, to oversee an engineering needs assessment and cost of service rate study for the sewer utility, and

WHEREAS, Council approved a contract with Brown and Caldwell to prepare the cost of service rate study analysis for the sewer utility, and

WHEREAS Carollo Engineering also completed the Wastewater Master Plans and engineering report of the sewer utility, and

WHEREAS, Carollo’s reports, identifies sewer system needs totaling $420.6 Million in June 2006 dollars over the course of the next fifteen (15) fiscal years, and

WHEREAS, the Carollo report allocates fifty eight percent (58%) of these needs to existing customers and the remaining forty-two percent (42%) to future system customers, and
WHEREAS, the Sewer Rates Report Dated April 10, 2007 prepared by Brown and Caldwell concludes rate increases are needed in order to fund the necessary system improvements, as well as to continue to offer high quality service to sewer utility customers, and

WHEREAS, Brown and Caldwell’s proposed rate adjustments would increase rates by varying amounts for the initial adjustment, effective August 1, 2007, and averaging thirty percent (30%) for most single family residential flat-rate customers, and

WHEREAS, Brown and Caldwell also proposes subsequent approximate across-the-board rate increases for single family residential customers effective July 1, 2008, in the amount of forty-five percent (45%), effective July 1, 2009, in the amount of fifteen percent (15%), effective July 1, 2010, in the amount of ten percent (10%), and effective July 1, 2011, in the amount of five percent (5%), and,

WHEREAS, Brown and Caldwell’s proposed rate adjustments also increases rates with varying rate adjustments to multi-family, apartments, commercial and industrial customers using a uniform rate policy beginning August 1, 2007 and continuing each subsequent year on July 1 through June 30, 2012, and,

WHEREAS, Brown and Caldwell proposes all schools and churches to be billed at the Commercial Group 1 rates, consistent with Proposition 218 requirements, and,

WHEREAS, the Brown and Caldwell further recommends adopting annual inflationary rate adjustments beginning July 1, 2012, which would be linked to changes in the Consumer Price Index, Urban Wage Earners and Clerical Workers Series for the San Francisco CMSA, as prepared by the California Department of Finance, and
WHEREAS, the actual rates levied each year would not exceed the adjusted maximum rates in any given fiscal year without further notification of the property owners, and

WHEREAS, in order to enact the proposed rate increases needed to fund system improvements identified by Carollo Engineering the City must conduct a Proposition 218 protest process affording property owners the opportunity to protest the proposed rates (April 10, 2007 Brown and Caldwell Report), and

WHEREAS, the protest process provides for notices to be mailed to each property owner explaining the new rate structure and proposed rate adjustments (Draft Notice of Proposed Sewer Rate Increase and Public Hearing (Attachment A), and

WHEREAS, the protest process also requires a public hearing be set for a date not less than forty-five (45) days from the date when protest notices are mailed to property owners, and

WHEREAS, the Finance Committee received the findings and recommendations from Brown and Caldwell and Staff during its meeting on April 11, 2007 and forwarded said findings, recommendations and reports to the full Council for review,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto, that a Proposition 218 Protest process be initiated to adjust rates according to the Brown and Caldwell sewer rates report's proposed increases with varying rate adjustments for Fiscal Year 2007-2008 (dependent upon customer class and current rate) through 2011-2012 to support the funding of the sewer operations and Master Plan capital projects.

BE IT FURTHER RESOLVED that the protest process include automatic rate
adjustments, subject to annual review, beginning July 1, 2012, which would provide for annual rate adjustments linked to changes in the Consumer Price Index, Urban Wage Earners and Clerical Workers Series for the San Francisco CMSA, as prepared by the California Department of Finance.

BE IT FURTHER RESOLVED that actual rates levied each year will not exceed the adjusted maximum rates in any given fiscal year without further notification of the property owners.

BE IT FURTHER RESOLVED that protest notices be mailed to property owners explaining the new rate structure and proposed rate adjustments and allowing for a protest response.

