MODESTO CITY COUNCIL
RESOLUTION NO. 2007-207

A RESOLUTION REMOVING THE PROPERTY AT 501 MAGNOLIA AVENUE FROM THE CITY OF MODESTO LANDMARK DESIGNATED SITES LIST AND RESCINDING RESOLUTION NO. 99-429 (OWNER: EARL ANDERSON)

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

WHEREAS, at a public hearing on August 24, 1999, the City Council found and determined that the property at 501 Magnolia Avenue was eligible for designation as a Landmark Preservation Site for the reasons set forth in Resolution No. 99-7 adopted by The Landmark Preservation Commission, and

WHEREAS, on August 24, 1999, the City Council, by Resolution No. 99-429, designated the property at 501 Magnolia Avenue as a Modesto Landmark Preservation Site. (Owner: Earl Anderson), and

WHEREAS, the owner of the property at 501 Magnolia Avenue has requested that his property be removed as a Landmark Preservation Designated Site, and

WHEREAS, the Landmark Preservation Commission met on February 26, 2007, and supported removing the property at 501 Magnolia from the Landmark Designated Sites List, and

WHEREAS, at a duly-noticed public hearing held on March 27, 2007, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, the Council considered the removal of the property at 501 Magnolia Avenue, Landmark Site No. 50, from the City of Modesto Landmark Designated Sites List,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the property located at 501 Magnolia Avenue is hereby removed from the list of City of Modesto Landmark Designated Sites.

BE IT FURTHER RESOLVED that Resolution No. 99-429 is hereby rescinded.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING AMENDMENT TO STANDARD AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND GOODWIN CONSULTING GROUP, INC. FOR PREPARATION OF A FISCAL IMPACT ANALYSIS, IN AN AMOUNT NOT TO EXCEED $33,764 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT

WHEREAS, the City Council is desirous of identifying both long and short term funding options for police and fire services, and

WHEREAS, a fiscal impact analysis will allow the City to review the costs associated with police and fire services and potential tax rates associated therewith, and

WHEREAS, a Request for Proposals for a fiscal impact analysis was issued and five proposals were received, and

WHEREAS, staff from the City Manager’s Office and Finance Department, and Councilmember Dunbar, who participated as an observer, interviewed the five firms, and

WHEREAS, Goodwin Consulting Group Inc. was selected to prepare the fiscal impact analysis, and

WHEREAS, on April 25, 2006, the City Council, by Resolution No. 2006-299, approved a Standard Agreement for Consultant Services with Goodwin Consulting Group, Inc. (“Agreement”), in an amount not to exceed $28,500, for the preparation of a fiscal impact analysis, and

WHEREAS, an increase in the scope and budget for the Agreement are necessary due to the addition of stakeholders’ meetings and the review and analysis of additional reports,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to Standard Agreement for Consultant
Services with Goodwin Consulting Group, Inc. in an amount not to exceed $33,764, for preparation of a fiscal impact analysis.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-209

A RESOLUTION AMENDING THE FISCAL YEAR 06-07 OPERATING BUDGET AND APPROVING AN APPROPRIATION TRANSFER OF $16,882 FROM POLICE ADMINISTRATION (0100-190-1901-0235) AND $16,882 FROM FIRE TRAINING (0100-180-1830-0235) TO THE CITY MANAGER'S OPERATING BUDGET (0100-020-0201-0235) FOR THE PREPARATION OF A FISCAL IMPACT ANALYSIS BY GOODWIN CONSULTING GROUP, INC.

WHEREAS, the City Council is desirous of identifying both long and short term funding options for police and fire services, and

WHEREAS, a fiscal impact analysis will allow the City to review the costs associated with police and fire services and potential tax rates associated therewith, and

WHEREAS, a Request for Proposals for a fiscal impact analysis was issued, and

WHEREAS, Goodwin Consulting Group Inc. was selected to prepare the fiscal impact analysis in an amount not to exceed $28,500, plus a 10% contingency for preparation of the analysis, and

WHEREAS, on April 25, 2006, the City Council, by Resolution No. 2006-299, approved a Standard Agreement for Consultant Services with Goodwin Consulting Group, Inc. (“Agreement”), in an amount not to exceed $28,500, for the preparation of a fiscal impact analysis, and

WHEREAS, an increase in the scope and budget for the Agreement are necessary due to the addition of stakeholders’ meetings and the review and analysis of additional reports, and

WHEREAS, the 2006-2007 fiscal year budget did not contemplate an increase in the scope and budget, and
WHEREAS, staff proposes allocating $16,882 from Police Administration (0100-190-1901-0235) and $16,882 from Fire Training (0100-180-1830-0235) to the City Manager’s Operating Budget (0100-020-0201-0235),

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

**Appropriations**

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<th>FROM:</th>
<th>TO:</th>
<th>Appropriation</th>
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<tr>
<td>0100-190-1901-0235</td>
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<td>0100-180-1830-0235</td>
<td>$33,764</td>
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BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary budget adjustments in coordination with the Finance Department to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2007, 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

JANETTE HARBELL, City Clerk

ATTEST: SUSAN ALCALA WOOD, City Attorney

4/3/07/CMO/troche/item03 2007-209
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-210

A RESOLUTION APPROVING $10,000 IN FUNDING FOR THE
LA LOMA NEIGHBORHOOD ASSOCIATION: “LA LOMA
ROUNDBOUT” PROJECT THROUGH THE COMMUNITY
DEVELOPMENT BLOCK GRANT NEIGHBORHOOD CAPITAL
IMPROVEMENTS PROJECT (NCIP) PROPOSALS FOR FISCAL
YEAR 2006-2007

WHEREAS, the Neighborhood Capital Improvement Project (NCIP) is a program
funded by Community Development Block Grants (CDBG) monies, and

WHEREAS, the program is designed to provide funding to neighborhood-based
groups to do beautification or capital projects in their neighborhoods, which will result in
an improvement in the quality of life for the residents of their neighborhoods, and

WHEREAS, the NCIP program promotes citizen involvement and neighborhood
based leadership within the community, and

WHEREAS, these projects are a benefit to the neighborhoods and demonstrate
good collaboration within the community, and

WHEREAS, the program often helps start-up grass root groups to receive funding
that otherwise would be difficult for them to receive, and

WHEREAS, with approval from the Citizens Housing & Community
Development Committee (CH&CDC) on November 9, 2006, the application for the
NCIP was released on November 30, 2006, to neighborhood groups and interested parties
for improvement projects to be funded through CDBG funds, up to $10,000 per project,
and

WHEREAS, one proposal, from the La Loma Neighborhood Association, “La
Loma Roundabout”, was received in response to the RFP, and
WHEREAS, the La Lorna Neighborhood Association is a voluntary neighborhood association, with new leadership since June 2006, which is motivating residents within the La Lorna Neighborhood to participate in neighborhood projects, and

WHEREAS, this application is a funding request to improve and beautify the roundabout located at the intersection of James Street, La Lorna Avenue, G Street, and 19th Street, and

WHEREAS, a review panel recommended funding for the “La Lorna Roundabout” project, in the amount of $10,000, and

WHEREAS, the recommendation of the review panel was presented to the Citizens Housing and Community Development Committee (CH&CDC) on March 5, 2007, and

WHEREAS, the Citizens Housing and Community Development Committee met on March 5, 2007 and supported the recommendation to provide $10,000 in funding for the La Lorna Neighborhood Association: “La Lorna Roundabout” project through the Community Development Block Grant Neighborhood Capital Improvements Project (NCIP) Proposals for Fiscal Year 2006-2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves $10,000 in funding for the La Lorna Neighborhood Association: “La Lorna Roundabout” project through the Community Development Block Grant Neighborhood Capital Improvements Project (NCIP) Proposals for Fiscal Year 2006-2007.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-211

A RESOLUTION ACCEPTING THE WORK BY PLAYGROUNDS PLUS FOR THE PROJECT TITLED “PLAY EQUIPMENT UPGRADES FOR MODESTO PLAYGROUNDS – GROUP 2” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $240,515.20

WHEREAS, a report has been filed by the Public Works Director that the project titled “Play Equipment Upgrades for Modesto Playgrounds – Group 2” has been completed by Playgrounds Plus, in accordance with the contract agreement dated June 27, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “Play Equipment Upgrades for Modesto Playgrounds – Group 2” is hereby accepted as complete from said contractor, Playgrounds Plus, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $240,515.20, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 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. 2007-212

A RESOLUTION ACCEPTING THE WORK BY CALWATER DRILLING COMPANY, INC., FOR THE PROJECT TITLED “WELL #63 DEVELOPMENT PROJECT AT MILDRED PERKINS PARK” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $258,720

WHEREAS, a report has been filed by the Public Works Director that the project titled “Well #63 Development Project at Mildred Perkins Park” has been completed by Calwater Drilling Company, Inc., in accordance with the contract agreement dated August 2, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “Well #63 Development Project at Mildred Perkins Park” is hereby accepted as complete from said contractor, Calwater Drilling Company, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $258,720, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-213

A RESOLUTION APPROVING THE FINAL MAP OF CAMBROOKE ESTATES IN THE VILLAGE ONE SPECIFIC PLAN AREA OF THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH GP LAND INVESTMENT COMPANY LLC, A CALIFORNIA LIMITED LIABILITY COMPANY.

WHEREAS, GP LAND INVESTMENT COMPANY LLC, A CALIFORNIA LIMITED LIABILITY COMPANY ("Subdivider"), is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 1.52 acres, known as CAMBROOKE ESTATES ("SUBDIVISION"), in the Village One Specific Plan Area, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 16th day of May, 2005, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the final map for Cambrooke Estates Subdivision be approved; that the dedications for public streets and easements as shown thereon within the boundaries of said tract be accepted on behalf of the public for public use; and that the City Clerk be authorized to certify the map of said tract on behalf of the City of Modesto after the fees and deposits...
required by the Modesto Municipal Code in amounts determined by the City Engineer have been paid and after Subdivider has furnished securities, as set forth in Section 4-4.605 of the Modesto Municipal Code, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California. Said securities shall be in forms acceptable to the City Attorney and in the amounts required by the City Engineer.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute a subdivision agreement with GP LAND INVESTMENT COMPANY LLC, A CALIFORNIA LIMITED LIABILITY COMPANY as required by Section 4-4.604(c) of the Modesto Municipal Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-214

A RESOLUTION APPROVING THE PROJECT, INCLUDING PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "2007 CAPE SEALS", ACCEPTING THE LOW BID AND APPROVING A $591,679.16 CONTRACT WITH INTERMOUNTAIN SLURRY SEAL, INC., AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the project titled "2007 Cape Seals" and City staff recommends approval by the City Council, and

WHEREAS, the bids received for "2007 Cape Seals" were opened at 11:00 a.m. on March 13, 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 $591,679.16 received from Intermountain Slurry Seal, Inc., be accepted as the lowest responsible bid and the contract be awarded to Intermountain Slurry Seal, 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, accepts the bid of Intermountain Slurry Seal, Inc., in the amount of $591,679.16, and hereby awards Intermountain Slurry Seal, Inc., the contract titled "2007 Cape Seals."

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 3rd day of April 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-215

A RESOLUTION AWARDING A CONTRACT TO MV TRANSPORTATION, INC. TO OPERATE THE MODESTO AREA EXPRESS BUS SERVICE AND AUTHORIZING STAFF TO NEGOTIATE A FINAL AGREEMENT WITH MV TRANSPORTATION, INC.

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

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

WHEREAS, on October 3, 2006 the City Council authorized staff to solicit proposals for a new five-year contract to be effective June 30, 2007, and

WHEREAS, four proposals were received for the contract, and

WHEREAS, an evaluation committee composed of staff from two different transit agencies and the City of Modesto selected MV Transportation’s proposal as the best submitted, and

WHEREAS, by an agenda report to the City Council dated March 13, 2007 from the Public Works Director, recommended award of a new MAX operations contract to MV Transportation, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a contract to operate the Modesto Area Express bus service is awarded to MV Transportation, Inc. subject to City Council approval of a final agreement.