BE IT FURTHER RESOLVED that a public hearing be set for July 24, 2007 to consider the results of the protest response and to act on the proposed rate adjustments.

BE IT FURTHER RESOLVED that Council will review water rates every three years to determine if further adjustments are warranted.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 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
THE CITY OF MODESTO GIVES NOTICE that:

1. The City is proposing to increase sewer rates. The purpose of the proposed increase is to fund operation, maintenance and replacement costs related to providing sewer service to properties within the Modesto Sewer Service Area. The improvements are necessary to maintain, operate, rehabilitate, upgrade and replace existing sewer distribution and treatment facilities as well as all related administrative and incidental costs, including the costs of the hearing shown below and the costs of financing the sewer improvements.

2. The proposed schedule of maximum rates for August 1, 2007 through June 30, 2012 is shown in the table below. If the rate increases are approved, it is proposed that they will commence to be collected beginning with the August 1, 2007 utility bills and will continue to be collected until otherwise modified by the City. The sewer rates will not exceed the maximum amounts shown without another written notice to the property owners. All increases will occur as of July 1 of each subsequent year.

3. Before taking final action on the proposed rate increase, the City Council will hold a PUBLIC HEARING on Tuesday, July 24, 2007, at 5:30 p.m. in the City Council Chambers, 1010 Tenth Street, Basement Level, Modesto. The Public Hearing being held to allow the public to provide testimony on the proposed sewer rate increase. The Council may continue the hearing from time to time without further written notice.

4. Any property owner may file with the City Clerk, at any time before the end of the Public Hearing, a written protest against the proposed rate increase. The written protest must identify the property, the property owner, and be signed by the owner of the property or an authorized representative of the owner of the property.

A protest form has been provided below for your use. The written protests may be hand delivered or mailed to the City Clerk at the City's address shown above. To be counted, the City Clerk must receive a written protest not later than the end of the Public Hearing specified above. Protests by telephone, fax, or e-mail will not be accepted. A majority protest exists if, upon the end of the Public Hearing, there are valid written protests submitted by owners of a majority of the properties subject to the proposed rate increase. A majority protest will result in the proposed rate increase not being imposed. Note that no more than one protest per property may be submitted.

5. To get additional information about the proposed rate increase, contact: Customer Service at (209) 577-5395 or e-mail: sewerrates@modestogov.com

Additional written material relating to protest procedures are available at the above City Clerk address during regular business hours.

### Proposed Maximum Monthly Sewer Rates

<table>
<thead>
<tr>
<th>Residences</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>$2.57</td>
<td>$3.71</td>
<td>$4.26</td>
<td>$4.52</td>
<td>$4.74</td>
</tr>
<tr>
<td>Single Dwelling Unit</td>
<td>$16.97</td>
<td>$23.17</td>
<td>$36.65</td>
<td>$39.48</td>
<td>$50.98</td>
</tr>
<tr>
<td>Multi-Family</td>
<td>$21.71</td>
<td>$29.80</td>
<td>$32.65</td>
<td>$35.31</td>
<td>$36.60</td>
</tr>
<tr>
<td>Apartments (6 or more Dwelling Units)</td>
<td>$10.41</td>
<td>$15.10</td>
<td>$17.31</td>
<td>$19.21</td>
<td>$20.73</td>
</tr>
</tbody>
</table>

### Commercial Rates

<table>
<thead>
<tr>
<th>Residences</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly Account Charge ($/Account)</td>
<td>$2.57</td>
<td>$3.71</td>
<td>$4.26</td>
<td>$4.52</td>
<td>$4.74</td>
</tr>
<tr>
<td>Plus Quantity Charge ($/100 Cubic Feet)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The proposed rate increase(s) are based on currently available information. Your actual bills are rounded and may be slightly different than listed above. State law requires that all property owners affected by the rate increase(s) be given the opportunity to protest the proposed rate increase(s).

Beginning on July 1, 2012, maximum rates will be adjusted each year thereafter by the annual change in the Consumer Price Index (CPI), Urban Wage Earners and Clerical Workers Series for the San Francisco CMSA, as prepared by the California Department of Finance, Demographics Research Unit. The actual rates to be levied each year will not exceed the adjusted maximum rates in any given fiscal year without notification of the property owners.

### Protest Form

If you would like to protest the proposed Sewer Rate Increase, you may complete this Protest Form, detach it, and mail it to the Modesto City Clerk, P.O. Box 42, Modesto, CA 95353 or hand deliver the form to the City Clerk's office, 1010 Tenth Street, Sixth Floor, Modesto, CA 95354. In order for this form to be counted as a valid protest against the proposed rate increase, this form must be signed and delivered to the City Clerk no later than the end of the Public Hearing on July 24, 2007. Only one protest is allowed per property.

**Assessor's Parcel Number:** <<APN>>
**Parcels Address:** <<Site Address>>

I protest the proposed sewer rate increase to fund operation, maintenance and replacement costs related to providing sewer service to properties within the Modesto Sewer Service Area.

I hereby declare under penalty of perjury that I am the owner of the above listed property or the authorized representative of the owner of the above listed property.

Please sign here and then print your name:

Please print the property owner name here:
A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF DONALD LENGLING FROM THE GOLF COURSES ADVISORY COMMITTEE

WHEREAS, DONALD LENGLING, representing Modesto Golf Club, was appointed a member of the Golf Courses Advisory Committee, on February 28, 2006, and

WHEREAS, DONALD LENGLING has tendered his resignation from the aforementioned committee,

NOW, THEREFORE, BE IT RESOLVED that the resignation of DONALD LENGLING from the Golf Courses Advisory Committee hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to DONALD LENGLING 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 5th 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, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF PRERAK SHAH FROM THE EQUAL OPPORTUNITY/DISABILITY COMMISSION

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

WHEREAS, PRERAK SHAH has tendered his resignation from the aforementioned committees,

NOW, THEREFORE, BE IT RESOLVED that the resignation of PRERAK SHAH from the Equal Opportunity/Disability Commission hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to PRERAK SHAH 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 5th 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, City Clerk

APPROVED AS TO FORM:

SUSANA ÁLCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-316

A RESOLUTION REQUIRING THAT CANDIDATES FOR THE NOVEMBER 6, 2007 REGULAR MUNICIPAL ELECTION PAY A $500 DEPOSIT AS A CONDITION OF HAVING HIS OR HER CANDIDATE STATEMENT INCLUDED IN THE VOTER PAMPHLET AND REQUIRING THE CITY CLERK TO BILL SUCH CANDIDATES FOR THEIR PRO RATA SHARE OF THE ACTUAL COST OF THE PRINTING OF SUCH STATEMENTS AFTER THE ELECTION

WHEREAS, pursuant to Section 85300 of the Political Reform Act, added by Proposition 73 of the June 1988 Statewide Primary Election, Public Funds; Prohibition, “No public officer shall expend and no candidate shall accept any public monies for the purpose of seeking elective office”.

WHEREAS, State Elections Code Section 13307(e) provides that before the opening of the nomination period, the Council must determine whether the candidates shall pay for their statements and it was determined that candidates will be charged a $500.00 deposit at the time of filing their nomination form, and

WHEREAS, the City Clerk was directed, pursuant to Election Code 13307(c) to bill the candidate for any additional actual expense or refund any excess paid depending on the final actual cost.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby declares that candidates for election in the Regular Municipal Election to be held on November 6, 2007 shall be required to pay a $500 deposit as a condition of having his or her candidate statement included in the voter pamphlet.
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

APPROVED AS TO FORM:

ATTEST:  
JEAN MORRIS, City Clerk

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-317

A RESOLUTION DIRECTING THE CITY CLERK TO CONDUCT
THE DECEMBER 11, 2007 RUN-OFF ELECTION, IF NEEDED, BY MAIL

WHEREAS, in the event that no candidate is elected by a majority in the November 6, 2007 election, the two candidates receiving the most votes will run against one another in a December run-off election; and