BE IT FURTHER RESOLVED that staff is authorized to negotiate a final agreement with MV Transportation, Inc. for consideration by the City Council.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, 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

04/03/07 PW/FCavanah/item11 2007-215
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-216

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
APPROVING AND AUTHORIZING THE ISSUANCE AND SALE BY THE
MODESTO PUBLIC FINANCING AUTHORITY OF NOT TO EXCEED
$65,000,000 AGGREGATE PRINCIPAL AMOUNT OF LEASE REVENUE
REFUNDING AND CAPITAL IMPROVEMENT BONDS, SERIES 2007;
APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION AND
DELIVERY OF A SUBLEASE, A FACILITY LEASE, A PURCHASE
CONTRACT, A CONTINUING DISCLOSURE AGREEMENT AND A SWAP
AGREEMENT; APPROVING THE FORM OF AND AUTHORIZING THE
DISTRIBUTION OF AN OFFICIAL STATEMENT; AND APPROVING
CERTAIN OTHER RELATED ACTIONS

WHEREAS, the City of Modesto (the "City") is a charter city and a municipal
corporation duly organized and existing under and by virtue of the laws of the State of
California; and

WHEREAS, the Modesto Public Financing Authority (the "Authority") is
authorized under the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4,
Chapter 5, Division 7, Title 1 (commencing with Section 6584) of the California
Government Code, as amended (the "Act"), to lease and/or purchase real property and to
issue bonds for the financing and refinancing of public capital improvements whenever
there are significant public benefits; and

WHEREAS, the Authority previously issued its Lease Revenue Bonds, Series
1997 (John Thurman Field Renovation Project) (the "1997 Bonds") and Lease Revenue
Bonds, Series 1998 (Capital Improvements and Refinancing Project) (the "1998 Bonds")
to assist the City in the financing of certain public capital improvements located in the
City, including John Thurman field, a City-County administration building, a public
parking garage, a communication dispatch center, a police headquarter, various public
parks and miscellaneous city properties; and

WHEREAS, the City has determined to refund all of the 1997 Bonds and a
portion of the 1998 Bonds; and

WHEREAS, in accordance with the Act, the City, on the date hereof, held a public hearing on the proposed financing following publication of the notice of the public hearing at lease five days prior thereto in a newspaper of general circulation in the City and the City Council hereby finds that the proposed financing will result in significant public benefits, including demonstrable savings in effective interest rate, bond preparation, bond underwriting or bond issuance costs; and

WHEREAS, the City desires to approve the sale and issuance by the Authority of not to exceed $65,000,000 in aggregate principal amount of Modesto Public Financing Authority Lease Revenue Refunding and Capital Improvement Bonds, Series 2007, in one or more series of bonds (the “Series 2007 Bonds”), pursuant to an indenture (the “Indenture”) by and between the Authority and The Bank of New York Trust Company, N.A., as trustee (the “Trustee”), for the purposes of (i) providing funds to finance certain additional improvements to John Thurman field, (ii) providing funds to refund all of the 1997 Bonds and a portion of the 1998 Bonds, and (iii) paying the costs of issuance therefore (collectively, the “2007 Project”); and

WHEREAS, the Authority previously leased certain properties to the City pursuant to a Lease/Purchase Agreement, dated as of March 1, 1998, as amended by Amendment No. 1 to Lease/Purchase Agreement, dated June 15, 2000 and Amendment No. 2 to Lease/Purchase Agreement, dated October 15, 2002 (as so amended, the “1998 Lease”) under which the City is obligated to make lease payments for the lease of properties thereunder (the “Leased Property”); and

WHEREAS, pursuant to Section 7.2 of the 1998 Lease, the City may sublease the Leased Property or any portions thereof, as provided in the 1998 Lease; and
WHEREAS, in consideration of the Authority’s assistance in financing the 2007 Project through the issuance of the Series 2007 Bonds and in consideration of the corresponding reduction in lease payments payable by the City under the 1998 Lease as a result of the partial refunding of the 1998 Bonds, the City will sublease to the Authority, pursuant to a sublease (the “Sublease”) by and between the City and the Authority and in accordance with the terms of the 1998 Lease, the Leased Property, as more fully described in Exhibit A of the Sublease; and

WHEREAS, the Authority will lease back to the City the Leased Property pursuant to the terms of a Facility Lease (the “Facility Lease”) by and between the Authority and the City pursuant to which the City will pay Base Rental Payments therefor, all under and in accordance with the Constitution and laws of the State of California, including the Act; and

WHEREAS, pursuant to the terms of the 1998 Lease, the obligation of the City to make lease payments under the 1998 Lease will remain the obligations of the City and no portion of the Leased Property subleased to the Authority pursuant to the Sublease will be used for a purpose other than a governmental function authorized under the provisions of the Constitution and laws of the State of California; and

WHEREAS, in consideration of the partial refunding of the 1998 Bonds and the corresponding reduction of the lease payments payable by the City under the 1998 Lease with respect to the component constituting the public parking garage, the City desires to reduce the reimbursement obligation of the Redevelopment Agency of the City of Modesto (the “Redevelopment Agency”) under the Reimbursement Agreement, dated as of March 1, 1998 (the “Reimbursement Agreement”) by and between the City and the Redevelopment Agency; and
WHEREAS, Section 5922 of the California Government Code provides that in connection with, or incidental to, the issuance or carrying of bonds, any public entity may enter into any contracts which the public entity determines to be appropriate to place the obligations represented by the bonds, in whole or in part, on the interest rate, cash flow or other basis desired by the public entity, including without limitation contracts commonly known as interest rate swap agreements, to hedge payment, rate, spread or similar exposure; and

WHEREAS, the Series 2007 Bonds are expected to be initially executed and delivered as auction rate securities and the Authority is expected to execute an interest rate swap agreement providing for a fixed swap rate on the Series 2007 Bonds (the “Swap”) and the Authority will execute the Swap using the ISDA Master Agreement and related Schedule, Credit Support Annex and Confirmation (collectively, the “Swap Agreement”) by and between the Authority and Bank of America, N.A. (the “Swap Provider”); and

WHEREAS, pursuant to Section 5922 of the Government Code of the State of California, the City hereby finds and determines that the Swap Agreement to be entered into by the Authority in connection with, or incidental to, the issuance of the Series 2007 Bonds, will reduce the amount and duration of interest rate risk with respect to the Series 2007 Bonds and will result in a lower cost of borrowing by the Authority when used in combination with the Series 2007 Bonds; and

WHEREAS, the City proposes to execute and enter into a bond purchase contract (the “Purchase Contract”) with Banc of America Securities LLC (the “Underwriter”) and the Authority, pursuant to which the Underwriter will purchase the Series 2007 Bonds for reoffering to the public; and
WHEREAS, the City proposes to approve of and deem final the Preliminary Official Statement relating to the Series 2007 Bonds (the “Preliminary Official Statement”) for purposes of Rule 15c2-12 of the Securities and Exchange Act of 1934, as amended, and to execute and deliver an Official Statement (the “Official Statement”) relating to the Series 2007 Bonds and to authorize the distribution of the Preliminary Official Statement to prospective purchasers and the Official Statement to actual purchasers of the Series 2007 Bonds; and

WHEREAS, the City proposes to execute and enter into a Continuing Disclosure Agreement (the “Continuing Disclosure Agreement”) with the Trustee, as dissemination agent, for the benefit of the owners of the Series 2007 Bonds and to assist the Underwriter in complying with Rule 15c2-12 of the Securities Exchange Act of 1934, as amended; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the transactions authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such transactions for the purpose, in the manner and upon the terms herein provided;

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Modesto, as follows:

Section 1. Findings. The City Council hereby finds and determines that the foregoing recitals are true and correct and that the actions authorized hereby constitute and are with respect to the public affairs of the City and that the consummation of the
transactions contemplated shall result in significant public benefits to the City.

Section 2. **Approval of Issuance of Series 2007 Bonds.** The City Council hereby approves the issuance of the Series 2007 Bonds by the Authority in the aggregate principal amount not to exceed $65,000,000.

Section 3. **Facility Lease.** The proposed form of the Facility Lease presented to this meeting and on file with the City Clerk is hereby approved. The Mayor, City Manager, Finance Director and each of their designees (each, an “Authorized Officer”) are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Facility Lease in substantially said form, with such changes therein as such Authorized Officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof. The maximum annual base rental payments payable by the City (exclusive of additional payments) in any fiscal year shall not exceed $5,169,429.69, plus any deferred rental as provided in Section 3.04 of the Facility Lease.

Section 4. **Sublease.** The proposed form of the Sublease presented to this meeting and on file with the City Clerk is hereby approved. The Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Sublease in substantially said form, with such changes therein as such Authorized Officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. **Continuing Disclosure Agreement.** The proposed form of the Continuing Disclosure Agreement presented to this meeting and on file with the City Clerk is hereby approved. The Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the
Continuing Disclosure Agreement in substantially said form, with such changes therein as such Authorized Officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 6. **Purchase Contract.** The proposed form of the Purchase Contract presented to this meeting and on file with the City Clerk is hereby approved. The Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Purchase Contract in substantially said form, with such changes therein as such Authorized Officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided that the aggregate principal amount of the Series 2007 Bonds shall not exceed $65,000,000, the interest rate on the Series 2007 Bonds shall not exceed twelve percent (12%) per annum and the underwriting discount (excluding any original issue discount) shall not exceed 0.5% of the principal amount of the Series 2007 Bonds sold.

Section 7. **Official Statement.** The form of Preliminary Official Statement of the Authority relating to the Series 2007 Bonds presented to this meeting and on file with the City Clerk is hereby approved. Any of the Authorized Officers is hereby authorized to certify that said Preliminary Official Statement, with such changes therein as such Authorized Officer executing the same shall approve, is as of its date “deemed final” for purposes of Rule 15c2-12 of the Securities and Exchange Commission. Any of the Authorized Officers is hereby authorized and directed to execute for and on behalf of the Authority a final Official Statement, in substantially the form of the Preliminary Official Statement, with such changes therein (and additions thereto to reflect the terms of the sale of the Series 2007 Bonds) as such Authorized Officer shall approve after consultation with Bond Counsel, such approval to be evidenced by the execution and delivery thereof.
The Underwriter is hereby authorized to distribute copies of said Preliminary Official Statement to persons who may be interested in the purchase of the Series 2007 Bonds and are directed to deliver copies of the final Official Statement to all actual purchasers of the Series 2007 Bonds.

Section 8. **Swap Agreement.** The proposed form of the Swap Agreement presented to this meeting and on file with the City Clerk is hereby approved, with such changes therein as authorized officers of the Authority may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided that the Swap Agreement shall be in an aggregate notional amount not to exceed $65,000,000, at a nominal swap rate not to exceed 4.5 percent (4.5%) per annum against receipt of a variable rate equal to the interest rate on the Series 2007 Bonds.

Section 9. **Reduction of Payments under the Reimbursement Agreement.** Each Authorized Officer is hereby authorized and directed to execute an instrument unilaterally reducing the payments of the Redevelopment Agency under the Reimbursement Agreement and to provide a revised schedule of Redevelopment Agency payments under the Reimbursement Agreement.

Section 10. **Attestations.** The City Clerk is hereby authorized and directed to attest the signatures of the Mayor, the City Manager and the Finance Director and each of their designees and to affix and attest the seal of the City, as may be required or appropriate in connection with the execution and delivery of the Series 2007 Bonds and the documents approved by this Resolution.

Section 11. **Other Actions.** The Authorized Officers are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate,
carry out, give effect to and comply with the terms and intent of this Resolution, the Sublease, the Facility Lease, the Continuing Disclosure Agreement, the Purchase Contract, the Official Statement, the Swap Agreement and the Series 2007 Bonds and the consummation of the transactions contemplated hereby and to consummate the issuance, sale and delivery of the Series 2007 Bonds. The Authorized Officers are hereby further authorized and directed, individually or jointly, to execute and deliver, on behalf of the City, any other agreements, certificate, consent, request, approval, notice, amendment, confirmation, supplement or revision permitted or required to be delivered pursuant to the documents authorized hereby or otherwise as may be necessary or desirable in connection with the financing of the 2007 Project without further authorization by this City Council including, without limitation, a tax certificate, agreements relating to the engagement of verification agents, printers, bond insurers or other credit providers, one or more investment agreements (or amendments thereto), guaranteed investment contracts, forward delivery agreements or other investment vehicles for moneys in any of the funds or accounts held by the Trustee. Any actions heretofore taken by such officers in furtherance of any of the transactions authorized herein are hereby ratified, confirmed and approved.

Section 12. Effective Date. This Resolution shall take effect immediately upon its adoption by this City Council
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 3rd of April, 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. 2007-217


WHEREAS, on April 25, 2000, by Resolution No. 2000-189, the City Council approved a license agreement with Chris Ricci Presents, Inc., to hold an annual Xclamation Fest, and

WHEREAS, the Safety and Communities Committee met on December 5, 2005, and supported approval of the Xclamation Fest 2006 for July 22, 2006, and

WHEREAS, on January 24, 2006, by Resolution No. 2006-065, the City Council approved Xclamation Fest 2006, hosted by Chris Ricci Presents, Inc. in downtown Modesto on Saturday, July 22, 2006, and

WHEREAS, the seventh annual Xclamation Fest was held on Saturday, July 22, 2006, and

WHEREAS, this downtown music and arts festival was successful both financially and for providing a safe, entertaining festival for Modesto residents, and

WHEREAS, the proposed date for the 2007 annual Xclamation Fest is Saturday, July 21, 2007, and

WHEREAS, Mr. Ricci coordinates all Xclamation Fest events with the Modesto Police Department, the Downtown Improvement District, and the Modesto Centre Plaza staff in order to secure approvals and coordination for the event, and

WHEREAS, this event is of financial benefit to the City of Modesto and downtown merchants, and
WHEREAS, at its March 5, 2007, meeting, the Safety and Communities Committee, supported Xclamation Fest 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts staff's report on Xclamation Fest 2006, held in Downtown Modesto on Saturday, July 22, 2006.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves Xclamation Fest 2007, to be held in Downtown Modesto on Saturday, July 21, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 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, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: Keating, O'Bryant

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-218

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF BEN PARROTT FROM THE DISABLED ACCESS APPEALS BOARD

WHEREAS, BEN PARROTT was appointed a member of the Disabled Access Appeals Board on September 5, 2006, and

WHEREAS, BEN PARROTT has tendered his resignation from the aforementioned committee, and

WHEREAS, BEN PARROTT has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of BEN PARROTT from the Disabled Access Appeals Board 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 BEN PARROTT for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Acalal Wood, City Attorney

042407/CMO/Puckett/item02

2007-218
A RESOLUTION APPROVING THE ALLOCATION OF TWO MAINTENANCE WORKER II POSITIONS IN THE PARKS, RECREATION, AND NEIGHBORHOODS DEPARTMENT, ORGANIZATION 3522, FOR THE WEED, LITTER, AND BLIGHT REMOVAL PROGRAM.

WHEREAS, on February 13, 2007, the City Council approved a supplemental General Fund budget package which included $100,000 for the weed, litter, and blight removal program, and

WHEREAS, the allocation of two Maintenance Worker II positions for the weed, litter, and blight removal program was inadvertently deleted from supplemental budget package although funding was allocated, and

WHEREAS, it is necessary to include these positions in order to accomplish the Council’s stated goal of having a clean, attractive, and well landscaped community,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the allocation of two Maintenance Worker II positions for the weed, litter, and blight removal program.

BE IT FURTHER RESOLVED that the Finance and Personnel Departments are hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, 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 AWARD OF BID AND CONTRACTS FOR THE PURCHASE OF CAST IRON AND DUCTILE IRON FITTINGS AND SPOOLS TO THREE COMPANIES: 1) FERGUSON WATERWORKS, MODESTO, CA, 2) KENKO UTILITY SUPPLY, INC., TRACY, CA, AND 3) ROBERTS & BRUNE CO., TRACY, CA, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $154,921

WHEREAS, the Finance Department, Central Stores Division inventories various materials for use by the Public Works Department, Water Division for City services and projects, including cast iron and ductile iron fittings and spools, and

WHEREAS, these fittings and spools are used to connect water mains to residential homes and businesses, and

WHEREAS, these fittings and spools are purchased from an annual agreement as "inventory stock", and warehoused by the Central Stores Division for release to the Water Division, and

WHEREAS, on November 14, 2006, the Council approved Resolution No. 2006-710 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of Cast Iron and Ductile Iron Fittings and Spools for the Public Works Department, Water Division, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, on November 16, 2006, the Purchasing Division issued Request for Bid No. 0607-27 for the purchase of Cast Iron and Ductile Iron Fittings and Spools to thirty-six (36) prospective bidders, eighteen (18) of which were local companies, posted the bid on the City’s web site, and formally advertised as required by law, and
WHEREAS, on January 16, 2007, RFB’s were formally opened in the City Clerk’s office. Of the thirty-six (36) prospective bidders, five (5) companies chose to respond, and

WHEREAS, based on being deemed the lowest responsive and responsible bids, City staff recommends the award of bid and contracts for the purchase of Cast Iron and Ductile Iron Fittings and Spools to three companies: 1) Ferguson Waterworks, Modesto, CA, 2) Kenko Utility Supply, Inc., Tracy, CA, and 3) Roberts & Brune Co., Tracy, CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $154,921, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of Cast Iron and Ductile Iron Fitting and Spools conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contracts for the purchase of Cast Iron and Ductile Iron Fitting and Spools to three companies: 1) Ferguson Waterworks, Modesto, CA, 2) Kenko Utility Supply, Inc., Tracy, CA, and 3) Roberts & Brune, Tracy, CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $154,921.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue purchase agreements for the purchase of Cast Iron and Ductile Iron Fitting and Spools to three (3) companies, 1) Ferguson Waterworks, Modesto, CA, 2) Kenko Utility Supply, Inc., Tracy, CA, and 3) Roberts & Brune, Tracy, CA, for a two (2) year
agreement, with three (3) one-year extension options at the sole discretion of the City, for
a total estimated annual cost of $154,921.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, 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. 2007-221

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF ROCK, SAND AND GRAVEL FOR A ONE-YEAR AGREEMENT WITH A ONE-YEAR CONTRACT EXTENSION OPTION, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $87,000.

WHEREAS, rock, sand and gravel is stocked by the Central Stores Division of the Finance Department and is then issued to requesting departments, and

WHEREAS, rock, sand and gravel is used for rock well drainage, sand for parks, street maintenance operations, and wastewater pond erosion control, and

WHEREAS, Central Stores will purchase the required rock, sand and gravel from account 7110-120-8311-0439 and departments will then purchase the rock, sand and gravel from Central Stores with charges being made to appropriate accounts. and

WHEREAS, based on past usage and current pricing, the total cost for rock, sand and gravel requirement for FY 07/08 is estimated at $87,000, and

WHEREAS, Modesto Municipal Code Section 8.3-203 requires all purchases which meet or exceed $50,000 for materials and equipment or contractual services to be formally bid, and

WHEREAS, by issuing RFB’s, the City will achieve the best value for rock, sand and gravel and meet Modesto Municipal Code requirements for formal bids, and

WHEREAS, the funds for inventory purchases have been appropriated in account number 7110-120-8311-0439 (INVENTORY),

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 Bids (RFB) for the
purchase of rock, sand and gravel for a one-year agreement with a one-year contract extension option, at the sole discretion of the City, for an estimated annual cost of $87,000 as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for rock, sand and gravel to be opened in the Office of the City Clerk, 1010 10TH Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the bids are opened, they shall be tabulated and analyzed 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 24th day of April, 2007, by Councilmember Marsh, 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 Acalal Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-222

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE, REMOVAL AND REPLACEMENT OF CARPETING FOR THE MODESTO CENTRE PLAZA TO HOUSE OF CARPETS, MODESTO, CA FOR A TOTAL ESTIMATED COST OF $111,945.

WHEREAS, the current carpet in the lobby and the downstairs meeting rooms at the Modesto Centre Plaza is eight (8) years old, and

WHEREAS, the carpet has begun to deteriorate in numerous areas along with several permanent stains and burn marks, and

WHEREAS, staff feels that the condition of the carpet is beginning to detract from the overall favorable appearance of the Centre Plaza. The carpet deterioration can cause a safety hazard to the public and staff, and

WHEREAS, the purchase will include removal and disposal of the existing carpet and labor for the installation of new carpet, and

WHEREAS, on September 5, 2006, by Resolution No. 2006-540 the Council authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase, removal and replacement of carpeting for the Modesto Centre Plaza, and

WHEREAS, on September 15, 2006, the Purchasing Division issued Request for Bid (RFB) No. 0607-11 for the purchase, removal and replacement of carpeting for the Modesto Centre Plaza to twenty-two (22) prospective bidders, eighteen (18) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on October 10, 2006, a formal bid opening was held in the City Clerks office. Of the twenty-two (22) prospective bidders, no companies chose to respond, and
WHEREAS, on December 5, 2006, a Request for Information (RFI) was sent to seven (7) carpet manufacturers, and

WHEREAS, each manufacturer presented their carpet samples, warranties and recycle programs available. A site walk through was provided to each manufacturer and samples were obtained on specific collections reviewed by the staff at the Modesto Centre Plaza. The RFI process allowed the bid specification to meet the needs of the Modesto Centre Plaza, and

WHEREAS, on February 5, 2007, Modesto Centre Plaza staff pre-approved four (4) carpet manufacturers and their specific collections to take part in the RFB process, and

WHEREAS, on February 16, 2007, the Purchasing Division issued Request for Bids No. 0607-35 for removal and replacement of carpeting for the Modesto Centre Plaza to twenty seven (27) prospective bidders, nineteen (19) of which were local companies, posted the bid on the City’s web site and formally advertised as required by law, and

WHEREAS, on February 25, 2007, a mandatory bidder’s conference/site visit was conducted. Six (6) prospective bidders chose to attend and participate further in the RFB process, and

WHEREAS, on March 20, 2007, RFB’s were formally opened in the City Clerk’s office. Of the six (6) prospective bidders, three (3) companies chose to respond, one (1) was a local vendor. All bidders provided responsive and responsible bids. The low bid came in approximately 28.7% higher than the $87,073 cost estimate submitted to Council, and

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services
to be formally bid. The award of bid and contract for the purchase, removal and replacement of carpeting for the Modesto Centre Plaza conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase, removal and replacement of carpeting for the Modesto Centre Plaza, to House of Carpets, Modesto, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for the removal and replacement of carpeting for the Modesto Centre Plaza, to House of Carpets, Modesto, CA, for a total estimated cost of $111,945.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, 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, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None.

ABSENT: Councilmembers: Hawn

APPROVED AS TO FORM:

By: ____________________________
   Susana Alcala Wood, City Attorney

ATTEST: ____________________________
         Jean Morris, City Clerk
A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007 ANNUAL BUDGET

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2006-2007 budget have been adjusted as shown in Schedule A.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney

04/24/07

2007-223
Schedule A

City Manager’s Office

CPS Recruitment

From: Contingency Reserve Account #1300-800-8000-8003 $30,000
To: City Council Account #0100-010-0101-0235 $30,000

Parks, Recreation & Neighborhoods

John Muir Park

From: Parks Fund Revenue Account #1400-310-3100-8107 $17,470
To: Park Partners Construction Acct #1400-310-P734-6040 $17,470

Public Works Department

Federal Pavement and Maintenance Project – 9th, H and I Streets

Revenues
To: MY-2370-430-H404-3532 - Federal RSTP $784,585

Appropriations
From: MY-2370-430-H475-6053 – Available Matching Funds $144,353
To: MY-2370-430-H404 – Fed Pavemt Mtc 9th, H, I Str $847,839

Transfers
From: MY-2370-700-H404-9070 – Reduce Secondary Match $(144,353)
To: MY-2370-700-H475-9237 – Return Match to Primary $144,343
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-224

A RESOLUTION AUTHORIZING THE ISSUANCE OF FORMAL REQUEST FOR BIDS FOR ROOF REPLACEMENT AT FIRE STATION 5 AND FIRE STATION 10, FOR AN ESTIMATED COST OF $120,000.

WHEREAS, Station 5's roof was last replaced in 1991, and
WHEREAS, at the time of installation the warranty on this roof was 10 years, and
WHEREAS, the roof has been in place for 16 years and has deteriorated to a point where it is no longer cost effective to repair, and
WHEREAS, Station 10's roof has not been replaced since the Modesto Fire Department moved into the Station in 1993, and
WHEREAS, the roof had been in place some time prior to our arrival, and
WHEREAS, the roof has deteriorated to a point where it is no longer cost effective to repair, and
WHEREAS, a formal Request for Bids (RFB) must be issued for roof replacement at Fire Station 5 and Fire Station 10 for an estimated cost of $120,000, and
WHEREAS, Modesto Municipal Code, Section 8-3.203, generally requires all purchases meeting or exceeding $50,000 for materials, equipment or contractual services to be formally bid, and
WHEREAS, the funds for the roof replacements have been appropriated in account number 0100-180-1810-5xxx, Roof Replacements.

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

SECTION 1. The issuance of a Formal Request for Bids for roof replacement at Fire Station 5 and Fire Station 10 for an estimated cost of $120,000.

SECTION 2. The City Clerk is hereby authorized to call for public competitive sealed bids for roof replacement at Fire Station 5 and Fire Station 10 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 bids in the time, form, and manner provided by law.
SECTION 3. After the sealed bids are opened they will be tabulated and analyzed by the Fire 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 24th day of April, 2007, by Councilmember Marsh, 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
MODESTO CITY COUNCIL  
RESOLUTION NO. 2007-225

A RESOLUTION APPROVING A CONTRACT BETWEEN THE CITY OF MODESTO AND AMERICAN MEDICAL RESPONSE (AMR) FOR A PERIOD OF THREE (3) YEARS WITH ONE (1) YEAR EXTENSION OPTIONS, WHEREIN AMR COMPENSATES THE CITY OF MODESTO $72,000 PER YEAR FOR FIRST RESPONDER AND RELATED MEDICAL SERVICES, PERFORMED BY THE MODESTO FIRE DEPARTMENT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT.

WHEREAS, in July 2003, the City of Modesto and AMR entered into a “Pilot” Advanced Life Support (ALS) Program, and

WHEREAS, for over two years, the Modesto Fire Department has been delivering ALS services from one engine company at an annual cost of approximately $54,000, and

WHEREAS, it has been the goal of the City to operate the ALS program on a cost neutral basis, and

WHEREAS, On November 9, 2005, the Modesto City Council adopted Resolution #2005-553, approving a 1-year contract between the City of Modesto and AMR, and

WHEREAS, the purpose of the contract is to support the Modesto Fire Department in the delivery of First Responder Services, and

WHEREAS, the Modesto Fire Department has completed the original 1-year term of the contract, and

WHEREAS, both parties feel that the mutual benefit of this contract warrants the establishment of a 3-year contract, with the option of 1-year extensions available upon written agreement of both parties,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the contract between the City of Modesto and American medical
Response for a period of three (3) years with one (1) year extension options, wherein AMR compensates the City of Modesto $72,000 per year for first responder and related medical services performed by the Modesto Fire Department.

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 24th day of April, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney

ATTEST: Jean Morris, City Clerk

04/26/07/fire/TBrennan/item11
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-226

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF A 2000 GALLON WATER TRUCK FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, SOLID WASTE DIVISION COMPOST FACILITY, FOR A TOTAL ESTIMATED COST OF $65,000.

WHEREAS, in November 2006, the Purchasing Division put out a sealed bid purchase option for the 1991 Caterpillar D300B water truck that was at the Compost Facility since the truck was not being operated, and had not been for many months, due to safety and mechanical issues specifically related to the site, and

WHEREAS, due to new air board regulations, the truck was also going to be out of compliance and it would have been costly to retrofit, and

WHEREAS, in January 2007, the water truck sold for $26,000 at The Auction Yard and the net revenue from the sale of the truck, $24,245.00, was placed in the compost fleet account for the sole purpose of applying it to the purchase of a new water truck, and

WHEREAS, during supplemental budget review, the allocation of existing and new funds was approved by the City Council for the purchase of a new water truck, and

WHEREAS, the San Joaquin Valley Air Pollution Control District and the California Integrated Waste Management Board have existing regulations regarding air quality issues that are mandatory for the Compost Facility to comply with, and

WHEREAS, more restrictive air quality regulations are on the horizon making it imperative that the Compost Facility minimize dust emissions, and

WHEREAS, the essential mechanism for controlling dust emissions and avoiding violations and fines from the regulatory agencies is having a water truck regularly and routinely keeping the site wet, 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, funds were approved and are budgeted and available in account 6290-355-5222-5700 for the purchase of a Water Truck in FY 06/07,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of a 2000 Gallon Water Truck for the Parks, Recreation and Neighborhoods Department, Solid Waste Division compost facility, for a total estimated cost of $65,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, 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
MODESTO CITY COUNCIL  
RESOLUTION NO. 2007-227

A RESOLUTION APPROVING FUNDING IN THE AMOUNTS OF $364,327 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC SERVICES, $37,500 IN CDBG REVOLVING LOAN FUND FOR HOMELESS SERVICES, AND $98,650 IN EMERGENCY SHELTER GRANT (ESG) FUNDING FOR FY 2007-2008, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENTS.