WHEREAS, the City Council has chosen the City Clerk to conduct the City’s run-off election in December 2007, and

WHEREAS, according to the Elections Code, the County Elections official has 28 days to certify the November Municipal Election, which falls on December 4, 2007, making it impossible to have sufficient time to hire precinct workers and establish polling locations; and

WHEREAS, the City entered into a contract with Martin & Chapman for election services, for a cost of $110,353.00, for election services to assist with the City Clerk in conducting the December run-off using an all-mail ballot process; and

WHEREAS, the City Council must indicate its intention to conduct the December 11, 2007 run-off election, if needed, by mail.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby declares that if a run-off election is required as a result of the Regular Municipal Election to be held on November 6, 2007, said run-off election shall be held by mail and scheduled on December 11, 2007.
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

APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-318

A RESOLUTION APPROVING A CONTRACT WITH MARTIN & CHAPMAN OF ANAHEIM, CALIFORNIA FOR PROFESSIONAL SERVICES TO CONDUCT THE DECEMBER 11, 2007 CITY COUNCIL RUN-OFF ELECTION USING AN ALL MAIL BALLOT IN THE AMOUNT OF $110,335.30 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, Martin & Chapman has agreed to provide the services outlined in Exhibit “A” attached hereto and incorporated herein by reference in the amount of $110,353.00; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves award of contract to Martin & Chapman for professional services to conduct the December 11, 2007 run-off election using an all mail ballot.

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 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

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
CITY OF MODESTO
AGREEMENT FOR ELECTION SERVICES

THIS AGREEMENT, made and entered into in the City of Modesto, State of California, this 5th day of June, 2007, by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter referred to as "City", and MARTIN CHAPMAN COMPANY, a California corporation, hereinafter referred to as "Consultant".

This Agreement is made with regard to the following recitals:

A. City has determined that, in the event a run-off election is necessary, election services will be needed to assist the City Clerk in conducting the December 11, 2007 Run-Off Election.

B. Consultant represents that it is qualified, willing and able to provide the services to prepare said document(s).

NOW, THEREFORE, in consideration of this Agreement, and the mutual promises, covenants, and stipulations hereinafter contained, the parties agree as follows:

1. SCOPE OF SERVICES.

Consultant shall undertake and complete the preparation of the scope of work as set forth below. The Consultant shall perform the services as described below in a manner compatible with the standards of its profession, and shall produce a fully complete project that is acceptable to City.

Consultant will provide election services as follows:

- Printing and finishing of ballots, sample ballots and envelopes
- Mailing of ballots, sample ballots and envelopes
- Equipment necessary to process and certify election
- Attend and assist with election process on election night
- Receive and respond to questions by telephone or e-mail prior to election date

2. TERM OF AGREEMENT.

This Agreement is effective as of the date first written above and will continue in effect until City's acceptance of and payment for all services authorized by City and Consultant.
performed by Consultant, unless terminated earlier in accordance with the provisions of the termination clause in this Agreement.

City hereby gives Consultant notice to proceed with the preparation of the project in the manner described herein, as of the effective date of this Agreement. Consultant shall diligently proceed with the preparation of the project and agrees to complete said preparation within the time period set forth herein.

3. COMPENSATION.

Consultant agrees to accept a sum not to exceed $110,353.00 as full remuneration for performing all services and furnishing all staffing and materials called for in Section 1 and for performance by Consultant of all of its duties and obligations under this Agreement.

The Compensation shall be paid pursuant in the manner and at the times set forth below:

At the completion of Election Services for the Run-off Mail Ballot Election on December 11, 2007.

4. FAILURE TO PERFORM SATISFACTORILY

It is agreed and understood that if the Consultant fails to perform the work as specified herein, City's representative may (1) consent to accept such unsatisfactory service with an appropriate adjustment in contract price, based on established cost factors, or (2) have such required work done by City forces or otherwise, and charge the cost thereof to the Consultant. Those discrepancies and deficiencies in the work that remain uncorrected after the date set for correction may be the necessary justification for a billing adjustment in the month following the occurrence. Unless otherwise negotiated, billing adjustments for this incomplete or uncorrected work shall be permanent retention of 100% of the estimated monthly cost for the work not corrected or completed.