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the City receives a Community Development Block Grant (CDBG) and an Emergency Shelter Grant (ESG), and

WHEREAS, the City receives these grants annually because of its population size, number of households living below the poverty level, and the number of housing units that are considered substandard, and

WHEREAS, a maximum of fifteen percent (15%) of the City’s available CDBG entitlement plus an amount up to 15% of the prior year’s program income, and up to 15% of the prior year’s program income from the Revolving Loan Fund may be allocated for the purpose of providing assistance that is consistent with the functions of CDBG funding to very-low, low and moderate income persons and families residing within the city limits of Modesto, and

WHEREAS, for Fiscal Year 2007-2008, 15% of the CDBG entitlement and program income is $364,327, and 15% of the prior year program income from the Revolving Loan Fund is $37,500, and

WHEREAS, the available ESG entitlement for Fiscal Year 2007-2008 is $98,560, and

WHEREAS, at its March 23, 2007, meeting, the Citizens Housing & Community Development Committee (CH&CDC) recommended allocation of $364,327 in available CDBG
entitlement and program income funds to qualified non-profit agencies for public services as set forth in Exhibit “1”, attached hereto and incorporated by reference, and

WHEREAS, CH&CDC also recommended that $37,500 be allocated for services for the homeless as set forth in Exhibit “2”, attached hereto and incorporated by reference, and

WHEREAS, the CH&CDC recommended $98,560 be allocated for emergency shelter services as set forth in Exhibit “3”, attached hereto and incorporated by reference, and

WHEREAS, at a public meeting on March 23, 2007, the Citizens Housing and Community Development Committee recommended funding as set forth in Exhibits “1”, “2” and “3” attached hereto and incorporated by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the allocation of $364,327 in Community Development Block Grant (CDBG) funds for public services for Fiscal Year 2007-2008 as set forth in Exhibit “1”.

BE IT FURTHER RESOLVED that the Council hereby approves the allocation of $37,500 in CDBG Revolving Loan funds for services for the homeless for Fiscal Year 2007-2008 as set forth in Exhibit “2”.

BE IT FURTHER RESOLVED that the Council hereby approves the allocation of Emergency Shelter Grant (ESG) funds of $98,560 for emergency shelter services for Fiscal Year 2007-2008 as set forth in Exhibit “3”.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager or his authorized designee is hereby authorized to execute the agreements.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, 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
### Public Service Applications

<table>
<thead>
<tr>
<th>Organization</th>
<th>Program</th>
<th>Request</th>
<th>Average Score</th>
<th>% Score</th>
<th>Rank</th>
<th>Recommended Funding</th>
<th>% of Request Funded</th>
</tr>
</thead>
<tbody>
<tr>
<td>Second Harvest Food Bank</td>
<td>Food Assistance Program</td>
<td>$40,000</td>
<td>44</td>
<td>88%</td>
<td>1</td>
<td>$37,235</td>
<td>93.09%</td>
</tr>
<tr>
<td>DRAIL</td>
<td>Assistive Technology</td>
<td>$20,000</td>
<td>43</td>
<td>86%</td>
<td>2</td>
<td>$18,167</td>
<td>90.84%</td>
</tr>
<tr>
<td>American Red Cross</td>
<td>Emergency Shelter Services</td>
<td>$21,203</td>
<td>42</td>
<td>84%</td>
<td>3</td>
<td>$16,812</td>
<td>88.72%</td>
</tr>
<tr>
<td>Healthy Aging</td>
<td>Young at Heart</td>
<td>$35,312</td>
<td>42</td>
<td>84%</td>
<td>3</td>
<td>$31,329</td>
<td>88.72%</td>
</tr>
<tr>
<td>Howard Training Center</td>
<td>Senior Meals Program</td>
<td>$16,000</td>
<td>42</td>
<td>84%</td>
<td>3</td>
<td>$14,195</td>
<td>88.72%</td>
</tr>
<tr>
<td>Parent Resource Center</td>
<td>ABC's of Child Care</td>
<td>$19,318</td>
<td>41</td>
<td>82%</td>
<td>5</td>
<td>$16,731</td>
<td>86.61%</td>
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<tr>
<td>Children's Crisis Center</td>
<td>Marsha's N.E.A.T. Program</td>
<td>$31,200</td>
<td>40</td>
<td>80%</td>
<td>7</td>
<td>$26,363</td>
<td>84.50%</td>
</tr>
<tr>
<td>Center for Human Services</td>
<td>Hutton House</td>
<td>$27,388</td>
<td>39</td>
<td>78%</td>
<td>8</td>
<td>$22,563</td>
<td>82.38%</td>
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<tr>
<td>Center for Human Services</td>
<td>Pathways</td>
<td>$20,000</td>
<td>38</td>
<td>76%</td>
<td>9</td>
<td>$16,054</td>
<td>80.27%</td>
</tr>
<tr>
<td>Children's Crisis Center</td>
<td>Cricket's N.E.A.T. Program</td>
<td>$24,960</td>
<td>38</td>
<td>76%</td>
<td>9</td>
<td>$20,036</td>
<td>80.27%</td>
</tr>
<tr>
<td>Community Housing &amp; Shelter</td>
<td>Supportive Services</td>
<td>$34,166</td>
<td>38</td>
<td>76%</td>
<td>9</td>
<td>$27,426</td>
<td>80.27%</td>
</tr>
<tr>
<td>Stanislaus Literacy Center</td>
<td>West modesto English Tutoring</td>
<td>$32,500</td>
<td>37</td>
<td>74%</td>
<td>12</td>
<td>$25,402</td>
<td>78.16%</td>
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<tr>
<td>Community Housing &amp; Shelter</td>
<td>Families in Recovery</td>
<td>$29,366</td>
<td>36</td>
<td>72%</td>
<td>13</td>
<td>$22,332</td>
<td>76.05%</td>
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<tr>
<td>Project Sentinel</td>
<td>Fair Housing</td>
<td>$89,000</td>
<td>36</td>
<td>72%</td>
<td>13</td>
<td>$67,882</td>
<td>76.05%</td>
</tr>
</tbody>
</table>

Total Requests Recommended for Funding: $440,413

Total Available: $364,327

**Not Recommended for Funding**

<table>
<thead>
<tr>
<th>Organization</th>
<th>Program</th>
<th>Request</th>
<th>Average Score</th>
<th>% Score</th>
<th>Rank</th>
<th>Recommended Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Valley Opportunity Ctr</td>
<td>Language/Job Lab</td>
<td>$25,000</td>
<td>28</td>
<td>56%</td>
<td>15</td>
<td></td>
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<tr>
<td>Stan Multi-Cultural/KK collab</td>
<td>Heres to your health 2</td>
<td>$77,750</td>
<td>24</td>
<td>48%</td>
<td>16</td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**

The percent of each request funded is higher than the percent score, since allocations based on scores would have been less than funding available.
## Homeless Applications

<table>
<thead>
<tr>
<th>Total Available:</th>
<th>$37,500</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Requested:</td>
<td>$128,460</td>
</tr>
<tr>
<td>% Available vs Requested</td>
<td>29.192%</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Organization</th>
<th>Program</th>
<th>Request</th>
<th>Recommended Funding</th>
<th>% of Request Funded</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Housing &amp; Shelter</td>
<td>Supportive Services</td>
<td>$42,560</td>
<td>$12,424</td>
<td>29.2%</td>
</tr>
<tr>
<td>Children's Crisis Center</td>
<td>Cricket Homeless Shelter</td>
<td>$10,140</td>
<td>$2,960</td>
<td>29.2%</td>
</tr>
<tr>
<td>Interfaith Ministries</td>
<td>Santa Fe Winter Shelter</td>
<td>$23,260</td>
<td>$6,790</td>
<td>29.2%</td>
</tr>
<tr>
<td>The Salvation Army</td>
<td>Berberian Winter Shelter</td>
<td>$52,500</td>
<td>$15,326</td>
<td>29.2%</td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>$128,460</td>
<td>$37,500</td>
</tr>
</tbody>
</table>

**Notes:**

All Applications were ranked equally.
## ESG Applications

Total Available: $98,560  
Total Requested: $191,791  
% Requested Vs Available: 51.3893%

<table>
<thead>
<tr>
<th>Organization</th>
<th>Program</th>
<th>Request</th>
<th>Average Score</th>
<th>% Score</th>
<th>Rank</th>
<th>recommended Funding</th>
<th>% of request Funded</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interfaith Ministries</td>
<td>Santa Fe Winter Shelter</td>
<td>$50,191</td>
<td>44</td>
<td>86%</td>
<td>1</td>
<td>$37,046</td>
<td>73.81%</td>
<td>$14,700 For Vouchers and Passes; balance for salaries</td>
</tr>
<tr>
<td>Community Housing &amp; Shelter</td>
<td>Case Management for Prevention</td>
<td>$55,260</td>
<td>38</td>
<td>76%</td>
<td>2</td>
<td>$26,939</td>
<td>48.75%</td>
<td></td>
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<tr>
<td>Center for Human Services</td>
<td>Hutton House</td>
<td>$13,860</td>
<td>37</td>
<td>74%</td>
<td>3</td>
<td>$6,608</td>
<td>47.68%</td>
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<tr>
<td>The Salvation Army</td>
<td>Berberian Winter Shelter</td>
<td>$60,000</td>
<td>36</td>
<td>72%</td>
<td>4</td>
<td>$27,967</td>
<td>46.61%</td>
<td></td>
</tr>
<tr>
<td>Not Recommended for Funding</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$179,311</td>
<td>$98,560</td>
<td></td>
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<tr>
<td>Children’s Crisis Center</td>
<td>Sawyer's N.E.A.T. Program</td>
<td>$12,480</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>
A RESOLUTION APPROVING $12,282 IN FUNDING FOR THE HOWARD TRAINING CENTER AS THE PROVIDER OF THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC SERVICES SENIOR MEALS PROGRAM FOR FISCAL YEAR 2006-2007, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, on May 2, 2006, by Resolution No. 2006-274, the City Council approved the allocation of the CDBG public service grant funding for Fiscal year 2006-2007, which included an allocation of $12,282 in CDBG funds to The Salvation Army to be utilized for a Senior Meals Program, and

WHEREAS, on January 9, 2007, the City of Modesto received a letter from The Salvation Army (S.A.) stating that S.A. would not be providing the Senior Meals Program, indicating that S.A. was no longer contracted with Stanislaus County to provide the Senior Meals Program, and stating that S.A. would not be using the City of Modesto’s CDBG funds allocated to the Senior Meals Program, and

WHEREAS, on February 16, 2007, the City of Modesto issued an RFP for the Senior Meals Program, and

WHEREAS, the CDBG Senior Meals Program funds must be used to ensure that senior citizens are able to meet their nutritional needs and maintain the highest possible quality of life, with the goal is to reduce dietary inadequacy and social isolation among older adults, and

WHEREAS, proposals were due to the City of Modesto by February 23, 2007, at 5:00 p.m., and

WHEREAS, one proposal for the Senior Meals Program funding was received in response to the RFP from the Howard Training Center and it is a complete application, and

WHEREAS, the Howard Training Center is requesting the funding for the following CDBG eligible activities:
• Purchase portable transport equipment and hot sheets to enable at least 150 Modesto seniors to receive hot fresh meals instead of frozen meals.

• Provide Modesto seniors attending congregate sites hot, fresh meals.

• Open 1 new congregate site in an area not currently served by congregate meals program (west, north or east Modesto).

and

WHEREAS, the Citizens Housing and Community Development Committee met on March 23, 2007 and supported the recommendation to award funding to the Howard Training Center for the Senior Meals Program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves $12,282 in funding for the Howard Training Center as the provider of the Community Development Block Grant (CDBG) Public Services Senior Meals Program for fiscal year 2006-2007.

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 24th day of April, 2007, by Councilmember Marsh, 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: SUSANÁ ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-229

A RESOLUTION APPROVING A GRANT APPLICATION FOR $1,000,000 FROM THE STATE OF CALIFORNIA’S DEPARTMENT OF WATER RESOURCES CALFED WATERSHED PROGRAM 2007 TO CONTINUE THE RESTORATIVE WORK ON THE TUOLUMNE RIVER REGIONAL PARK GATEWAY PARCEL AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE GRANT APPLICATION

WHEREAS, the State of California’s Department of Water Resources CALFED Watershed Program has made funding available through its Watershed Program 2007 through Proposition 50, and

WHEREAS, the continuation of the restorative work within the Tuolumne River Regional Park (the Project) is consistent with the CALFED Watershed Program mission and procedures, and

WHEREAS, the City of Modesto, if awarded grant funding, will enter into a contract with the State of California for the Project, and

WHEREAS, said adopted procedures established by the California Department of Resources require the City to certify by resolution the approval of a grant application and the availability of eligible matching funds prior to submission of said grant application to the State, and

WHEREAS, eligible matching funds are available in Capital Improvement Project P844, TRRP Gateway Phase I & II, in the amount of $1,000,000 from contributions from the City of Modesto’s Capital Facilities Fees and Stanislaus County’s Public Facilities Fees,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:
1. The filing of an application for $1,000,000 in local assistance funds from the State of California's Department of Water Resources through the CALFED Watershed Program 2007 is hereby approved.

2. The Council hereby certifies that the application has or will have sufficient funds to operate and maintain the Project.

3. The Council hereby certifies that the City of Modesto staff has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and

4. The City Manager, or his designee, is hereby authorized as agent to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, and payment requests and so on, which may be necessary for the completion of the Project upon acceptance of said grant by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, 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
MODESTO CITY COUNCIL  
RESOLUTION NO. 2007-230

A RESOLUTION APPROVING A GRANT APPLICATION FOR $50,000 IN FUNDING FROM THE LAND AND WATER CONSERVATION FUND FOR A PORTION OF THE TRAIL IN THE GATEWAY PARCEL OF THE TUOLUMNE RIVER REGIONAL PARK AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, the Congress under Public law 88-578 has authorized the establishment of a Federal Land and Water Conservation Fund Grant-In-Aid program and its political subdivisions for acquiring lands and developing facilities for public outdoor recreation purposes, and

WHEREAS, the California Department of Parks and Recreation is responsible for administration of the program in the State, setting up necessary rules and procedures governing applications by local agencies under the program, and

WHEREAS, said adopted procedures established by the California Department of Parks and Recreation require the applicant to certify by resolution the approval of a grant application and the availability of eligible matching funds prior submission of said grant application to the State, and

WHEREAS, the proposed Tuolumne River Regional Park Gateway Project is consistent with the Statewide Comprehensive Recreation Resources Plan California Outdoor recreation Plan – 2002, and

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

1. The filing of a grant application for $50,000 from the Federal Land and Water Conservation Fund Program is hereby approved.
2. The Council hereby certifies that said agency has matching funds from the following source: Funding from the City of Modesto and Stanislaus County CFF/PFF funding of $2 million to TRRP; and that said agency can finance 100 percent of the Project, half of which will be reimbursed.

3. The Council hereby certifies that the Project is compatible with the land use plans of those jurisdictions immediately surrounding the Project.

4. 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 grant by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April 2007, by Councilmember Marsh, 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 PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR PROPOSALS (RFP) FOR THE PURCHASE OF A PARKING GARAGE AUTOMATED ATTENDANT SYSTEM (HARDWARE/SOFTWARE) FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, BUILDING AND PARKING SERVICES DIVISION, FOR A TOTAL ESTIMATED COST OF $801,250.00.

WHEREAS, in September 2005, the City hired Walker Parking Consultants (Walker) to complete an assessment of the City owned parking facilities, and

WHEREAS, Walker's assessment included the financial condition of the Building and Parking Services Division, a review of the current parking agreements, rates, equipment, management, administration, operations, and the feasibility of privatization of the parking system, and

WHEREAS, on September 12, 2006 by Resolution No. 2006-558, the Council authorized the Parks, Recreation and Neighborhoods Department to move forward with implementation of the Walker recommendations, and

WHEREAS, the 9th, 10th, and 11th street parking garages and surface parking lots are to be upgraded to include the installation of an automated attendant system, and

WHEREAS, the automated attendant system will be pay on foot stations that will move the Building and Parking Services Division to a 24 hour 7 day per week program with fewer employees, and

WHEREAS, Modesto Municipal Code (MMC) 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 Proposals for the purchase of a parking garage automated attendant system (hardware/software) for the Parks, Recreation and
Neighborhoods Department, Building and Parking Services Division, for a total estimated cost of $801,250.00 will conform to MMC Section 8-3.203,

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

SECTION 1. The Purchasing Manager is hereby authorized to issue Formal Request for Proposals for the purchase of a parking garage automated attendant system (hardware/software) for the Parks, Recreation and Neighborhoods Department, Building and Parking Services Division, for a total estimated cost of $801,250.00.

SECTION 2. The City Clerk is hereby authorized to call for public competitive sealed proposals for the purchase of a parking garage automated attendant system 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.

SECTION 3. After the sealed proposals are opened they will be tabulated and analyzed by the Purchasing Division and the Parks, Recreation and Neighborhoods 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 24th day of April, 2007, by Councilmember Marsh, 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 NUMBER 2007-232

A RESOLUTION ACCEPTING A MINI-GRANT IN THE AMOUNT OF $65,000 FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY FOR THE CALIFORNIA CLICK IT OR TICKET (CIOT) PROJECT MINI-GRANT FOR OVERTIME SEAT BELT ENFORCEMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS.

WHEREAS, the Modesto Police Department submitted an application in the amount of $65,000 to the California Office of Traffic and Safety for a California Click It or Ticket (CIOT) project mini-grant, and

WHEREAS, the program is for a 3-week period and allows for overtime seat belt enforcement, and

WHEREAS, the Police Department, in a combined effort with state and local law enforcement is in support of the national Click It or Ticket mobilization, and

WHEREAS, acceptance of this grant enhances Healthy and Safe Strategic Action Plan, H.1.B.8., which calls for obtaining public service grants, and

WHEREAS, the total mini-grant is $65,000 with no local match required of the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the mini-grant in the amount of $65,000 from the California Click It or Ticket (CIOT) project mini-grant for overtime seat belt enforcement.

BE IT FURTHER RESOLVED that the City Manager, or his authorized 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 24th day of April, 2007, by Councilmember Marsh, 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
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2007-233

A RESOLUTION AMENDING THE FISCAL YEAR 2006/07 BUDGET TO APPROPRIATE $65,000 FOR REVENUE AND EXPENSE FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY FOR THE CALIFORNIA CLICK IT OR TICKET (CIOT) PROJECT MINI-GRANT FOR OVERTIME SEAT BELT ENFORCEMENT.

WHEREAS, the City of Modesto Police Department was awarded funding in the sum of $65,000 from the California Office of Traffic Safety for the California Click It or Ticket (CIOT) project mini-grant, and

WHEREAS, the mini-grant funds were made available for overtime seat belt enforcement, and

WHEREAS, the Police Department wishes to enforce seat belt compliance, and

WHEREAS, the total mini-grant will be $65,000, with no local match required of the City, and

WHEREAS, the Council of the City of Modesto authorized the City Manager, or his designee, to accept the California Click It or Ticket (CIOT) project mini-grant funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that the 2006/07 Operating Budget is hereby amended as follows:

Appropriate:
To: 0410-190-2997-0130  $65,000  Overtime

Revenue:
To: 0410-190-2997-3490  $65,000  Click It or Ticket Mini-Grant

BE IT FURTHER RESOLVED that the Finance Director, or his authorized
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 24th day of April, 2007, by Councilmember Marsh, 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 AN AGREEMENT FOR THE PURCHASE OF TWO UNUSABLE CITY OF MODESTO POLICE KAWASAKI MOTORCYCLES TO THE MODESTO POLICE HISTORICAL SOCIETY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, in August 2003, the Modesto Police Historical Society was founded, and

WHEREAS, the Modesto Police Historical Society is a non-profit organization that functions under the auspices of the Stanislaus Community Foundation, and

WHEREAS, Modesto Police Department has two Police Kawasaki KZ1000 Motorcycles that are currently unusable, and

WHEREAS, the Modesto Police Historical Society would like to preserve, refurbish, and display these police motorcycles at the McHendry Museum and other public events for the common good, and

WHEREAS, Modesto Police Department feels this educates and creates a greater awareness between the community and law enforcement, and

WHEREAS, the Modesto Police Historical Society will purchase the two motorcycles for $1 each, pursuant to Section 801(r) of the City Charter,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement for the purchase of two unusable City of Modesto Police Kawasaki Motorcycles to the Modesto Police Historical Society.
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 24th day of April, 2007, by Councilmember Marsh, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-235

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF A WALK-IN FREEZER/COOLER/DRY STORAGE CONTAINER FOR THE MODESTO POLICE DEPARTMENT, FOR A TOTAL ESTIMATED AMOUNT OF $53,500.

WHEREAS, the Modesto Police Department uses refrigeration units in the Property and Evidence Facility for the cold storage of biological evidence, and

WHEREAS, currently the department uses one industrial and four household refrigerators, and two chests, and three up-right freezers, and

WHEREAS, these units are at capacity and no longer are an efficient or proper method for storing biological evidence, and

WHEREAS, walk-in refrigeration units are desired because the temperature at which evidence is stored may be monitored, they are efficient to operate, and provide shelving options to maximize storage capacity and retrieval of inventory, and

WHEREAS, Modesto Municipal Code Section 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, the issuance of a formal Request for Bid for the purchase of a walk-in freezer/cooler/dry storage container for the Police Department conforms to the code requirements, and

WHEREAS, funds are budgeted and made available in 0400-190-2923-5012 for the purchase of walk-in freezer/cooler/dry storage container, in FY 06/07,

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 Bids (RFB)
for the purchase of a walk-in freezer/cooler/dry storage container for the Modesto Police
Department, for a total estimated amount of $53,500.

BE IT FURTHER RESOLVED THAT the City Clerk is hereby authorized to call
for public competitive sealed bids for the purchase of a walk-in freezer/cooler/dry storage
container for the Modesto Police Department, 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 bids in the time, form, and manner provided by law. After the
sealed bids are opened, they shall be tabulated and analyzed 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 24th day of April, 2007, by Councilmember Marsh, 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: Susan A. Alcala Wood, City Attorney
A RESOLUTION AMENDING THE FISCAL YEAR 2006/2007 OPERATING BUDGET TO APPROPRIATE $13,500 IN REVENUES AND EXPENSES FROM THE ASSET FORFEITURE FUNDS TO FULLY FUND THE PURCHASE OF A WALK-IN FREEZER/COOLER/DRY STORAGE CONTAINER.

WHEREAS, the Modesto Police Department uses refrigeration units in the Property and Evidence Facility for the cold storage of biological evidence, and

WHEREAS, currently the department uses one industrial and four household refrigerators, and two chests, and three up-right freezers, and

WHEREAS, these units are at capacity and no longer are an efficient or proper method for storing biological evidence, and

WHEREAS, walk-in refrigeration units are desired because the temperature at which evidence is stored may be monitored, they are efficient to operate, and provide shelving options to maximize storage capacity and retrieval of inventory, and

WHEREAS, Modesto Municipal Code Section 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, the issuance of a formal Request for Bid for the purchase of a walk-in freezer/cooler/dry storage container for the Police Department conforms to the code requirements, and

WHEREAS, the 2006/2007 Operating Budget will be amended as indicated:

Amend budget from Asset Forfeiture:

<table>
<thead>
<tr>
<th>Revenue</th>
<th>Budget</th>
<th>Increase</th>
<th>Revised Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>0400-190-2923-7202</td>
<td>0</td>
<td>$13,500</td>
<td>$13,500</td>
</tr>
<tr>
<td>Expenses</td>
<td>0400-190-2923-5012</td>
<td>$40,000</td>
<td>$13,500</td>
</tr>
</tbody>
</table>
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Fiscal Year 2006/2007 Operating Budget to appropriate $13,500 in revenues and expenses from the asset forfeiture funds to fully fund the purchase of a walk-in freezer/cooler dry storage container.

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 24th day of April, 2007, by Councilmember Marsh, 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. 2007-237

A RESOLUTION ACCEPTING THE U.S. DEPARTMENT OF JUSTICE COPS
MORE 2002 GRANT MODIFICATION TO UTILIZE THE COST SAVINGS OF
$153,363.83 TO PURCHASE MOBILE ID’S AND CRIMINAL INTELLIGENCE
SOFTWARE AND ASSOCIATED EQUIPMENT.

WHEREAS, the U.S. Department of Justice COPS MORE 2002 grant was
awarded for $500,000 for the acquisition, installation, software and licensing of thirty
(30) mobile data computers in thirty (30) police operation vehicles, and purchase of a
Live Scan Fingerprint System, and

WHEREAS, because of the reduction in technology prices throughout the term of
the application, prices for the Live Scan and mobile data computers fell to almost half of
what was budgeted, and

WHEREAS, the project was accomplished for approximately $346,536.17, and

WHEREAS, on August 31, 2004, the U.S. Department of Justice granted the City
of Modesto a time extension and budget modification to expend the remaining funds
($153,363.83) for an inter-agency integrated automated field reporting system, which is
part of the Integrated Public Safety System, and

WHEREAS, the Modesto Police Department requested and was granted a time
extension (7/31/2007) and budget modification to utilize the remaining $153,363.83 for:

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>35 Mobile ID’s licensing, and associated equipment</td>
<td>$76,019.77</td>
</tr>
<tr>
<td>Intelligence Tracking Software</td>
<td>$31,369.09</td>
</tr>
<tr>
<td>9 Mobile Data Computers for Intelligence Units</td>
<td>$45,974.97</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$153,363.83</td>
</tr>
</tbody>
</table>
WHEREAS, the Intelligence Task Force Team evaluated seven (7) criminal intelligence tracking software products and only one (1) evaluated product was advertised as being 28 C.F.R. Part 23 compliant, and

WHEREAS funds are budgeted and available in the following account for the purchase of mobile ID’s and Criminal Intelligence Tracking Software:

0400-190-2987-5401 COPS MORE 2002 $153,363.83

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes accepting the U.S. Department of Justice COPS MORE 2002 Grant modification to utilize the cost savings of $153,363.83 to purchase mobile ID’s and Criminal Intelligence software and associated equipment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, 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
RESOLUTION NO. 2007-238

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE THE SOLE SOURCE PROCUREMENT OF THIRTY-FIVE (35) LIVE SCAN DEVICES (MOBILE ID’S) FOR THE POLICE DEPARTMENT, TO COGENT SYSTEMS, SOUTH PASADENA, CALIFORNIA, FOR AN ESTIMATED COST OF $76,019.77, AND AUTHORIZE EXPENDITURE OF MAINTENANCE COSTS OF $19,550 AND $27,920 FOR THE SECOND AND THIRD YEAR’S MAINTENANCE FEES RESPECTIVELY.

WHEREAS, the Modesto Police Department received twenty (20) Live Scan Devices and forty (40) docking stations from Stanislaus County, which were funded through a Grant obtained by the County, and

WHEREAS, this equipment allows Modesto Police officers to electronically submit fingerprints to the Stanislaus County Sheriff’s Office from the field for identification rather than transporting the subject to the Police Department or jail for identity verification, and

WHEREAS, the devices are used an average of 9 times a day saving officers the time required of 1.5 hours (approximated) per transport, and

WHEREAS, the twenty (20) Mobile ID’s and forty (40) docking stations do not meet our deployment needs, and

WHEREAS, in October of 2006, the COPS Office permitted the reallocation of funding in the COPS More 2002 Grant so an additional thirty-five (35) Mobile ID’s and associated equipment could be purchased for all patrol vehicles and several special unit vehicles, and

WHEREAS, it is the department’s desire to outfit the remaining vehicles in our fleet with the same Mobile ID’s purchased by the County,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue the sole source procurement of thirty-five (35) Live Scan Devices (Mobile ID’s) for the Police Department, to Cogent Systems, South Pasadena, California for a total estimated cost of $76,019.77 and authorize the expenditure of maintenance costs of $19,550 and $27,920 for the second and third year’s maintenance fees respectively.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-239

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A REQUEST FOR QUOTATION (RFQ) FOR THE PURCHASE OF INTELLIGENCE TRACKING SOFTWARE FOR AN ESTIMATED COST OF $31,369.09.