5. OBLIGATIONS OF CONSULTANT.

Throughout the term of this Agreement, Consultant shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. Consultant warrants that it has all of the necessary professional capabilities and experience, as well as all tools, instrumentalities, facilities and other resources necessary to provide the City with the services contemplated by this Agreement. Consultant further warrants that it will follow
the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project. The business license requirement has been waived by the City Clerk’s Office.

6. PERFORMANCE BY KEY EMPLOYEE.

Consultant has represented to City that __________________________, will be the person primarily responsible for the performance of the services referred to in this Agreement. City has entered into this Agreement in reliance on that representation by Consultant. Consultant therefore agrees that seventy-five percent (75%) or more of the time to be devoted to the project that is the subject of this Agreement will be that of the above-named person.

7. OWNERSHIP OF DOCUMENTS/TITLE TO DATA.

Ownership of Documents

All reports, drawings, designs, graphics, working papers and other incidental work or materials furnished hereunder shall become and remain the property of the City, and may be used by City as it may require without any additional cost to City. No reports shall be used by the Consultant for purposes other than this contract without the express prior written consent of City.

Title to Data

If, as a part of the Agreement, Consultant is required to produce data such as, but not limited to, drawings, plans, Request for Proposal, calculations, models, flow diagrams, visual aids and other related materials, the originals of all such data generated under this Agreement will be delivered to City upon the completion or termination of services under the contract.

All materials, documents, data or information obtained from City of Modesto data files or any City of Modesto medium furnished to Consultant in the performance of this Agreement will at all times remain the property of the City of Modesto. Such data or information may not be used or copied for direct or indirect use by Consultant after termination of this Agreement without written consent of the City.

8. NEWS AND INFORMATION RELEASE.
Consultant agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from City through the City Clerk.

9. INTEREST OF CONSULTANT.
Consultant warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Consultant warrants that, in performance of this Agreement, Consultant shall not employ any person having any such interest. Consultant agrees to file a Statement of Economic Interests with the City Clerk of the City at the start and end of this contract if so required at the option of City.

10. AMENDMENTS.
Both parties to this Agreement understand that it may become desirable or necessary during the execution of this Agreement, for City or Consultant to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with City and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work.

Until a change order is so executed, City will not be responsible to pay any charges Consultant may incur in performing such additional services, and Consultant shall not be required to perform any such additional services.

11. INDEPENDENT CONSULTANT.
All acts of Consultant, its agents, officers, and employees and all others acting on behalf of Consultant relating to the performance of this Agreement, shall be performed as independent Consultants and not as agents, officers, or employees of City. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of City. Consultant has no authority or responsibility to exercise any rights or power vested in the City. No agent, officer, or employee of the City is to be considered an employee of Consultant. It is understood by both Consultant and City that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.
Consultant, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent Consultants and not as employees of City.

Consultant shall determine the method, details and means of performing the work and services to be provided by Consultant under this Agreement. Consultant shall be responsible to City only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to City's control with respect to the physical action or activities of the Consultant in fulfillment of this Agreement. Consultant has control over the manner and means of performing the services under this Agreement. Consultant is permitted to provide services to others during the same period services are provided to City under this Agreement. If necessary, Consultant has the responsibility for employing other persons or firms to assist Consultant in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by Consultant, such persons shall be entirely and exclusively under the direction, supervision, and control of Consultant. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the Consultant.

It is understood and agreed that as an independent Consultant and not an employee of City neither the Consultant or Consultant's assigned personnel shall have any entitlement as an City employee, right to act on behalf of the City in any capacity whatsoever as an agent, or to bind the City to any obligation whatsoever.

It is further understood and agreed that Consultant must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Consultant's personnel.