WHEREAS, the U.S. Department of Justice COPS MORE 2002 grant was awarded for $500,000 for the acquisition, installation, software and licensing of thirty (30) mobile data computers in thirty (30) police operation vehicles, and purchase of a Live Scan Fingerprint System, and

WHEREAS, because of the reduction in technology prices throughout the term of the application, prices for the Live Scan and mobile data computers fell to almost half of what was budgeted, and

WHEREAS, the project was accomplished for approximately $346,636.17, and

WHEREAS, on August 31, 2004, the U.S. Department of Justice granted the City of Modesto a time extension and budget modification to expend the remaining funds ($153,363.83) to purchase mobile ID’s and Criminal Intelligence software and associated equipment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a Request for Quotation (RFQ) for the purchase of Intelligence Tracking Software for an estimated cost of $31,369.09.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-240

A RESOLUTION ACCEPTING THE SOLE BRAND TO PURCHASE NINE (9) ITRONIX MOBILE DATA COMPUTERS FOR INTELLIGENCE UNITS FOR AN ESTIMATED COST OF $45,974.97.

WHEREAS, in October 2006, the Department of Justice, COPS MORE Administrator approved the Modesto Police Department’s plans for reallocation of unexpended funds from the COPS MORE 2002 grant (#2002CLWX0033), created through a decrease in technology costs, and

WHEREAS, a portion of these funds was designated to procure nine (9) Itronix Mobile Digital Computers (MDC’s) for an interjurisdictional Intelligence Unit, and

WHEREAS, the amount stipulated in the COPS 2002 Grant Redeployment for acquisition of MDC’s for the interjurisdictional Intelligence Units is $45,974.97, and

WHEREAS, on December 5, 2006, by Resolution No. 2006-749 the Modesto City Council authorized a purchase to eighty-one (81) Mobile Data Computers by accessing the terms “piggybacking” of a competitively bid Sacramento Police Department contract, and

WHEREAS, the Modesto Police Department has utilized Itronix Go Book III’s as part of a successful pilot program in place for the past 18 months, and

WHEREAS, the Police Department currently has eight (8) Itronix Go Book III’s in production, and

WHEREAS, there are many advantages in standardizing the computerized equipment including built-in safety for the officers in the field, continuity from one
vehicle to another, reducing the learning curve for the officers in the field and technicians that support the equipment, and quicker deployment of MDC software upgrades/changes.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes accepting the Sole Brand to purchase nine (9) Itronix Mobile Data Computers for Intelligence Units for an estimated cost of $45,974.97 recommended.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, 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 AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR LANDSCAPE MAINTENANCE SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WASTEWATER AND STORMWATER DIVISIONS, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $40,000.

WHEREAS, landscape maintenance services are required weekly to maintain a professional appearance of City facilities, and

WHEREAS, these facilities include eight major utility locations: two treatment plants (Sutter Avenue and Jennings Road), four wastewater lift stations (Emerald, Woodland, Thousand Oaks and Scenic) and two storm basin (Cassidy Court and Carpenter Road), and

WHEREAS, these locations have been landscaped for the purpose of improving the appearance of City property at the treatment plants/storm basin locations and in residential neighborhoods where the wastewater lift stations are located, and

WHEREAS, awarding this landscape maintenance contract will keep these locations professionally maintained and aesthetically pleasing, and

WHEREAS, funds are budgeted as listed below:

<table>
<thead>
<tr>
<th>Account Number</th>
<th>Department/Division</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6210-480-5212-0212</td>
<td>Wastewater Division – Weed Abatement</td>
<td>$10,000</td>
</tr>
<tr>
<td>6210-480-5213-0235</td>
<td>Wastewater Division – Professional Services</td>
<td>$13,500</td>
</tr>
<tr>
<td>6210-480-5214-0235</td>
<td>Wastewater Division – Professional Services</td>
<td>$14,500</td>
</tr>
<tr>
<td>6280-480-5312-0212</td>
<td>Storm Water Division – Weed Abatement</td>
<td>$2,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$40,000</td>
</tr>
</tbody>
</table>
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 bids for landscape maintenance services for the Public Works Department, Wastewater and Stormwater Divisions, for a two (2) year agreement, with three (3) one-year extensions at the sole discretion of the City, for a total estimated annual cost of $40,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, 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. 2007-242

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE KING-KENNEDY MEMORIAL CENTER KITCHEN AND AUDITORIUM RENOVATION PROJECT, ACCEPTING THE BID AND APPROVING A $598,008.00 CONTRACT WITH JHK CONSTRUCTION, FOR THE PROJECT TITLED “KING-KENNEDY MEMORIAL CENTER KITCHEN AND AUDITORIUM RENOVATION,” AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the project titled “King-Kennedy Memorial Center Kitchen and Auditorium Renovation” and City staff recommends approval to the City Council, and

WHEREAS, the bids received for “King-Kennedy Memorial Center Kitchen and Auditorium Renovation” were opened at 11:00 a.m. on March 20, 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 $598,008.00 received from JHK Construction, be accepted as the lowest responsible bid and the contract be awarded to JHK Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of JHK Construction, in the amount of $598,008.00, and hereby awards JHK Construction, the contract titled “King-Kennedy Memorial Center Kitchen and Auditorium Renovation.”

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 24th day of April 2007, by Councilmember Hawn, who
moved its adoption, which motion being duly seconded by Councilmember Olsen, was
upon roll call carried and the resolution adopted by the following vote:
AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney

ATTEST: Jean Morris
JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-243

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE MARSHALL PARK IMPROVEMENTS AND SYLVAN PARK SPLASH PAD PROJECT, ACCEPTING THE BID AND APPROVING A $247,910.41 CONTRACT WITH PLANNED ENVIRONMENTS, INC., FOR THE PROJECT TITLED “MARSHALL PARK IMPROVEMENTS AND SYLVAN PARK SPLASH PAD,” AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the project titled “Marshall Park Improvements and Sylvan Park Splash Pad” and City staff recommends approval to the City Council, and

WHEREAS, the bids received for “Marshall Park Improvements and Sylvan Park Splash Pad” were opened at 11:00 a.m. on April 3, 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 $247,910.41 received from Planned Environments, Inc., be accepted as the lowest responsible bid and the contract be awarded to Planned Environments, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Planned Environments, Inc., in the amount of $247,910.41, and hereby awards Planned Environments, Inc., the contract titled “Marshall Park Improvements and Sylvan Park Splash Pad.”

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 24th day of April 2007, by Councilmember Hawn, who
moved its adoption, which motion being duly seconded by Councilmember Olsen, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, 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
A RESOLUTION AMENDING THE FY 06-07 CAPITAL IMPROVEMENT PROGRAM BUDGET TO APPROPRIATE $222,619 FROM THE PARK FUND RESERVE TO PROJECT 1400-310-P493, PARK SYSTEM IMPROVEMENTS, TO FULLY FUND THE MARSHALL PARK PROJECT

WHEREAS, the FY 06-07 Capital Improvement Plan includes Project P493, Park System Improvements, and

WHEREAS, the FY 06-07 Capital Improvement Plan includes Project P469, Sylvan and Marshall Park Spray Grounds, and

WHEREAS, both of these projects were fully funded, and

WHEREAS, $222,619 in funding in project P493 was used to advance funding for a portion of the costs of a new scoreboard at John Thurman Field,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 06-07 Capital Improvement Program budget to appropriate $222,619 from the Park Fund Reserve to Project 1400-310-P493, Park System Improvements, to fully fund the 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 24th day of April, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-245

A RESOLUTION ACCEPTING THE WORK BY COLLINS ELECTRICAL COMPANY, INC., FOR THE PROJECT TITLED “MODIFICATION OF TRAFFIC SIGNALS AT 4 INTERSECTIONS” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENTS OF AMOUNTS TOTALING $312,996.00

WHEREAS, a report has been filed by the Public Works Director that the project titled “Modification of Traffic Signals at 4 Intersections” has been completed by Collins Electrical Company, Inc., in accordance with the contract agreement dated June 14, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “Modification of Traffic Signals at 4 Intersections” is hereby accepted as complete from said contractor, Collins Electrical Company, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $312,996.00, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, 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 DIRECTING STAFF TO PREPARE AND FILE AN ANNUAL REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1-6.

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.

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 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there being no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 1-6, City Engineer, the person designated by this Council as the Engineer of Work for Assessment District No. 1, is hereby directed to prepare and file an annual report in accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, 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. 2007-247

A RESOLUTION DIRECTING STAFF TO PREPARE AND FILE AN ANNUAL REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION, AND YOSEMITE MEADOWS SUBDIVISIONS UNITS 1 & 2.

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 Subdivisions Units 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 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there being no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision, and Yosemite Meadows Subdivisions Units 1 & 2, City Engineer, the person designated by this Council as the Engineer of Work for Assessment District No. 2, is hereby directed to prepare and file an annual report in accordance with the
provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and
Highways Code Sections 22500 through 22679).

The foregoing resolution was introduced at a regular meeting of the
Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember
Marsh, 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 SEWER SUBTRUNK LINE REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND PPC THOMAS TERRACE, LP, A CALIFORNIA LIMITED PARTNERSHIP, RELATED TO THE INSTALLATION OF 220 LINEAL FEET OF A 18" SEWER SUBTRUNK LINE IN THE AMOUNT NOT TO EXCEED $66,263.00 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, PPC THOMAS TERRACE, LP, a California Limited Partnership ("Developer"), is in the process of developing a commercial property located at the southwest corner of Merle Road and Claus Road, commonly known as Thomas Terrace, and

WHEREAS, in connection with the development of said Thomas Terrace, Developer is required to install 220 linear feet of a 18" Sewer Subtrunk Line and appurtenances thereto, located at the southwest corner of Merle Road and Claus Road ("Improvements"), and

WHEREAS, the Improvements are designed to serve a large portion of the Village One Specific Plan area, and

WHEREAS, the Improvements will serve other properties in addition to this development and, the other properties have or will pay fees to the City to assist in paying the cost of constructing the Improvements and the owners of said other properties have not participated in constructing the Improvements, and

WHEREAS, Modesto Municipal Code Section 4-4.802.1 authorizes the City to enter into an agreement with the Developer for reimbursement of costs of improvements, and

WHEREAS, Developer has requested, and City has agreed, that Developer be reimbursed for the actual costs in the amount of $66,263.00 required to construct the Improvements, and
WHEREAS, City will inspect the construction of the Improvements and will accept the Improvements as part of City’s public Sewer system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Sewer Trunk Line reimbursement agreement between the CITY OF MODESTO and PPC THOMAS TERRACE, LP, a California Limited Partnership related to the installation of 220 lineal feet of 18” sewer subtrunk line in the amount not to exceed $66,263.00.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, 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 Alcαlα Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-249

A RESOLUTION APPROVING AN AGREEMENT WITH MINAGAR AND ASSOCIATES, INC., TO PROVIDE CONSULTANT SERVICES IN THE AMOUNT OF $271,672, FOR THE PROJECT TITLED, “TRAFFIC SIGNAL SYNCHRONIZATION OUTSIDE THE CENTRAL BUSINESS DISTRICT (CBD) FOR FISCAL YEAR 2007,” AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Modesto has successfully obtained Federal Congestion Mitigation and Air Quality (CMAQ) grants for the “Traffic Signal Synchronization Outside the Central Business District for Fiscal Year 2007,” project and

WHEREAS, the project entails providing all services necessary to improve traffic signal coordination for 144 signalized intersections outside the Central Business District of Modesto, and

WHEREAS, a coordinated traffic signal system must be maintained with new baseline data collected every three to four years, and our last major synchronization project for outside the downtown area was done in 2002, and

WHEREAS, in January 2007, City staff sent a Request For Proposals (RFP) to qualified consultants and advertised this project in the Modesto Bee as well as the City of Modesto’s Contracts Available website, and

WHEREAS, a Review Board was appointed by the Public Works Director, and

WHEREAS, the Review Board evaluated the proposals, and based on qualifications, board members selected Minagar and Associates, Inc., as the successful competitor,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Minagar and Associates, Inc., to provide
consultant services in the amount of $271,672, for the project titled, "Traffic Signal Synchronization Outside the Central Business District (CBD) for Fiscal year 2007."

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 24th day of April, 2007, by Councilmember Marsh, 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. 2007-250

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO MAKE A SOLE-SOURCE PURCHASE OF A DIAMOND Z 5000 HORIZONTAL GRINDER DIRECTLY FROM THE MANUFACTURER, INCLUDING A CATERPILLAR ENGINE FIVE-YEAR EXTENDED WARRANTY, FOR CITY OF MODESTO COMPOST FACILITY, FOR A TOTAL COST OF $602,779, AND AUTHORIZING ADJUSTMENTS TO THE FLEET SERVICES AND COMPOST FUND BUDGETS TO REFLECT THE NEGOTIATED PURCHASE PRICE.

WHEREAS, the City of Modesto operates a Compost Facility at 7007 Jennings Road, and

WHEREAS, the operation of the Compost Facility is a critical component of the City’s AB 939 plan, which mandates the reduction of disposal and requires the City to divert 50% or more of its waste from disposal, and

WHEREAS, a grinder is an essential piece of equipment in producing compost, and

WHEREAS, the grinder currently used at the Compost Facility has met its life expectancy, is dangerous to operate, cannot process large quantities of mixed paper, and the engine recently failed, and

WHEREAS, on April 4, 2006, by Resolution No. 2006-193, the City Council authorized the Purchasing Manager to issue a Request for Bids (RFB) for the lease/purchase of a horizontal grinder to replace the current tub grinder at the City’s Composting Facility that has become unreliable and costly to keep operational, and

WHEREAS, based on the observation of various grinders under field conditions, staff developed bid specifications for the RFB, including: a downward turning mill; feed roller that lifts out 90 degrees and locks in place allowing the employees to work without crouching and eliminating the danger posed by working below the feed roller; and fluid coupler power transfer system, and
WHEREAS, following the issuance of the RFB and the bidders conference, Purchasing and Solid Waste staff determined that only one manufacturer, Diamond Z, could meet these safety/ergonomics and performance specifications in addition to the other bid specifications, including an downturn mill, a feed mill cover that lifts out 90 degrees, and a fluid coupler to reduce shocks to the engine, and

WHEREAS, a vendor formally requested the withdrawal of RFB No. 0607-19 due to these mandatory requirements, and raised concerns regarding the compliance of Diamond Z grinders with Air Board regulations, and

WHEREAS, staff contacted the Air Board and determined that the Diamond Z grinder being considered met the Air Board’s requirements for a mobile source, and

WHEREAS, City staff determined that due to technical and safety requirements, the procurement should be sole-source, and

WHEREAS, on December 6, 2006, RFB Addendum No. 1/Notice of Bid Cancellation was sent via email to Peterson Corporation and Pape Machinery, and mailed to all five (5) bidders and posted on the City’s web site, and

WHEREAS, the RFB Addendum No. 1/Notice of Bid Cancellation addressed the reasons for cancellation based on staff's discovery of the different types of grinders operating under field conditions, and stated that the downturn mill, removable cover, and fluid coupler will be mandatory for any horizontal grinder purchased, and

WHEREAS, the RFB Addendum No. 1/Notice of Bid Cancellation stated that all bidders shall be notified should the City decide to move forward with the sole-source procurement process, and

WHEREAS, on March 27, 2007, by Resolution No. 2007-192, the City Council authorized the sole-source lease/purchase of a Diamond Z 5000 horizontal grinder, with terms to be negotiated by the Purchasing Division, and
WHEREAS, on March 28, 2007, Peterson Corporation and Pape Machinery were notified via email, of the City’s intent to move forward with a sole-source procurement, which was the preliminary step in Councils’ approval of the sole-source procurement, with the second step being to request funding from Council on April 24, 2007, and

WHEREAS, the City subsequently received e-mails from several vendors, asserting that they could provide services cheaper, that the machine being procured would not meet Air Board requirements, and could not be transported over the road in California, and

WHEREAS, staff has responded to each of these assertions in detail in the staff report, and providing evidence to counter these assertions, and

WHEREAS, replacement of the existing grinder is critical to compost operations, and

WHEREAS, based on an evaluation by the Finance Director of lease/purchase terms available, it has been determined that an outright purchase of the grinder is the more favorable and expeditious option to pursue, and

WHEREAS, resources are available within the Compost Fund and Fleet Replacement Fund to provide for the purchase of the grinder, and

WHEREAS, the budget of the Fleet Replacement Fund must be amended as shown in Exhibit A to this resolution, which is incorporated by reference herein, to increase appropriations in an amount sufficient to allow the purchase of the grinder in the approximate amount of $602,778.00, and

WHEREAS, the budget of the Compost Fund must be amended to reduce appropriations that were originally established to provide for the lease-purchase of the grinder as shown in Exhibit A attached hereto and incorporated herein by reference. and

WHEREAS, the Citizen’s Advisory Committee on Recycling has recommended that once the City’s Compost Facility has purchased its new horizontal grinder, which will be
capable of processing mixed paper and other organics along with green waste, the City should conduct an aggressive public education campaign to encourage residents to put other organics such as food waste, newsprint, magazines, phone books, junk mail, computer paper, paper napkins and towels, and cardboard in the green waste container for composting,

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that the Council hereby authorizes the Purchasing Manager to make a sole-source purchase of a Diamond Z 5000 horizontal grinder directly from the manufacturer, including a Caterpillar Engine Five-Year Extended Warranty, for City of Modesto Compost Facility, for a total cost of $602,778.

BE IT FURTHER RESOLVED that the Council hereby authorizes an adjustment to the Fleet Services Fund budget, as shown on Exhibit A, attached hereto and incorporated herein by reference to reflect the purchase.

BE IT FURTHER RESOLVED that the Council hereby authorizes an adjustment to the Compost Fund budget, as shown of Exhibit A, attached hereto and incorporated herein by reference, to reflect the purchase.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)
APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
Exhibit A

Compost Operations Fund – Fund 6290

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-251

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO EXTEND THE CURRENT INTERIM GRINDING CONTRACT WITH G & F AGRI SERVICES, INC. THROUGH MAY 30, 2007, IN AN AMOUNT NOT-TO-EXCEED $100,000, FOR CITY OF MODESTO COMPOST FACILITY, AND AMENDING THE COMPOST FACILITY BUDGET TO REFLECT THE INCREASED COST OF THESE SERVICES

WHEREAS, the City of Modesto operates a Compost Facility at 7007 Jennings Road, and

WHEREAS, the operation of the Compost Facility is a critical component of the City’s AB 939 plan, which mandates the reduction of disposal and requires the City to divert 50% or more of its waste from disposal, and

WHEREAS, a grinder is an essential piece of equipment in producing compost, and

WHEREAS, in late December, 2006, the tub grinder at the City’s Compost Facility experienced complete engine failure, and

WHEREAS, the tub grinder was purchased in 1997 and had been in continuous operation since that time, had met its life expectancy, cannot process paper or other materials that the City will need to compost to continue to meet it’s AB 939 mandates, and is in the process of being replaced for these reasons, and

WHEREAS, to meet the State’s time limits on stockpiling while the details of the new grinder purchase are being finalized and the grinder can be delivered, staff solicited informal bids for temporary grinding services from private sector grinding companies.

WHEREAS, bids were received from five (5) companies and ranged from $11.50 per ton to $15.50 per ton, and
WHEREAS, a Purchase Order was issued to G & F Agri Services, Inc., in Ripon for grinding up to 4,000 tons during this interim period, and

WHEREAS, the amount processed has almost reached the 4,000 ton processing limit of the Purchase Order, and the dollar amount of the grinding services provided under this Purchase Order is approximately $48,000, and

WHEREAS, staff is recommending that the Purchase Order be extended and increased in order to provide grinding services and avoid permit violations pending the delivery of the new grinder, and

WHEREAS, the funds budgeted in the FY 2006-2007 Compost Facility Budget are presently insufficient to cover the increased cost of the extended grinding contract, and an increase in the Purchase Order would require a transfer from the Compost Fund Reserves and an amendment to the operating budget as shown in Exhibit A to this resolution, and

WHEREAS, the Compost Fund Reserves have a sufficient balance to accommodate a transfer for these purposes,

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to extend the current interim grinding contract with G & F Agri Services, Inc. through May 30, 2007, in an amount not-to-exceed $100,000, for City of Modesto Compost Facility.

BE IT FURTHER RESOLVED that the Council hereby authorizes an adjustment to the Compost Fund budget as shown in Exhibit A to reflect the cost of the repair.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Dunbar, 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

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
## Exhibit A

Compost Operations Fund – Fund 6290

<table>
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<tr>
<th>Expense</th>
<th>Increase (Decrease)</th>
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<tbody>
<tr>
<td>6290-800-8000-8003 Composting Operations Reserve</td>
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</tr>
<tr>
<td>6290-355-5222-0216 Equipment Rental</td>
<td>$100,000</td>
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A RESOLUTION AUTHORIZING THE PURCHASING MANAGER, IF IT BECOMES NECESSARY DUE TO DELAYS IN THE PURCHASE OF THE NEW GRINDER, TO EXECUTE A PURCHASE ORDER WITH HOLT OF CALIFORNIA FOR THE REPAIR OF THE EXISTING TUB GRINDER IN AN AMOUNT NOT-TO-EXCEED $70,000, AND AUTHORIZING ADJUSTMENTS TO THE COMPOST FACILITY BUDGET TO REFLECT THE ACTUAL COST OF THE REPAIR, SHOULD THIS REPAIR BECOME NECESSARY.

WHEREAS, the City of Modesto operates a Compost Facility at 7007 Jennings Road, and

WHEREAS, the operation of the Compost Facility is a critical component of the City’s AB 939 plan, which mandates the reduction of disposal and requires the City to divert 50% or more of its waste from disposal, and

WHEREAS, a grinder is an essential piece of equipment in producing compost, and

WHEREAS, the grinder currently used at the Compost Facility has met its life expectancy, is dangerous to operate, cannot process large quantities of mixed paper, and the engine recently failed, and

WHEREAS, on March 27, 2007, by Resolution No. 2007-192, the City Council authorized the sole-source lease/purchase of a Diamond Z 5000 horizontal grinder, with terms to be negotiated by the Purchasing Division, and

WHEREAS, based on an evaluation by the Finance Director of lease/purchase terms available, it has been determined that an outright purchase of the grinder is the more favorable and expeditious option to pursue, and

WHEREAS, the Purchasing Division is currently negotiating the purchase of a new grinder with the vendor, and
WHEREAS, although the City has used a contract grinding service to grind materials while working on the purchase of a new grinder, these contract services are costing $11.50 per ton, which is significantly higher than the City’s cost to grind which is $7.05 per ton, and

WHEREAS, as a contingency, in the event that the purchase of the new grinder encounters delays and the delivery of a new grinder is delayed for three (3) to six (6) months, necessitating the repair of the existing grinder to provide a more cost-effective means of processing materials than continuing to contract for this service, staff has requested quotes for the emergency repair of the existing tub grinder from four (4) companies, and

WHEREAS, staff has received one responsive quote, which was from Holt of California, a licensed Caterpillar engine repair shop, in the amount of $58,763 plus tax, and

WHEREAS, if necessary, the emergency repair of the tub grinder is expected to total approximately $64,000, exceeding the authorization authority of the City Manager, and

WHEREAS, once repaired, the resale value of the of the tub grinder is anticipated, although not guaranteed, to exceed the amount of the repair, based on current prices for used tub grinders, and

WHEREAS, if the repair is necessary due to delays in the procurement of the new grinder, resources are available within the Compost Fund Reserves for the repair of the grinder, and

WHEREAS, if the repair becomes necessary, the budget of the Compost Fund must be amended to increase the appropriations that were originally established for equipment repair as shown in Exhibit A to this resolution,

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that the Council hereby authorizes the Purchasing Manager, if it becomes necessary due to delays in the purchase of the new grinder, to execute a Purchase Order with Holt of California for the repair of
the existing tub grinder in an amount not to exceed $70,000, for City of Modesto Compost Facility.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Compost Facility budget to reflect the increased cost of these services, as shown in Exhibit A, attached hereto and incorporated herein by reference.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)
APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney
## Exhibit A

Compost Operations Fund – Fund 6290

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<td>6290-800-8000-8003 Composting Operations Reserve</td>
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<td>6290-355-5222-0223 R &amp; M Outside</td>
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A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(579) (DALE ROAD BUSINESS PARK, LLC)

WHEREAS, a verified application for an amendment to Section 12-3-8 of the Zoning Map was filed by Dale Road Business Park, LLC on October 25, 2006, to reclassify from Professional Office Zone, P-O, to Planned Development Zone, P-D(579), to allow the conversion of existing professional offices to four-two unit commercial condominiums, creating eight air space condominium units, property located on the east side of Dale Road north of Veneman Avenue, described as follows,

P-O to P-D(579)

All that certain property situate in the northwest quarter of Section 12, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, and lying in the City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

Parcel 3 as shown on that certain Parcel Map filed September 25, 1986 in Volume 38 of Parcel Maps, at Page 77, Stanislaus County Records;

also including the easterly half of Dale Road immediately adjacent to the above described property.

WHEREAS, a public hearing held by the Planning Commission on March 5, 2007, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2007-09, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed rezoning will not result in any additional development beyond what has previously been approved for the site.
2. The proposed project is compatible with existing and potential surrounding development, because it consists of single-story offices that orient to Dale Road, a Principal Arterial street.

WHEREAS, said matter was set for a public hearing of the City Council to be held on April 24, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Dale Road Business Park, LLC for a Planned Development Zone should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2007-09 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3440-C.S. on the 24th day of April, 2007 reclassifying the above-described property from Professional Office Zone, P-O, to Planned Development Zone, P-D(579).

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

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development, P-D(579), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan titled “Dale Road Business Park Plot Plan” as amended in red, stamped approved by the City Council.

2. No operations conducted on the premises shall cause an unreasonable amount of noise, odor, dust, mud, smoke, vibration, or electrical interference detectable off the premises. All machinery or equipment shall be soundproofed as required by the Chief Building Official.

3. Prior to issuance of a building permit the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.

4. Ten-foot-wide public utility easements, and planting easements located within the ten-foot-wide public utility easements, as required by the City Engineer or designee shall be dedicated along all street frontages.
5. Local Stormwater Pollution Prevention Plan (SWPPP) for project must be submitted to Development Services-Stormwater prior to the issuance of a Building Permit. Local SWPPP to include soil stabilization measures, sediment controls; drain inlet protection in public right-of-way, stabilized construction entrance, and concrete wash out area. The project shall comply with the Guidance Manual for New Development Storm Water Quality Control Measures and the City of Modesto Standard Specifications.

6. Prior to sale of the condominium units, a final subdivision map shall be recorded.

7. Prior to recordation of a final subdivision map, the developer shall obtain certification from the Chief Building Official that all construction conforms to all building and fire safety standards for condominiums established by the Chief Building Official.

8. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Public Works Director or designee. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community and Economic Development Department Director or designee. The enclosure shall be sized to adequately accommodate recyclable materials. The trash enclosure for this project shall be altered to meet current City Stormwater Standards:
   a. Berm to prevent stormwater run-on.
   b. Grade to drain to adjacent landscape area.

9. All conditions of Board of Zoning Adjustment Resolution No. 2005-11 not in conflict with this action shall remain in full force and effect.

10. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors, and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(579):
The entire construction program to be accomplished in one phase, construction to begin on or before April 24, 2009 and completion to be not later than April 24, 2010.