As an independent Consultant, Consultant hereby indemnifies and holds City harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

12. ASSIGNMENT.

Neither this Agreement nor any portion thereof shall be subcontracted or assigned without the express prior written consent of the City in each and every instance.
13. PATENT/COPYRIGHT MATERIALS.

Unless otherwise expressly provided in the contract, Consultant shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the performance of this Agreement. Consultant shall furnish a warranty of such right to use to City at the request of City.

14. NOTICES.

Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail if delivery is by postage paid registered or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time.

FOR Consultant:
Name: Martin & Chapman Company
Address: 1951 Wright Circle, Anaheim, CA 92806
Attention: Scott Martin
Phone: (714) 939-9866

FOR City:
Name: Jean Morris, City Clerk & Auditor
Address: P.O. Box 642, Modesto, CA 95353
Attention: Jean Morris
Phone: (209) 577-5398

15. INSURANCE REQUIREMENTS.

The Consultant shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in the State of California and shall provide evidence of such insurance to the City as may be required by the Risk Manager of the City. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Risk Manager of the City by certified mail, return receipt requested, for all of the following stated insurance policies.

(a) Worker's Compensation - in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of $500,000.

(b) General Liability insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and $100,000 for property damage or $1,000,000
combined single limit. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent consultants and subcontractors; products and completed operations; and professional liability.

(c) Automobile Liability insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and $100,000 for property damage or $1,000,000 combined single limit. This insurance shall cover any automobile for bodily injury and property damage.

(d) Professional Liability insurance with a minimum limit of $1,000,000 per claim and policy aggregate.

If at any time any of said policies shall be unsatisfactory to the City, as to form or substance, or if a company issuing such policy shall be unsatisfactory to the City, the Consultant shall promptly obtain a new policy, submit the same to the City's Risk Manager for approval and submit a certificate thereof as herein-above provided. Upon failure of the Consultant to furnish, deliver or maintain such insurance and certificates as above provided, this Agreement, at the election of the City, may be forthwith declared suspended, or terminated. Failure of the Consultant to obtain and/or maintain any required insurance shall not relieve the Consultant from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the Consultant concerning indemnification. The City, its agents, officers, employees, and volunteers shall be named as an additional insured on all insurance policies required herein, except Workers' Compensation. The Workers' Compensation insurer shall agree to waive all rights of subrogation against the City, its agents, officers, employees, and volunteers for losses arising from work performed by Consultant for the City. The Consultant's insurance policy(ies) shall include a provision that the coverage is primary as respects the City; shall include no special limitations to coverage provided to additional insured; and, shall be placed with insurer(s) with acceptable Best's rating of A:VII or with approval of the Risk Manager. The Consultant must deliver certificates evidencing existence of the insurance called for in the contract Request for Proposal to the City Clerk of the City at the time the contract is signed.
16. **TERMINATION OF AGREEMENT.**

**Termination on Occurrence of Stated Events**

This Agreement shall terminate automatically on the date on which any of the following events occur: (1) bankruptcy or insolvency of Consultant, (2) legal dissolution of Consultant, or (3) death of key principal(s) of Consultant.

**Termination by City for Default of Consultant**

Should Consultant default in the performance of this Agreement or materially breach any of its provisions, at its option City may terminate this Agreement by giving five (5) days written notification to Consultant. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to perform required services or duties, willful destruction of City of Modesto and/or City's property by Consultant, dishonesty or theft.

**Termination by Consultant for Default of City**

Should City default in the performance of this Agreement or materially breach any of its provisions, at its option Consultant may terminate this Agreement by giving written notice to City. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to cooperate reasonably with Consultant, willful destruction of Consultant's property by City, dishonesty or theft.

**Termination by City for Lack of Budgeted Funds**

The City may terminate this Agreement effective July 1 of any given year upon the City's determination to not appropriate sufficient funds for this Agreement for the ensuing fiscal year. In such event City shall give Consultant not less than 30 days written notice.

**Termination for Failure to Make Agreed-Upon Payments**

Should City fail to pay Consultant all or any part of the payments set forth in this Agreement on the date due, at its option Consultant may terminate this Agreement if the failure is not remedied within thirty (30) days after Consultant notifies City in writing of such failure to pay. The termination date shall be the effective date of the notice.

**Termination by City for Change of Consultant's Tax Status**

If City determines that Consultant does not meet the requirements of federal and state tax laws for independent Consultant status, City may terminate this Agreement.
by giving written notice to Consultant. The termination date shall be the effective date of the notice.

**Voluntary Termination**

The parties may terminate this contract upon mutual written Agreement.

**In the Event of Termination**

If this Agreement is terminated pursuant to this Paragraph, Consultant shall cease all its work on the project as of the termination date and shall see to it that its employees, subcontractors and agents are notified of such termination and cease their work. If City so requests, and at City’s cost, Consultant shall provide sufficient oral or written status reports to make City reasonably aware of the status of Consultant’s work on the project. Further, if City so requests, and at City’s cost, Consultant shall deliver to City any work products whether in draft or final form which have been produced to date.

If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, City will pay Consultant an amount based on the percentage of work completed on the termination date, this percentage shall be determined by City in its sole discretion. If the Agreement is terminated pursuant to the subparagraph entitled Termination by City for Default of Consultant, Consultant understands and agrees that City may, in City’s sole discretion, refuse to pay Consultant for that portion of Consultant’s services which were performed by Consultant on the project prior to the termination date and which remain unacceptable and/or not useful to City as of the termination date.

17. **INDEMNITY.**

Consultant, its agents, officers and employees shall defend, indemnify, and hold harmless City of Modesto and/or City, its agents, officers, and employees from and against all claims, damages, losses, judgment, liabilities, expenses, and other costs including litigation costs and attorney’s fees from every cause, including but not limited to injury to person or property or wrongful death arising directly or indirectly out of any act or omission of Consultant whether or not the act or omission arises from the sole negligence or other liability of City of Modesto and/or City, or its agents, officers, and employees or volunteers relating to or during the performance of its obligations under this agreement.

Consultant’s obligation to defend, indemnify, and hold the City of Modesto and/or City, its agents, officers, and employees harmless under the provisions of this paragraph is not
limited to or restricted by any requirement in this Agreement for Consultant to procure and maintain a policy of insurance.

18. ENTIRE AGREEMENT.

This Agreement and its exhibits contain the entire understanding between Consultant and City. Additional or new terms contained in this Agreement which vary from Consultant's proposal are controlling and are deemed accepted by Consultant by shipment of any article or other commencement of performance hereunder. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

19. PARTIAL INVALIDITY.

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

20. WAIVER.

The waiver by any party to this Agreement of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

21. AUDIT.

The City's duly authorized representative shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify Consultant's charges to City under this Agreement. Consultant agrees to retain reports, records, documents, and files related to charges under this Agreement for a period of four (4) years following the date of final payment for Consultant services. City's representative shall have the right to reproduce any of the aforesaid documents.

22. GOVERNING LAW.

This Agreement shall be governed according to the laws of the State of California.
23. **HEADINGS NOT CONTROLLING.**

Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

24. **COMPLIANCE WITH LAWS.**

Consultant shall insure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and county safety and health regulations and laws. Consultant shall fully comply with all applicable federal, state, and local laws, ordinances, regulations and permits. Consultant will have a City of Modesto business license.

IN WITNESS WHEREOF, the City Council of the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. __________, adopted by the City Council of the City of Modesto on the 5th day of June, 2007 and Consultant has caused this agreement to be duly executed.

CITY OF MODESTO,
a municipal corporation

By: __________________________

GEORGE BRITTON, City Manager

ATTEST:

By: __________________________

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: __________________________

SUSANA ALCALA WOOD, City Attorney

By: __________________________

MARY AKIN, Risk Manager

*Corporations - signature of two (2) officers required or one (1) officer plus corporate seal.
Partnership - signature of a partner required
Sole Proprietorship - signature of proprietor required