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(579), becomes effective.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:
By: Susana ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION
By: Community & Economic Development Department
Planning Division
A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING SECTION 12-3-8 OF THE ZONING MAP TO REZONE FROM PROFESSIONAL OFFICE ZONE, P-O, TO PLANNED DEVELOPMENT ZONE, P-D(579), PROPERTY LOCATED AT 3600 DALE ROAD. (DALE ROAD BUSINESS PARK, LLC)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, Morris Engineering and Surveying, Inc. has proposed that the zoning designation for the property located on the east side of Dale Road north of the Veneman Road, be amended to rezone from Professional Office Zone, (P-O), to Planned Development Zone, P-D(579), to allow for the approved office buildings to be converted to four-two unit-commercial condominiums subsequently creating eight air space condominium units, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent project for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City’s Community and Economic Development Department by Environmental Assessment Initial Study EA/C&ED No. 2007-12 ("Initial Study") reviewed the proposed amendment to the Zoning Map and Planned Development project
to determine whether the project is within the scope of the project covered by the
Modesto Urban Area General Plan Master EIR ("Master EIR"), and made the
determination that the proposed project will have no additional significant effect on the
environment that was not identified in the Master EIR, and further, that no or new
additional mitigation measures or alternatives are required, and that, therefore, the
proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines on February 8, 2007, the City
caused to be published a 20-day notice of the City’s intent to make a finding that the
proposed project conforms with the Master EIR, and

WHEREAS, the Planning Commission, by Resolution No. 2007-09 recommended
to the City Council approval of the application of Morris Engineering to amend section
12-3-8 of the zoning map to rezone from Professional Office Zone, (P-O), to Planned
Development Zone, P-D(579), for the property located on the east side of Dale Road
north of Veneman Avenue, to allow the future development of four approved office
buildings to be converted to four-two unit-commercial condominiums subsequently
creating eight air space condominium units and associated parking as set forth in said
Resolution No. 2007-09, and

WHEREAS, said matter was considered by the City Council at a duly noticed
public hearing, which was held on April 24, 2007, at 5:30 p.m., in the Tenth Street Place
Chambers located at 1010 Tenth Street, Modesto, California

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the Council has reviewed and considered the Initial Study prepared for the proposed
rezone to Planned Development Zone P-D(579) for commercial condominiums, a copy of
which is attached hereto as Exhibit "A", and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The type of project is described in Chapter II of the Master EIR (SCH No. 1999082041).

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

3. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

4. Based on the Initial Study, the City of Modesto finds and determines:
   a. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b. No new or additional mitigation measures or alternatives are required.
   c. The project is within the scope of the MEIR.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. 2007-12

For the proposed:

PDZ – Planned Development Zone
3600 Dale Road – Dale Road Business Park, LLC

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

February 23, 2007
City of Modesto

Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the Planned Development Project is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

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

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and
2. no new or additional mitigation measures or alternatives are required.

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

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

II. PROJECT DESCRIPTION

A. Title: P-PDZ-06-006 – Dale Road Business Park

B. Address or Location: 3600 Dale Road

C. Applicant: Dale Road Business Park, LLC, 433 Airport Blvd., Ste. 224, Burlingame, CA 94010

D. City Contact Person: Rita S. Doscher

Project Manager: Rita S. Doscher
Department: Community and Economic Development Department
Phone Number: (209) 577-5267
E-mail address: rdoscher@modestogov.com

E. Current General Plan Designation(s): "C" Commercial

F. Current Zoning Classification(s): "P-O" Professional Office Zone

G. Surrounding Land Uses: North: Professional Offices
   South: P-D (195) Professional Offices Uses
   East: (R-1) Single-Family Residential
   West: P-D (109) Commercial Retail
H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

This is an application to rezone the above reference property from P-O (Professional-Office) to P-D (Planned Development Zone) to allow the approved office buildings to be converted to four-two unit commercial condominiums subsequently, creating eight air space condominium units. The proposed development will consist of four two-unit single story buildings: 4 units will have a total of 2424 sq. ft. each; 2 units will have a total of 2257 sq. ft. each; and the remaining 2 units will have a total of 2258 sq. ft. each. The overall square footage for all four buildings is 18,726 sq. ft. In addition, the approved development is providing on site parking, landscaping, and street improvements. The current development fronts onto Dale Road and access into the site is provided by way of a 30-foot wide on-site access driveway. The parking areas are located throughout the development and will provide a total of 102 spaces exceeding the minimum requirement of 93 parking spaces.

I. Other Public Agencies Whose Approval is Required:

None.

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

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

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

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

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:

      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.

      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:
A. The type of project is described in Chapter II of the Master EIR.

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

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

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

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

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

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

Rita S. Doby
Project Manager

Assistant Planner
February 23, 2007
Title
Date
4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any “No” response must be discussed.

(1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR. 

(2) City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.

(3) Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).

(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.

(5) The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.

(6) Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any “No” response must be discussed.

(1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.

(2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:

(3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.
(4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. X □

(5) Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development. X □

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is “within the scope” of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a notice of conformity after completion of the Initial Study fulfills the City’s obligation in that situation.

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the “Baseline Developed Area”:

Effect: Increased traffic will result in certain roadway segments operating at LOS “D” or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of a LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.
Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

This is an application to rezone the project site from P-O (Professional Office Zone) to P-D (Planned Development Zone) in order to allow the approved office buildings to be converted to four-two unit commercial condominiums subsequently, creating eight air space condominium units. The rezoning of the office complex is compatible with the existing surrounding mix use of residential development and professional office complexes located along this area of Dale Road. Because the project is consistent with the surrounding mix use of professional office and residential developments, the use and activities will not change to a level that will cause a change to the existing road capacities or levels of service.

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

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, Mitigation Measures Applied to Project.

c. Project-Specific Effects

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

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

YES NO

(1) The project would contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR.

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR’s traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.
DISCUSSION:

(1) Engineering and Transportation Staff reviewed the proposed project and have the following comments:

A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.
B. A site access study is not required for this project.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards. The previously approved site plan was designed to accommodate commercial uses and emergency access.

(3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4) The project has been evaluated for compliance to the City of Modesto Parking regulations. The parking area will be located throughout the project site and will provide a total of 102 spaces exceeding the minimum requirement of 93 parking spaces. The design and layout of the proposed parking area will comply with both City standards and ADA (Americans with Disability Act) standards.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected City traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected City traffic levels will result in increased ROG and NOX levels in the project area. This is a significant and unavoidable impact.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

YES NO

(1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines. □ X

(2) The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD. □ X

(3) The project does not comply with the air quality policies of the Modesto Urban Area General Plan. □ X

(4) The project would expose sensitive receptors to substantial pollutant concentrations. □ X

(5) The project would create objectionable odors affecting a substantial number of people. □ X

DISCUSSION:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).
(3) Applicable General Plan Policies have been applied to the previously approved project site. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project is not a significant contributor to pollution levels in that it involves only a rezone to P-D to allow the conversion of existing offices to condominiums. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measures listed above.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City's Noise Significance Standards.

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

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

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.</td>
<td>X</td>
</tr>
<tr>
<td>(2)</td>
<td>The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.</td>
<td>X</td>
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</tbody>
</table>
DISCUSSION:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

(3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project site and the surrounding property are located within a fully developed urbanized area.
b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measure applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. □ X
(2) The project will directly result in the development of land outside the March 2003 planning area boundaries. □ X
(3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract. □ X
(4) The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland, to non-agricultural use. □ X

DISCUSSION:

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanization.
5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less-than-significant.

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

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

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. ☑
(2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan for Commercial both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. As a result, this impact would be less-than-significant.

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. This is a less-than-significant impact.

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-4 through V-6-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measure applicable to this project.

City of Modesto Finding of Conformance
General Plan Master EIR 14

Initial Study
EA/C&ED No. 2007-12
02/23/07
c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. ☐ X

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

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and while the sewer treatment capacity referred to in #2 above is not at question, they are requesting a fair share contribution from new development in the area to replace the existing trunk with a new larger pipeline. The developers have been advised that they will need to contribute their fair share, $1,779.00, toward the new trunkline.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.
Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>X</td>
</tr>
<tr>
<td>(2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.</td>
<td>X</td>
</tr>
<tr>
<td>(3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
<td>X</td>
</tr>
</tbody>
</table>

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial both in land use and intensity.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR
The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

**Effect:** If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

**Effect:** Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

**Effect:** The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

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

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR. The project does not involve physical development and as a result no measures will be incorporated into or made conditions of approval of this project.

**DISCUSSION:**

Mitigation Measures applicable to this project include: AH-8, Master EIR.

**c. Project-Specific Effects**

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

**DISCUSSION:**

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial in both land use and intensity.
(2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less-than-significant.

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

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. The site is fully developed and this new proposal will only involve an amendment to the Planned development zone with no physical changes to the property. No measures will be incorporated into or made conditions of approval of this project.

DISCUSSION:

Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

C. Project-Specific Effects
Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

YES  NO

(1) The project is inconsistent with the Modesto Urban Area General Plan.  □  X

(2) The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite. □  X

(3) Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. □  X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity.

(2) The project will meet the standards contained in the “Guidance Manual for New Development-Storm Water Quality Control Measures,” adopted by the City as required by the above-listed mitigation measures.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less-than-significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less-than-significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems
designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

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

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into or made conditions of approval of the previously approved development. This project will not involve any modification to the existing site that would require additional measures applied to the new proposal.

DISCUSSION:

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>Threshold</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>2. The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>3. The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>4. The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

DISCUSSION:
The project is consistent with the Modesto Urban Area General Plan for Commercial designation in both land use and intensity.

The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

Mitigation Measures as called for by FWQ-14 will be applied to the project so that the project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less-than-significant.

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. This impact is less-than-significant.

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

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measure applicable to this project. It is not on or adjacent to any park sites, nor is it near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

YES  NO

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

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity. There are no mitigation measures applicable to this project.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects
Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>✗</td>
<td>X</td>
</tr>
<tr>
<td>✗</td>
<td>X</td>
</tr>
</tbody>
</table>

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

(2) The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.

DISCUSSION:

(1) The project is consistent with the General Plan C for Commercial in both land use and intensity.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less-than-significant.

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

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

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.
c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

- The project is inconsistent with the Modesto Urban Area General Plan.
- The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

DISCUSSION:

- The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity.
- The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less-than-significant.

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This impact would be less-than-significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.
Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project, are listed in Section IV, Mitigation Measures Applied to Project:

**DISCUSSION:**

No mitigation measures are applicable to this project.

c. **Project-Specific Effects**

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

1. The project is inconsistent with the Modesto Urban Area General Plan.
2. The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

**DISCUSSION:**

1. The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity.
2. The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. **SOLID WASTE**

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

The Master EIR identified the following significant environmental impacts relative to solid waste:

**Effect:** New development projects would exceed available landfill capacity; it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. New projects will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. The impact would be less-than-significant at such time as the Fink Road Landfill expansion is approved.
Effect: New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.

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

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-15-5 and V-15-6 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

\[
\begin{array}{c|c}
\text{YES} & \text{NO} \\
\hline
(1) & \text{The project is inconsistent with the Modesto Urban Area General Plan.} & \square & X \\
(2) & \text{The County is unable to expand its solid waste disposal capacity and the} & \square & X \\
& \text{project would result in waste stream levels that exceed disposal capacity.} & \\
\end{array}
\]

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less-than-significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.
b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-i6-9 through V-i6-12 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. ☐ X

(2) The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. ☐ X

(3) The project contains a contaminated site not identified as of March 2003. ☐ X

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

(5) The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment. ☐ X

DISCUSSION:
(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less-than-significant.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less-than-significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects
Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan.
2. The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.

DISCUSSION:

1. The project is consistent with the General Plan C for Commercial designation in both land use and intensity.
2. The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less-than-significant.

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:
DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>X</td>
</tr>
</tbody>
</table>

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>X</td>
</tr>
<tr>
<td>(2) The project includes a substantive amendment to the Modesto Urban Area General Plan.</td>
<td>X</td>
</tr>
<tr>
<td>(3) The project would physically divide an established community</td>
<td>X</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity.

(2) No amendment to the General Plan is required by this project.
AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-significant unless:

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>(2) The project would have a substantial adverse effect on a scenic vista.</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>(3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings.</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>(4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.</td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>

DISCUSSION:

(1) The project is consistent with the General Plan C for Commercial designation in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings. This is an existing site, which had received previous City approval.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area. The existing site conforms to current City regulations regarding night glare to surrounding residences. These requirements shall remain in effect.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the
The following adopted General Plan Policies and Master EIR Mitigation Measures (also contained in Section III, "Global List") shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project.

**Traffic and Circulation Measures:**

N/A

**Air Quality Measures:**

1. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

2. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

3. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

4. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. *(the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.)* *(Use of blower devices is expressly forbidden.)*

5. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

**Noise Measures:**

1. The City’s noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the “loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine.”

   The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

   A. A hammer, or any other device or implement used to pound or strike an object.

   B. An impact wrench, or other tool or equipment powered by compressed air.

   C. A hand-powered saw.
D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

Agricultural Land Measures:
N/A

Water Supply Measures:
N/A

Sanitary Sewer Service Measures:
N/A

Sensitive Wildlife and Plant Habitat Measures:
N/A

Archaeological or Historic Sites Measures:
1. If archaeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archaeologist. The survey shall
include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K

**Storm Drainage Measures:**

1. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

**Flooding and Water Quality Measures:**

1. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

**Parks and Open Space Measures:**

N/A

**Schools Measures:**

N/A

**Police Services:**

N/A

**Fire Services:**

N/A

**Generation of Solid Waste**

N/A

**Generation of Hazardous Materials**

N/A

**Potential for Landslides and Seismic Activity**

N/A

**Energy**

N/A

**Planning and Land Use**

N/A

**Aesthetics**
B. New or Additional Mitigation Measures or Alternatives Required

Where the project’s effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: None.
MODESTO CITY COUNCIL  
RESOLUTION NO. 2007-255  

A RESOLUTION ADOPTING THE 2005 URBAN WATER MANAGEMENT PLAN  

WHEREAS, the California Water Code requires that all urban water suppliers providing water for municipal purposes, either directly or indirectly to more that 3,000 customers, or supplying more that 3,000 acre-feet of water annually, must prepare an urban water management plan and update it at least every five years, and  

WHEREAS, the City of Modesto, pursuant to the Water Code, filed Urban Water Management Plans in 1985, 1990, 1995, and 2000 and City staff is recommending adopting the 2005 Urban Water Management Plan in accordance with Section 10642 of the California Water Code, which proposed action will fulfill the 2005 reporting date, and  

WHEREAS, City staff held a public workshop to obtain public input on April 24, 2007, and  

WHEREAS, as required by Section 6066 of the Government Code, the plan was made available for public review, and notice of a public hearing to be held by the Council of the City of Modesto on April 24, 2007, was published in The Modesto Bee for six weeks prior to said public hearing,  

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the 2005 Urban Water Management Plan in accordance with Section 10642 of the California Water Code. A copy of said plan is on file in the office of the City Clerk.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 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

JHAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney