MODESTO CITY COUNCIL
RESOLUTION NO. 2007-001

A RESOLUTION REAPPOINTING WILLIAM A. JAQUES, BILL ZOSLOCKI AND RICH ROSA TO THE AIRPORT ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint WILLIAM A. JAQUES, BILL ZOSLOCKI and RICH ROSA to the Airport Advisory Committee.

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

SECTION 1. WILLIAM A. JAQUES, BILL ZOSLOCKI and RICH ROSA are hereby reappointed to the Airport Advisory Committee with term expirations of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Airport Advisory Committee, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, 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 ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-002

A RESOLUTION REAPPOINTING TIM RAGSDALE AND DOUG MOORE TO THE BOARD OF BUILDING APPEALS

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

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint TIM RAGSDALE and DOUG MOORE to the Board of Building Appeals.

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

SECTION 1. TIM RAGSDALE and DOUG MOORE are hereby reappointed to the Board of Building Appeals with term expirations of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Board of Building Appeals, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, 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

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-003

A RESOLUTION REAPPOINTING RALPH SAXTON TO THE BOARD OF ZONING ADJUSTMENT

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

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint RALPH SAXTON to the Board of Zoning Adjustment.

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

SECTION 1. RALPH SAXTON is hereby reappointed to the Board of Zoning Adjustment with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Board of Zoning Adjustment, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd of January, 2007, by Councilmember Olsen, 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

APPROVED AS TO FORM:

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION REAPPOINTING WILLIAM A. JAQUES TO THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

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

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint WILLIAM A. JAQUES to the Citizens Advisory Committee on Recycling.

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

SECTION 1. WILLIAM A. JAQUES is hereby reappointed to the Citizens Advisory Committee on Recycling with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Citizens Advisory Committee on Recycling, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, 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

APPROVED AS TO FORM:

[Signature]

JEAN MORRIS, City Clerk

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION REAPPOINTING ANTHONY GONSALVES TO THE COMMUNITY QUALITIES FORUM

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

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint ANTHONY GONSALVES to the Community Qualities Forum.

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

SECTION 1. ANTHONY GONSALVES is hereby reappointed to the Community Qualities Forum with term expirations of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Community Qualities Forum, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-006

A RESOLUTION REAPPOINTING CLEO GRIFFITH TO THE CULTURE COMMISSION

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

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint CLEO GRIFFITH to the Culture Commission.

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

SECTION 1. CLEO GRIFFITH is hereby reappointed to the Culture Commission with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Culture Commission, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, 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

APPROVED AS TO FORM:

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-007

A RESOLUTION REAPPOINTING DONALD LENGLING AND JOSEPH ALONZO TO THE GOLF COURSES ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint DONALD LENGLING and JOSEPH ALONZO to the Golf Courses Advisory Committee.

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

SECTION 1. DONALD LENGLING and JOSEPH ALONZO are hereby reappointed to the Golf Courses Advisory Committee with term expirations of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Golf Courses Advisory Committee, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2\textsuperscript{nd} day of January, 2007, by Councilmember Olsen, 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

APPROVED AS TO FORM:

\underline{SUSANA ALCALA WOOD, City Attorney}

\underline{ATTEST: J\textsc{ean} M\textsc{orris}, City Clerk}
A RESOLUTION REAPPOINTING PHILIP TOMLIN TO THE HOUSING REHABILITATION LOAN COMMITTEE

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

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint PHILIP TOMLIN to the Housing Rehabilitation Loan Committee.

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

SECTION 1. PHILIP TOMLIN is hereby reappointed to the Housing Rehabilitation Loan Committee with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Housing Rehabilitation Loan Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, 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

APPROVED AS TO FORM:

ATTEST: Jean Morris, City Clerk

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-009

A RESOLUTION REAPPOINTING DWIGHT BATEMAN, JACKY DEABLER, GALENA JAMES AND SCOTT HALLMON TO THE HUMAN RELATIONS COMMISSION

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

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint DWIGHT BATEMAN, JACKY DEABLER, GALENA JAMES and SCOTT HALLMON to the Human Relations Commission.

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

SECTION 1. DWIGHT BATEMAN, JACKY DEABLER, GALENA JAMES and SCOTT HALLMON are hereby reappointed to the Human Relations Commission with term expirations of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Human Relations Commission, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, 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

APPROVED AS TO FORM:

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-010

A RESOLUTION REAPPOINTING DENNIS E. WISTER TO THE
LANDMARK PRESERVATION COMMISSION

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

WHEREAS, the Economic Development Committee met on December 11, 2006,
and recommended its approval to reappoint DENNIS E. WISTER to the Landmark
Preservation Commission.

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

SECTION 1. DENNIS E. WISTER is hereby reappointed to the Landmark
Preservation Commission with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this
resolution to the reappointed member of the Landmark Preservation Commission, and the
Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, 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

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

ATTEST: JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-011

A RESOLUTION REAPPOINTING ELLIE TEMPLE BAUMER TO THE LOCAL CABLE PROGRAMMING COMMITTEE

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

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint ELLIE TEMPLE BAUMER to the Local Cable Programming Committee.

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

SECTION 1. ELLIE TEMPLE BAUMER is hereby reappointed to the Local Cable Programming Committee with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Local Cable Programming Committee, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, 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

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

ATTEST: JEAN MORRIS, City Clerk
A RESOLUTION REAPPOINTING PATRICIA GILLUM TO THE PLANNING COMMISSION

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

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint PATRICIA GILLUM to the Planning Commission.

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

SECTION 1. PATRICIA GILLUM is hereby reappointed to the Planning Commission with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Planning Commission, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, 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

APPROVED AS TO FORM: J. MOORE, City Clerk

ATTEST: JEAN MORRIS, City Clerk

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-013

A RESOLUTION APPOINTING DOROTHY GRIGGS TO THE
CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and
WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended appointment of DOROTHY GRIGGS to the Citizens Housing and Community Development Committee.
NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. DOROTHY GRIGGS is hereby appointed to the Citizens Housing & Community Development Committee with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Citizens Housing & Community Development, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPOINTING CHRISTINA TIPSWORD TO THE COMMUNITY QUALITIES FORUM

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

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended appointment of CHRISTINA TIPSWORD, a northeast resident, to the Community Qualities Forum.

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

SECTION 1. CHRISTINA TIPSWORD, a northeast resident, is hereby appointed to the Community Qualities Forum with a term expiration of January 1, 2008.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Community Qualities Forum and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPOINTING RICHARD GAYTAN AND BRYAN SUTTERFIELD TO THE HUMAN RELATIONS COMMISSION

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

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended appointment of RICHARD GAYTAN and BRYAN SUTTERFIELD to the Human Relations Commission.

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

SECTION 1. RICHARD GAYTAN, with a term expiration of January 1, 2008 and BRYAN SUTTERFIELD, with a term expiration of January 1, 2011, are hereby appointed to the Human Relations Commission.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed members of the Human Relations Commission, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, 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

APPROVED AS TO FORM: 

SUSANA ALCALA WOOD, City Attorney

ATTEST: JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-016

A RESOLUTION APPOINTING BEV GRAHAM TO THE COMMUNITY QUALITIES FORUM

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

WHEREAS, Mayor Jim Ridenour has recommended BEV GRAHAM as his selection to the Community Qualities Forum.

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

SECTION 1. BEV GRAHAM is hereby appointed to the Community Qualities Forum with a term expiration of January 1, 2008.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Community Qualities Forum and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

APPROVED AS TO FORM: 

ATTEST: JEAN MORRIS, City Clerk

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPOINTING GEORGIA ANDERSON TO THE DOWNTOWN IMPROVEMENT DISTRICT ADVISORY BOARD

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

WHEREAS, the Board of Directors of the Downtown Improvement District received eleven applications and recommended appointment of GEORGIA ANDERSON to the Downtown Improvement District Advisory Board.

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

SECTION 1. GEORGIA ANDERSON is hereby appointed to the Downtown Improvement District Advisory Board, with a term expiration of January 1, 2008.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Downtown Improvement District Advisory Board, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 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:

Susana Alcala Wood, City Attorney
A RESOLUTION APPOINTING A MEMBER OF THE PLANNING COMMISSION TO THE BOARD OF ZONING ADJUSTMENT

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

WHEREAS, the Planning Commission met on November 20, 2006 and recommended appointment of WILLIAM “MAC” MCDANIEL as its representative to the Board of Zoning Adjustment.

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

SECTION 1. WILLIAM “MAC” MCDANIEL, as representative of the Planning Commission, is hereby appointed to the Board of Zoning Adjustment with a term expiration of January 1, 2008.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Board of Zoning Adjustment, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, 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: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-019

A RESOLUTION APPOINTING A MEMBER OF THE PLANNING COMMISSION TO THE CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE

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

WHEREAS, on December 4, 2006, the Planning Commission recommended JOHN SANDERS as its representative to the Citizens Housing and Community Development Committee.

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

SECTION 1. JOHN SANDERS, as representative of the Planning Commission, is hereby appointed to the Citizens Housing & Community Development Committee with a term expiration of January 1, 2008.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Citizens Housing & Community Development, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, 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

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney

ATTEST:  

JEAN MORRIS, City Clerk

2007-019
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-020

A RESOLUTION APPOINTING A MEMBER OF THE PLANNING COMMISSION TO THE CITIZENS REDEVELOPMENT ADVISORY COMMISSION

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

WHEREAS, on December 4, 2006, the Planning Commission recommended ALITA ROBERTS as its representative to the Citizens Redevelopment Advisory Commission.

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

SECTION 1. ALITA ROBERTS, as representative of the Planning Commission, is hereby appointed to the Citizens Redevelopment Advisory Commission with a term expiration of January 1, 2007.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Citizens Redevelopment Advisory Commission, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, 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
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2007-021  

A RESOLUTION OF INTENTION TO ANNEX TERRITORY TO COMMUNITY FACILITIES DISTRICT NO. 1997-1 (NORTH BEYER PARK) AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES THEREIN (ANNEXATION NO. 2)  

WHEREAS, pursuant to Chapter 3.5 Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”), proceedings for the annexation of territory to an existing community facilities district may, pursuant to Chapter 3.5 of the Act, be instituted by the adoption by the legislative body of a resolution of intention to annex such territory, and  

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 97-355 adopted on June 24, 1997 (the “Resolution of Formation”), establishing the City’s Community Facilities District No. 1997-1 (North Beyer Park) (“the District”), and  

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 99-211, adopted on June 8, 1999, order the annexation of additional territory to the District, and  

WHEREAS, this Council hereby determines that the public convenience and necessity require the annexation of certain territory to the District, and  

WHEREAS, the territory to be annexed is within the City limits, and  

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

SECTION 1. The above recitals are true and correct.  

SECTION 2. The boundaries of the District are shown on a map entitled “Boundary Map of Community Facilities District No. 1997-1 (North Beyer Specific Plan)”, on file with the
SECTION 3. The territory proposed to be annexed to the District (the "Territory") is described in Exhibit A.

SECTION 4. The boundaries of the Territory are also shown on the map thereof, entitled "Annexation Map No. 2 of Community Facilities District No. 1997-1 (North Beyer Park), City of Modesto, County of Stanislaus, State of California," on file in the office of the City Clerk, which map is hereby approved and adopted. Pursuant to Sections 3110.5 and 3113 of the California Streets and Highways Code, the City Clerk shall endorse her certificate on the original and one copy of the map evidencing the date and adoption of this Resolution, file the original in her office and, not later than ten days after the adoption of this Resolution, file a copy of the map with the County Recorder of the County of Stanislaus. The map shall contain the legends provided in Sections 3110, 3110.5, and 3313 of the California Streets and Highways Code, including a reference to the title, book, page and recording date of the original boundary map of the District.

SECTION 5. The public facilities and services to be provided for the District are set forth in the Resolution of Formation. It is intended that these same facilities and services be provided to the Territory.

SECTION 6. The special taxes to be levied in the District are set forth in the Resolution of Formation. It is intended that the same special taxes be levied in the Territory.
SECTION 7. A public hearing on this Resolution will be held at 5:30 p.m., or as soon thereafter as practicable, on Tuesday, February 6, 2007, at the regular meeting place of the City Council, City Council Chambers, Basement Level, 1010 Tenth Street, Modesto, California 95353, such time being not less than 30 or more than 60 days following the adoption hereof.

SECTION 8. At the hearing, any interested persons for or against the annexation of the Territory to the District, and the levy of the special taxes therein, may appear and will be heard and considered. Any protest may be made orally or in writing. However, any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and clearly set forth the irregularities and defects to which the objection is made. All written protests shall be filed with the City Clerk on or before the time fixed for the public hearing. Written protests may be withdrawn in writing at any time before the conclusion of the hearing.

SECTION 9. The City Clerk is directed to publish, not later than seven days prior thereto, a notice of the hearing, in the form required by the Act, in a newspaper of general circulation published in the area of the District, being The Modesto Bee, and otherwise in accordance with Section 6061 of the California Government Code, stating (a) the text or a summary of this Resolution, (b) the time and place of the hearing, and (c) that all interested persons for or against the annexation of the Territory to the District or the levying of the special taxes in the Territory will be heard.

SECTION 10. (a) If a majority (but at least six) of the registered voters residing within the District or a majority (but at least six) of the registered voters residing within the Territory, or the owners of one-half or more of the area of the land in the District and not exempt from the special tax, or the owners of one-half or more of the Territory, file written protests against the proposed annexation, and the protests are not withdrawn so as to reduce the value of the protests
to less than a majority, no further proceedings to annex the Territory to the District, or to levy in the Territory the special taxes to be levied in the District, shall be taken for a period of one year from the date of the decision of the Council on the issues discussed at the hearing.

SECTION 11. At the conclusion of the hearing, if the Council determines to annex the Territory to the District, it will submit the levy of the special taxes to the qualified electors of the Territory in a special election.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-022

A RESOLUTION AMENDING THE FISCAL YEAR 2006-07 BUDGET TO: 1) ESTIMATE $767,904 IN REVENUE FROM THE SALE OF 17TH AND G STREETS PARK; 2) APPROPRIATE SAID REVENUE TO 1400-310-3100-8101; 3) ESTABLISH A MULTI-YEAR OPERATING ORGANIZATION IN FUND 1400, FOR SPECIAL PROJECTS AND APPROPRIATE $70,000 FROM THE PARK FUND RESERVE TO SAID ORGANIZATION; AND 4) APPROVE PAYMENT OF $74,750 TO THE CALIFORNIA WILDLIFE FOUNDATION FROM CAPITAL IMPROVEMENT PROJECT P501, MARY E. GROGAN COMMUNITY PARK, TO MITIGATE THE IMPACTS TO SWAINSON'S HAWKS RESULTING FROM CONSTRUCTION OF THE PARK.

WHEREAS, as part of the Parks, Recreation and Neighborhoods Department’s Fund Development Plan, Council accepted a recommendation to sell surplus parcels that are not needed to meet the Open Space requirements in the General Plan, and

WHEREAS, the City of Modesto recently sold the property known as 17th and G Streets Park (also known as Tower Park) to the Redevelopment Agency, and

WHEREAS, the proceeds from this sale were $767,904; the check has been received and deposited into the Park Fund (Fund 1400) Reserve, and

WHEREAS, $600,000 was allocated to Capital Improvement Program project 1400-310-P854, Thurman Field Improvements as part of the Council adoption of the 2006-07 Capital Improvement Plan in anticipation of receipt of the proceeds from sale of 17th and G Streets Park, and

WHEREAS, as part of the Council adoption of the 2006-07 Capital Improvement Plan and in anticipation of receipt of the proceeds from the sale of 17th and G Streets Park, $74,750 was allocated from the Park Fund Reserve to the Mary E. Grogan
Community Park Capital Improvement Project for mitigation of Swainson’s Hawk habitat, and

WHEREAS, staff is recommending that $70,000 be appropriated to a new multi-year Fund 1400 organization, and

WHEREAS, these funds will be used for Special Projects related to funding for capital projects, and

WHEREAS, staff is further recommending that the balance of $23,154 remain in the Park Fund Reserve at this time,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2006-07 budget to estimate $767,904 in revenue from the sale of 17th and G Streets Park.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Fiscal Year 2006-07 budget to appropriate said revenue to 1400-310-3100-8101.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Fiscal Year 2006-07 budget to establish a multi-year operating organization in Fund 1400, for Special Projects, and appropriate $70,000 from the Park Fund Reserve to said organization, with $20,000 of said funding to be placed in the City’s Parks Fund with the Stanislaus Community Foundation.

BE IT FURTHER RESOLVED that the Council hereby approves payment of $74,750 to the California Wildlife Foundation from Capital Improvement Project P501, Mary E. Grogan Community Park, to mitigate the impacts to Swainson’s Hawks resulting from construction of the park.
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 2nd day of January 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-023

A RESOLUTION ACCEPTING $1,526,000 IN GRANT FUNDING UNDER THE PROPOSITION 50 – RIVER PARKWAYS GRANT PROGRAM FROM THE STATE OF CALIFORNIA RESOURCES AGENCY FOR PHASE I DEVELOPMENT OF THE GATEWAY PARCEL OF THE TUOLUMNE RIVER REGIONAL PARK AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT CONTRACT.

WHEREAS, staff has been notified by the State of California Resources Agency that the City has been awarded $1,506,000 in funding from the Proposition 50 – River Parkways Grant Program, and

WHEREAS, said funding will allow for the development of Phase I of the Gateway Parcel of the Tuolumne Regional River Park (TRRP), and

WHEREAS, specifically, funding will be used for site preparation, grading and drainage, irrigation system and planting of the entire site, and

WHEREAS, Phase I of the Gateway area is intended to encompass 11 acres of grading, trail connection from Confluence Point to the 7th Street Bridge, backwater channel creation, plant establishment and irrigation (for the first 3 year) and river restoration work, and

WHEREAS, in order to accept the funding, the City Manager, or his designee, must be authorized to execute the Grant Contract,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts $1,526,000 in grant funding under the Proposition 50 – River Parkways Grant Program from the State of California Resources Agency.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Grant Contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 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:

By: Susana Alcala Wood, City Attorney
A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH PACIFIC DESIGN ASSOCIATES, INC. TO PROVIDE ARCHITECTURAL SERVICES FOR THE 1230 12TH STREET SEISMIC RETROFIT, REPAIR AND RENOVATION PROJECT, IN THE NOT-TO-EXCEED AMOUNT OF $70,575.20, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, on August 29, 2003, the City of Modesto received a “Notice of Determination,” which indicated that the Social Security Administration (SSA) Building, located at 1230 12th Street, (GSA No. 9-G-CA-1610), had been determined to be surplus government property, and

WHEREAS, the notice, issued by the U.S. General Services Administration (GSA) of the Federal Government, reported that the property was also determined to be suitable by the Department of Housing and Urban Development (HUD), and the first priority for use is for homeless programs or services for the homeless, and

WHEREAS, on October 14, 2003, by Resolution No. 2003-548, the City Council authorized staff to submit a “Letter of Interest” to the Department of Health and Human Services (HHS) in order to receive an application for the surplus property located on 1230 12th Street, previously used by the Social Security Administration, and approved staff recommendation for future use of the former Social Security Administration building, and

WHEREAS, On January 6, 2004, by Resolution No. 2004-019, the City Council approved the submission of an application for the surplus property located at 1230 12th Street and authorized the City Manager to execute the agreement and subsequent documents, and
WHEREAS, On September 13, 2004, the City of Modesto received a letter from the Department of Health and Human Services, Division of Property Management with an original Quitclaim Deed; by signing this document the City indicated its acceptance, and

WHEREAS, in accepting this property, the City of Modesto committed to preparing the site for occupancy, within 36 months if major renovations are done; or within 12 months if minor repairs need to be done, and

WHEREAS, the 1230 12th Street building must be retrofitted and renovated before it can be occupied, and

WHEREAS, the building does not meet current seismic standards, and

WHEREAS, although the building is in good condition, the mechanical and electrical system and the roof are the major items requiring repair and/or replacement, and

WHEREAS, funding for the renovation of this building is available through CDBG funds; the allocations of the CDBG funds were approved on May 11, 2004, by Council Resolution No. 2004-265 and on May 24, 2005 by Council Resolution 2005-279, and

WHEREAS, the selection process for the architectural services followed the City's accelerated selection procedure for professional consultants as outlined in Administrative Directive 3.1, and

WHEREAS, the City sent a Request for Proposals for the Seismic Retrofit, Repair and Renovation of this building to local architectural firms that had previously indicated and interest in providing architectural design services to the City to four consulting firms, and

WHEREAS, the City received one proposal and a letter from another firm indicating that they were not able to assemble a consulting team before the proposal’s due date, and
WHEREAS, after reviewing the fee proposal for architectural services and clarifying their proposed fees from Pacific Design Associates, Inc., staff is recommending approval of a professional services agreement with Pacific Design Associates, Inc. at a total fee not to exceed $70,575.20,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a professional services agreement with Pacific Design Associates, Inc. to provide architectural services for the 1230 12th Street Seismic Retrofit, Repair and Renovation project, in the not-to-exceed amount of $70,575.20.

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 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
A RESOLUTION APPROVING AN AMENDMENT TO THE LICENSE AGREEMENT WITH THE MODESTO NUTS PROFESSIONAL BASEBALL CLUB TO REQUIRE INSTALLATION OF A NEW SCOREBOARD BY THE MODESTO NUTS PROFESSIONAL BASEBALL CLUB IN PLACE OF THE CITY OF MODESTO INVOKING THE CITY CHARTER AMENDMENT THAT ALLOWS A PUBLIC WORKS EXCEPTION FOR PARKS PROJECTS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT

WHEREAS, the City owns, operates and manages John Thurman Field, a Class A professional baseball stadium, and

WHEREAS, on October 24, 2006, the City of Modesto and the Modesto Nuts Professional Baseball Club entered into a ten-year license agreement under authority of Resolution No. 2006-691 for the lease of John Thurman Field, and

WHEREAS, it is the desire of the City of Modesto and the Modesto Nuts Professional Baseball Club to install a new scoreboard by the 2007 baseball season, and

WHEREAS, the existing license agreement will be amended to require installation of a new scoreboard by the Modesto Nuts Professional Baseball Club, and

WHEREAS, the Modesto Nuts Professional Baseball Club will donate all or a portion of the construction management of the project to install the new scoreboard, and

WHEREAS, the Modesto Nuts Professional Baseball Club will also donate the cost of electrical modifications required for installation of the subject scoreboard in excess of $30,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the amendment to the license agreement with the Modesto Nuts Professional Baseball Club to require installation of a new scoreboard by the Modesto Nuts Professional Baseball Club in place of the City of Modesto invoking the City Charter amendment that allows a public works exception for parks projects.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION No. 2007-026

A RESOLUTION APPROVING A THREE AND ONE HALF (3.5%) PERCENT INCREASE IN SALARY FOR THE CITY CLERK/AUDITOR AND THE CITY ATTORNEY, EFFECTIVE DECEMBER 26, 2006.

WHEREAS, by Resolution No. 2005-602 effective December 26, 2005, the City Council approved and established a "City of Modesto Schedule of Salary Ranges in City Service For FY 06-07 Effective December 26, 2006," for Executive Management (Exhibit "P"), and

WHEREAS, salaries for Charter Officers appointed by the Council are subject to periodic review and adjustment, and

WHEREAS, the Council desires to approve a three and one-half (3.5%) percent increase in salary to JEAN MORRIS, City Clerk/Auditor, effective December 26th, 2006, which increase is within the range established in Exhibit "P" of Resolution No. 2005-602,

WHEREAS, the Council desires to approve a three and one-half (3.5%) percent increase in salary to SUSANA ALCALA WOOD, City Attorney, effective December 26th, 2006, which increase is within the range established in Exhibit “P” of Resolution No. 2005-602,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves increases in salary to JEAN MORRIS, City Clerk/Auditor and SUSANA ALCALA WOOD, City Attorney, effective December 26, 2006, as follows:

<table>
<thead>
<tr>
<th>Title</th>
<th>Hourly</th>
<th>Bi-Weekly</th>
<th>Monthly</th>
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<tr>
<td>City Clerk/Auditor</td>
<td>49.4546</td>
<td>3,956.37</td>
<td>8,605.10</td>
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<td>City Attorney</td>
<td>71.3792</td>
<td>5,710.34</td>
<td>12,420.00</td>
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</tbody>
</table>
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney

ATTEST: JEAN MORRIS, City Clerk

(SEAL)
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-027

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

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

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

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

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

SECTION 1. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specification for Fire Business Services Analyst and change the title to Public Safety Business Services Analyst.

The job specification for this classification is being amended to incorporate an assignment in the Police Department. The job specification for the former classification of Fire Business Services Analyst, as shown on the attached Exhibit “A,” which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 2, 2007.
The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susanna Alcala Wood, City Attorney
PUBLIC SAFETY FIRE BUSINESS SERVICES ANALYST

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To manage the department budget process, to provide a variety of administrative support for the Police or Fire Department; to perform research, statistical and other analytical work; and to fulfill other assignments in functional areas such as purchasing, budget project management, and other areas for the department.

SUPERVISION RECEIVED AND EXERCISED

Receives general direction from the Fire Chief, Police Chief or other management staff.

May exercise supervision over subordinate staff.

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

Essential Functions:

Directs the budgetary and fiscal control process for the Fire Department, and department, projects revenue and expenditures; prepares the department’s operating budget; develops proformas for the department; serves as the lead on financial items with the Finance Department.

Investigates, analyzes, develops, and prepares special studies or projects as requested; conducts special projects and administrative studies; prepares research and analytical reports.

Oversees the department’s purchasing function including vendor development, specification development, solicitation of bids, cost evaluations, and the preparation of committee or council reports.

Oversees the management of department property and records.

Oversees the development and administration of grants, coordinates the fiscal monitoring and reporting for grants, contracts and agreements; oversees billing for services provided.

Exhibit "A"
Essential Functions: (Continued)

Assists with the development of department policies and procedures.

Recommend the appointment and termination of personnel; train and orient staff; assign and review work, evaluate performance and implement progressive discipline as required.

Oversees the administration of department grants.

Serves as project manager for the department's facilities maintenance program.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles and practices of organization, administration, and personnel management.

Principles and practices of budget preparation and administration.

Modern office procedures, methods and computer equipment.

Principles and procedures of financial record keeping and reporting.

Technical report writing procedures.

Principles and practices of purchasing.

Principles of project management.

Principles of supervision, training, and performance evaluation.

Administrative research techniques, sources and availability of information.

Ability to:

Learn the process and structure of City and department.

Learn applicable Federal, State, and local laws, codes and regulations.
Ability to: (Continued)

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

Analyze facts and make sound recommendations.

Prepare completed staff work for oral and written communications.

Plan, initiate and complete work assignments with a minimum of direction.

Communicate clearly and concisely, both orally and in writing.

Use and operate a personal computer with a variety of software.

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

Experience and Training Guidelines

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

**Experience:**

Two years of increasingly responsible administrative and analytical experience in a public agency.

**Training:**

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

**WORKING CONDITIONS**

**Environment Conditions:**

Office and field environment.

**Physical Conditions:**

Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending, and stooping for prolonged periods.

Exhibit "A"
Physical Conditions: (Continued)

of time and occasional lifting; using various office equipment including a computer screen and keyboard and travel from site to site.
A RESOLUTION AMENDING EXHIBIT “A” OF RESOLUTION NO. 2006-321 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO AMEND THE CLASSIFICATION OF FIRE BUSINESS SERVICES ANALYST AND CHANGE THE TITLE TO PUBLIC SAFETY BUSINESS SERVICES ANALYST.

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

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2006-321 Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective May 23, 2006", attached to Resolution No. 2006-321, is hereby amended as shown on the amended Exhibit “A” entitled “City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective January 2, 2007”, which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit “A” amends the classification of Fire Business Services Manager and changes the title to Public Safety Business Services Manager at Salary Range 438 ($5,536-$6,745 per month).

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 2, 2007.
The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 2nd Day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

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

Exhibit "A"
### CITY OF MODESTO

**Class Range Table — Management and Confidential Non-Sworn Classes**

**Page -3**

<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 432    | Communications Specialist  
Compost Facility Supervisor  
Customer Services Supervisor  
Neighborhood Preservation Supervisor  
Operations and Maintenance Supervisor  
Recreation Supervisor II  
Senior Accountant  
Water Quality Control Maintenance Supervisor  
Water Quality Control Operations Supervisor |
| 433    | Organizational Development Specialist |
| 434    | Assistant Civil Engineer  
Assistant Traffic Engineer  
Budget Analyst II  
Environmental Laboratory Supervisor  
Operations Supervisor  
Regulatory Compliance Supervisor  
SCADA Supervisor  
Senior Community Development Program Specialist  
Senior Housing Rehabilitation Specialist  
Software Analyst II  
Supervising Accountant  
Systems Engineer I |
| 435    | Business Analyst  
Cultural Services Manager  
Emergency Medical Services Coordinator  
Integrated Waste Specialist  
Management Analyst  
Senior Personnel Analyst  
Weed and Seed Program Coordinator |
| 436    | Electrical Supervisor  
Senior Planner |
| 437    | Exhibit "A" |

S:\Agendas\2007 Agenda Items\Public Safety Business Services Analyst\400 SERIES - MGMT & CONF CLASS RANGE 1-2-07.doc
<table>
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<tr>
<th>RANGE</th>
<th>TITLE</th>
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</thead>
</table>
| 438   | Budget Officer  
       | Events Supervisor  
       | Housing Program Supervisor  
       | Land Surveyor  
       | Property Agent  
       | **Public Safety Business Services Analyst**  
       | Senior Business Analyst  
       | Software Analyst III  
       | Systems Engineer II |
| 439   | Administrative Services Officer  
       | Community Facilities Districts Administrative Officer |
| 440   | Associate Civil Engineer  
       | Associate Traffic Engineer  
       | Transportation Planner |
| 441   | Airport Manager  
       | Building Maintenance Superintendent  
       | Fleet Manager  
       | Housing and Urban Development Manager  
       | Parks Operations Superintendent  
       | Parks Planning and Development Manager  
       | Purchasing Manager  
       | Recreation Program Manager  
       | Streets Superintendent  
       | Urban Forestry Superintendent  
       | Wastewater Collections Superintendent  
       | Water Superintendent |
| 442   | Customer Services Division Manager  
       | Manager of Budget and Financial Analysis  
       | Software Analyst IV  
       | Supervising Building Inspector  
       | Supervising Construction Inspector  
<pre><code>   | Systems Engineer III |
</code></pre>
<p>| 443   | |</p>
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 444   | Deputy Chief Building Official  
         Principal Planner  
         Solid Waste Program Manager  
         Transit Manager |
| 445   | Accounting Division Manager |
| 446   | Water Quality Control Superintendent  
         Information Technology Unit Manager |
| 447   | Business Development Division Manager  
         Chief Building Official  
         Planning Division Manager  
         Senior Civil Engineer  
         Traffic Engineer |
| 448   | |
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| 455   | |

Exhibit "A"
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-029

A RESOLUTION APPROVING A STANDARD AGREEMENT FOR CONSULTANT SERVICES WITH BRYCE CONSULTING, INCORPORATED TO CONDUCT CLASSIFICATION STUDY AND REVIEW OF INTERNAL SALARY ALIGNMENT IN AN AMOUNT NOT TO EXCEED $139,800, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT

WHEREAS, the City desires to obtain the services of Bryce Consulting, Incorporated (Bryce Consulting) to provide an organizational assessment, and

WHEREAS, the City desires to enter into a Standard Consultant Agreement with Bryce Consulting in the total amount of $139,800 which includes professional fees and expenses, and

WHEREAS, the firm of Bryce Consulting is specially trained, experienced and competent to conduct a classification study and internal salary relationship review of non-sworn positions within the City, and

WHEREAS, the public interest, economy and general welfare will be served by this agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Standard Agreement For Consultant Services with the firm of Bryce Consulting, Incorporated in the amount of $139,800 with respect to conducting a classification study and internal salary relationship review of non-sworn positions within the City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 2nd of January, 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: 

SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO FORM:

By 

JEAN MORRIS, City Clerk
A RESOLUTION AMENDING THE FISCAL YEAR 06-07 OPERATING BUDGET TO APPROPRIATE $139,800 FROM 0100-800-8000-8003 GENERAL FUND RESERVE TO 0100-030-0301-0235 PERSONNEL DEPARTMENT PROFESSIONAL SERVICES TO PROVIDE FUNDING FOR CLASSIFICATION STUDY.

WHEREAS, the City Council desires to implement a classification study in accordance with negotiated agreements with the City's non-sworn bargaining units, and

WHEREAS, the FY 06-07 costs associated with this classification study are not to exceed $139,800, and

WHEREAS, this expenditure has not yet been budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2006-07 Operating Budget is hereby amended to transfer $139,800 from the General Fund Reserve, 0100-800-8000-8003, to the Personnel Department, Professional Services, 0100-030-0301-0235.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-031

A RESOLUTION APPROVING AN AGREEMENT FOR THE PURCHASE OF RETIRED CITY OF MODESTO POLICE CANINE BY THE ASSIGNED MODESTO POLICE DEPARTMENT CANINE HANDLER, OFFICER HART, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT WITH THE OFFICER FOR PURCHASE OF HIS POLICE CANINE.

WHEREAS, the Police Chief for the City of Modesto, from time to time, officially retires police canines from departmental service, and

WHEREAS, City of Modesto police canine handler, Officer Hart, wishes to purchase and assume possession of his assigned canine, Syler, upon the dog’s official retirement, and

WHEREAS, it is necessary to adopt a resolution authorizing the purchase of City of Modesto police canines by their assigned department handler,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Officer Hart for the purchase of his retired police canine, Syler, in the amount of One Dollar ($1.00) as more fully set forth in the Modesto Police Department Canine Transfer Contract attached hereto as Exhibit “A” and incorporated herein by this reference.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said contract.
The foregoing resolution was introduced at a regular meeting of the
Council of the City of Modesto held on the 2nd day of January, 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:

<table>
<thead>
<tr>
<th>AYES:</th>
<th>Councilmembers:</th>
<th>Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour</th>
</tr>
</thead>
<tbody>
<tr>
<td>NOES:</td>
<td>Councilmembers:</td>
<td>None</td>
</tr>
<tr>
<td>ABSENT:</td>
<td>Councilmembers:</td>
<td>None</td>
</tr>
</tbody>
</table>

ATTEST:  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  
SUSANA ALCALA WOOD, City Attorney
MODESTO POLICE DEPARTMENT CANINE TRANSFER CONTRACT

This AGREEMENT, made and entered into in the City of Modesto, State of California, this 8th day of November, 2006, by and between the City of Modesto, a municipal corporation of the State of California, hereinafter referred to as “CITY”, and Robert Hart, canine handler for the Modesto Police Department, hereinafter referred to as “HANDLER”.

Facts:

Canine “Syler” has been with the Modesto Police Department since April of 1999. “Syler” has served the city for seven years. “Syler” was born in June of 1997 and will be ten years old in June of 2007. “Syler” has had a long and distinguished career as both a police service dog and a narcotic dog. “Syler” has reached an age where his health has begun to decline and he is slowing down. His ability to continue to do police work is no longer there and it is my recommendation he be retired from service.

This AGREEMENT is made with regard to the following recitals:

A.    HANDLER wishes to assume ownership and take possession of that certain retired City of Modesto police canine named “Syler”. HANDLER was previously the assigned canine handler for “Syler”.

B.    HANDLER wishes to maintain ownership of the above-referenced dog, and the CITY wishes to divest itself of both ownership and vicarious or direct liability for the subject dog.

C.    CITY does hereby agree to relinquish all of its right, title and ownership interest in said dog whatsoever, effective upon HANDLER’s execution and return of this document and payment of the sum of one and no/100ths dollars ($1.00) to the City of Modesto.

NOW, THEREFORE, in consideration of this AGREEMENT, the parties hereto agree as
follows:

1. **HANDLER** does agree to assume ownership of the Modesto police canine named “Syler”, and to assume any and all risks, including, but not limited to, risk of injury or death to third persons, and to hold CITY, its police department, and its employees and/or agents or volunteers harmless from any and all liability, claims, administrative proceedings or other responsibility whatsoever arising from any injuries or damages that may occur on or after the date ownership of the dog is transferred pursuant to this AGREEMENT. That date is hereby fixed by agreement by and among the parties hereto as being November 8, 2006.

2. **HANDLER** further agrees to assume all liability for risks and dangers relating to his/her ownership of the subject police dog on and after the aforementioned date, and to indemnify and hold CITY harmless in the event that any legal or administrative action, whether by claim, demand or otherwise, is made by any person or entity as a consequence of or arising out of any event, act or disturbance involving the subject police dog on or after the date ownership is transferred. These hold harmless provisions shall extend to any direct or vicarious liability arising from any and all losses, liabilities, charges (including reasonable attorney fees and court costs), and any other expenses whatsoever which may arise in any manner after the new owners assumption of ownership on the date identified herein.

3. **HANDLER** must retain ownership of “Syler” for at least eighteen (18) months prior to any sale of the aforementioned retired police canine.

4. The retired police canine “Syler” shall revert to CITY should the purchaser, **HANDLER** determine he/she can no longer care for the aforementioned dog within the period of time commencing on the date of this AGREEMENT and ending eighteen (18) months from the date fixed by this AGREEMENT.
5. **HANDLER** acknowledges that he/she has read the foregoing AGREEMENT and understands that it is contractual in nature and understands each of its provisions.

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has caused this Agreement to be executed in duplicate by its City Manager and attested by its City Clerk under authority of Resolution No. 99-370 adopted by the City Council of the City of Modesto on the 20th day of July, 1999.

NEW OWNER

[Signature]

Robert Hart Handler

CITY OF MODESTO

______________________________
George Britton, City Manager

ATTEST:

By

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By

Susana A. Wood, City Attorney
A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE INFORMAL REQUEST FOR BIDS (RFB) FOR A THREE (3) YEAR LEASE PURCHASE OF A TRIMBLE S6 3” ROBOTIC TOTAL STATION, FOR THE PUBLIC WORKS DEPARTMENT, CONSTRUCTION ADMINISTRATION DIVISION, FOR A TOTAL ESTIMATED COST OF $45,000.

WHEREAS, the Public Works Department, Construction Administration Division purchased a Topcon 802A Total Station in April 1999 and upgraded it to an 802AR Robotic Total Station in September 2000, and

WHEREAS, in March 2004 the Public Works Department, Construction Administration Division purchased the Trimble 5800 GPS Rover and Base Station, and

WHEREAS, Total Station technology has improved significantly since September 2000, and

WHEREAS, operating the Topcon Total Station with the Trimble 5800 GPS Rover has compatibility issues, especially the communication between the Topcon Total Station and the Trimble GPS equipment, and

WHEREAS, there are issues with the different software packages required for downloading and processing the survey data collected from the two different brands of equipment, and

WHEREAS, dealing with different manufacturers for technical support, maintenance, repair and service causes problems and delays, and

WHEREAS, replacing the Topcon 802AR Total Station with the Trimble S6 3” Robotic Total Station is cheaper than replacing the Trimble 5800 GPS Rover and Base Station with a Topcon GPS Rover and Base Station, and
WHEREAS, purchase of the Trimble S6 3” Robotic Total Station will eliminate the need for the extra data collector, 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. However, one exception to the code (8-3.204 (c)), allows for the Purchasing Manager, in his or her discretion, to determine that calling for formal bids on a competitive basis, as set forth in Section 8-3.203 is undesirable due to demanding circumstances, and

WHEREAS, based on the critical nature of the request the Purchasing Manager evoked that exception for this purchase. The solicitation of informal competitive bids for a three (3) year lease purchase of a Trimble S6 3” Robotic Total Station, for the Public Works Department, Construction Administration Division, for a total estimated cost of $45,000, will conform to Modesto Municipal Code Section 8-3.203, and demonstrate that a competitive process was met

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue an informal request for bids for a three (3) year lease purchase of a Trimble S6 3” Robotic Total Station for the Public Works Department, Construction Division, for a total estimated cost of $45,000.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-033

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH LARRY WALKER ASSOCIATES IN THE AMOUNT OF $136,226, REFLECTING THE REVISED SCOPE OF SERVICES AND REVISED COST ESTIMATE FOR PROFESSIONAL SERVICES FOR THE NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT RENEWAL FOR DISCHARGE TO THE SAN JOAQUIN RIVER, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT.

WHEREAS, on August 3, 2005, by Resolution No. 2005-389, Council approved an agreement with Larry Walker Associates in the amount of $242,000 for professional services for the Wastewater Treatment Plant NPDES permit renewal to discharge to the San Joaquin River, and

WHEREAS, the draft Wastewater Master Plan proposes an additional 4.8 mgd of year-round discharge to the San Joaquin River, and

WHEREAS, as a result of the proposed year-round discharge, the Regional Board will be requiring an Antidegradation Analysis for the NPDES Permit renewal, and

WHEREAS, Regional Board staff will require an “antidegradation” review as part of the NPDES renewal, and

WHEREAS, because of experience with other antidegradation reviews, it is recommended that Larry Walker Associates perform the Antidegradation Analysis, and

WHEREAS, this analysis broadens the original Reasonable Potential Analysis (RPA) effort as described on the original Scope of Services Task 2.3, and

WHEREAS, the Scope of Services has been revised to reflect the most current tasks for this contract, and

WHEREAS, the cost for this additional analysis is $136,226, making the project total cost $378,226, and
WHEREAS, funds are budgeted in Account 6210-480-5217-0235 for the additional scope of work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Amendment to the Agreement with Larry Walker Associates in the amount of $136,226, reflecting the revised Scope of Services and revised Cost Estimate for professional services for the NPDES Permit renewal for discharge to the San Joaquin River.

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 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-034

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH
CAROLLO ENGINEERS FOR ON-CALL ENGINEERING SERVICES IN THE
AMOUNT OF $70,000, REFLECTING THE REVISED SCOPE OF SERVICES FOR
FY2006-07, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO
EXECUTE THE AMENDMENT.

WHEREAS, on January 3, 2006, Council approved an on-call engineering services
agreement with Carollo Engineers in the amount of $44,000 annually, and

WHEREAS, the on-call engineering services contractor for Water Quality Control
(WQC) performs a number of critical tasks requiring engineering services that are currently not
available in-house, and

WHEREAS, during the initial contract period with Carollo Engineers for on-call
engineering services, they have assisted with the following:

• FEMA Evaluation – Carollo was used to gather detailed engineering estimates for the
City to provide FEMA regarding damages to the Jennings Treatment Plant and Ranch
area. Staff anticipates receiving up to $89,000 in FEMA funds from this effort.
• River Discharge Evaluation – Due to early season flooding on the ranch land and high
water levels in the City’s storage ponds, Carollo assisted the City with bench-scale
testing and treatment design prior to discharging waters into the San Joaquin River
one month earlier than usual. This action prevented the overflow or discharge of
wastewater in excess of the City’s NPDES permit limitations
• Ranch RFP Development – Carollo is assisting in the development of conditions for a
new lease of ranch land scheduled for summer 2007

WHEREAS, of the above tasks, the Ranch RFP Development was the only anticipated
project, and

WHEREAS, spring rains and excessive flooding required staff to utilize the on-call
engineering services, and

WHEREAS, these tasks have depleted the funds in the contract and additional funds are
needed to cover additional on-call engineering services, and
WHEREAS, staff is requesting an increase in the annual funding of this contract for FY2006-07 only in the amount of $70,000, increasing the contract amount from $44,000 to $114,000, and

WHEREAS, funds are budgeted in the amount of $35,000 each from Account 6210-480-5213-0235 and 6210-480-5214-0235,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to the Agreement with Carollo Engineers for on-call engineering services in the amount of $70,000, reflecting the revised scope of services for FY2006-07.

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 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-035

A RESOLUTION AUTHORIZING THE TRANSFER OF FUNDS IN THE AMOUNT OF $192,000 FROM FLEET SERVICES RESERVES (7210-800-8000-8003) TO FLEET SERVICES REPLACEMENT (7210-480-5814-5700) TO COVER THE COST FOR ADDITIONAL VEHICLES AND EQUIPMENT FOR THE SECONDARY TREATMENT PLANT.

WHEREAS, the Secondary Treatment Plant (STP) has paid funds in the amount of $192,000 into the Fleet Reserve in preparation of adding one 14-yard dump truck, one backhoe and backhoe trailer, and one forklift, and

WHEREAS, the estimated purchase price for the additional vehicles and equipment is $192,000, and

WHEREAS, it is necessary to transfer funds from Fleet Services Reserve (7210-800-8000-8003) to the Fleet Services Replacement Account (7210-480-5814-5744, 5745, 5746) to cover the purchase of the additional vehicles and equipment, and

WHEREAS, the Finance Committee, at its December 14, 2006 meeting, recommended approval of this item,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds in the amount of $192,000 from Fleet Services Reserve (7210-800-8000-8003) to Fleet Services Replacement (7210-480-5814-5700) to cover the cost for additional vehicles and equipment for the Secondary Treatment Plant.

BE IT FURTHER RESOLVED that the Finance Department 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 2nd day of January, 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:
BY: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:  

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-036

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR BIDS FOR THE PURCHASE OF ADDITIONAL VEHICLES AND EQUIPMENT FOR THE SECONDARY TREATMENT PLANT.

WHEREAS, the Secondary Treatment Plant (STP) has paid funds in the amount of $192,000 into the Fleet Reserve in preparation of adding one 14-yard dump truck, one backhoe and backhoe trailer, and one forklift, and

WHEREAS, the current twenty-eight foot trailer has limitations in small areas such as the oxidations ponds, and on the roads and bridges, and

WHEREAS, in the past, smaller dump trucks have been rented to do this work, at a cost of over $100,000 since 2001, and

WHEREAS, the cost of a new 14-yard dump truck is approximately $90,000, and

WHEREAS, this vehicle will be needed when the construction of new facilities at the STP begin within the next months, and

WHEREAS, the current backhoe is two-wheel drive and is not meeting the current needs of the Plant and the existing trailer cannot be used with the new backhoe, and

WHEREAS, the current backhoe will be replaced with a four-wheel drive unit, which has better traction to meet the needs at the STP on a year-round basis, including adverse conditions caused from heavy rains, and

WHEREAS, a trailer for the backhoe is needed to move the backhoe to different locations around the STP, and

WHEREAS, the Secondary Treatment Plant currently uses the Compost Facility forklift, and
WHEREAS, with the current amount of materials coming in and the amount that will be coming in with the planned construction, it is necessary to have a forklift designated for the STP, and

WHEREAS, funds are budgeted in Fleet Services Replacement (7210-480-5814-5744, 5745, 5746) in the amount of $192,000 to fund the purchase of these additional vehicles and equipment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to solicit formal bids for the purchase of additional vehicles and equipment for the Secondary Treatment Facility.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2007-037  

A RESOLUTION APPROVING THE PROJECT, INCLUDING PLANS AND SPECIFICATIONS, FOR THE PROJECT TITLED “DISSOLVED AIR FLOTATION FACILITY,” ACCEPTING THE BID AND APPROVING A $6,010,403.00 CONTRACT WITH KAWEAH CONSTRUCTION CO., FOR THE PROJECT TITLED, “DISSOLVED AIR FLOTATION FACILITY,” AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, plans and specifications have been prepared for the project titled “Dissolved Air Flotation Facility” and City staff recommends approval to the City Council, and

WHEREAS, the bids received for “Dissolved Air Flotation Facility” were opened at 11:00 a.m. on November 14, 2006, 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 $6,010,403.00 received from Kaweah Construction Co., be accepted as the lowest responsible bid and the contract be awarded to Kaweah Construction Co.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the “Dissolved Air Flotation Facility” project, including the plans and specifications.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of Kaweah Construction Co., in the amount of $6,010,403.00, and hereby awards Kaweah Construction Co., the contract titled “Dissolved Air Flotation Facility.”

BE IT FURTHER RESOLVED that Kaweah Construction Co. will receive an incentive for every day of beneficial use of the DAFF according to the following schedule:

---

1/2/07/PW/Phom/item21 1 2007-037
$2,000/day – 4 DAF units  
$1,500/day – 3 DAF units  
$1,000/day – 2 DAF units  
No incentive for less than 2 DAF units.

The incentives for beneficial use of the DAF are only valid during the 45-day period between October 1, 2007 and November 15, 2007. If the beneficial use of the DAF is delayed beyond this period for any reason, no incentives will be paid and Kaweah Construction Co. shall have no right to claim any portion of the incentive that would be paid had the delay not occurred.

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 2nd day of January 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: [Signature]

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-038

A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH CONSOLIDATED CM FOR CONSTRUCTION MANAGEMENT SERVICES OF THE DISSOLVED AIR FLOTATION FACILITY PROJECT IN THE NOT-TO-EXCEED AMOUNT OF $698,716, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on January 2, 2007, concurrently City Council awarded by Resolution No. 2007-037 a construction contract in the amount of $6,010,403.00 to Kaweah Construction Co., to construct the Dissolved Air Flotation (DAF) Facility Project, and

WHEREAS, the Dissolved Air Flotation (DAF) Facility Project is a large specialized project that will require augmentation of the City’s capacity to provide construction management and inspection, and

WHEREAS, due to the complexity of the construction of the DAF Facility and current staffing levels, a construction management company is being tasked with the management of the project, and

WHEREAS, the selection process for construction management services followed the City’s selection procedures for professional consultants, and

WHEREAS, in accordance with Administrative Directive 3.1, Capital Improvement Services (CIS) staff mailed a Request for Qualifications for engineering design services to all firms that had previously indicated an interest in providing construction management services to the City, and

WHEREAS, three specialized consulting firms of construction management services were asked to provide a proposal, and
WHEREAS, the City’s Selection Committee reviewed the proposals submitted and held interviews with the three firms, and

WHEREAS, the firm of Consolidated CM was considered to be the most qualified to provide construction management services for the project, and

WHEREAS, Consolidated CM is a respected construction management firm that specializes in wastewater projects, and

WHEREAS, their proposed construction manager, Dave Lee, has over 30 years of experience in managing construction projects similar to the DAFF. He holds a Grade V wastewater operators license, and is a registered Civil Engineer. In addition to his construction management experience, he has served as an expert witness for construction claims, and

WHEREAS, CIS staff recommends the consulting firm of Consolidated CM be awarded a contract to perform the construction management services as current workload and experience levels do not provide for timely in-house solutions/responses, and

WHEREAS, City desires to enter into an Agreement with Consolidated CM in an amount not-to-exceed $698,716.00 to perform construction management services of the Dissolved Air Flotation (DAF) Facility Project, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement for Construction Management Services with Consolidated CM in an amount not-to-exceed $698,716.00 for construction management services of the Dissolved Air Flotation (DAF) Facility Project.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 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:  

APPROVED AS TO FORM:

By  

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AMENDING THE AGREEMENT WITH MINAGAR & ASSOCIATES, INC., IN THE AMOUNT OF $11,812, EXPANDING THE SCOPE OF WORK WITH THE ADDITION OF SIGNAL TIMING OPTIMIZATION WITH 90-SECOND CYCLE LENGTH FOR G, H, 9th, AND NEEDHAM STREETS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, on November 25, 2003, by Resolution No. 2003-621, the City Council approved a Consultant Services Agreement with Minagar & Associates, Inc., in the amount of $179,279, for a Traffic Signal Synchronization Study for traffic signals in downtown Modesto to improve traffic signal synchronization, and

WHEREAS, the City has requested that the agreement be modified to allow for expanding the Scope of Work with the addition of signal timing optimization with 90-second cycle length for G, H, 9th, and Needham Streets, and

WHEREAS, all funds are programmed in the Capital Improvement Program Account 2300-160-N062, “Traffic Coord Downtown (100),” and

WHEREAS, modifying the Scope of Work with Minagar & Associates, Inc., will have a financial impact to the project of $11,812 for the cost of additional Scope of Work, and

WHEREAS, Minagar & Associates, Inc., has completed the addition of signal timing optimization with 90-second cycle length for G, H, 9th, and Needham Streets, and

WHEREAS, the Economic Development Committee at their December 11, 2006, meeting reviewed this Amendment to the Agreement with Minagar & Associates, Inc., in
the amount of $11,812, expanding the scope of work with the addition of signal timing
optimization with 90-second cycle length for G, H, 9th, and Needham Streets.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves amending the Agreement with Minagar & Associates Inc., in the
amount of $11,812, expanding the Scope of Work with the addition of signal timing
optimization with 90-second cycle length for G, H, 9th, and Needham Streets.

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 2nd day of January, 2007, by Councilmember Hawn, who
moved its adoption, which motion being duly seconded by Councilmember Marsh, was
upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris
        JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
WHEREAS, the City of Modesto operated the Carpenter Road landfill from 1956 until its closure in 1968, and

WHEREAS, as the owners of the landfill site, the City of Modesto is responsible for current maintenance and repair, and

WHEREAS, monitoring wells located on the site have indicated the presence of methane gas at the boundaries of the landfill in excess of statutory limits, and

WHEREAS, the California Integrated Waste Management Board is requiring the City to determine the cause of the high methane readings and develop a Mitigation and Monitoring Plan to ensure that the closed landfill remains in compliance with the statutes, and

WHEREAS, staff is recommending that the Council authorize the Parks, Recreation and Neighborhoods Department to issue a Request For Proposals (RFP) for the preparation of a Site Assessment and development of a Mitigation and Monitoring Plan for the closed Carpenter Road Landfill, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on December 12, 2006, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, and

WHEREAS, by a memo dated December 6, 2006, staff requested that the public hearing be continued until January 2, 2007, to allow staff time to incorporate additional information, and

WHEREAS, on December 12, 2006, the City Council, by motion, approved continuing the hearing to January 2, 2007, and
WHEREAS, a duly noticed public hearing was held at said time and place, at which time evidence, both oral and documentary, was received and considered, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the Parks, Recreation and Neighborhoods Department should be authorized to issue a Request For Proposals (RFP) for the preparation of a Site Assessment and development of a Mitigation and Monitoring Plan for the closed Carpenter Road Landfill.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the Parks, Recreation and Neighborhoods Department to issue a Request For Proposals (RFP) for the preparation of a Site Assessment and development of a Mitigation and Monitoring Plan for the closed Carpenter Road Landfill.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney

1/26/07
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-041

A RESOLUTION AUTHORIZING THE CREATION OF A CARPENTER ROAD LANDFILL MITIGATION FUND; AND AUTHORIZING A GENERAL FUND TRANSFER TO FUND UP TO $150,000 FOR AN RFP FOR A SITE ASSESSMENT AND DEVELOPMENT OF A MITIGATION AND MONITORING PLAN FOR THE CARPENTER ROAD LANDFILL.

WHEREAS, the City of Modesto operated the Carpenter Road landfill from 1956 until its closure in 1968, and

WHEREAS, as the owners of the landfill site, the City of Modesto is responsible for current maintenance and repair, and

WHEREAS, monitoring wells located on the site have indicated the presence of methane gas at the boundaries of the landfill in excess of statutory limits, and

WHEREAS, the California Integrated Waste Management Board is requiring the City to determine the cause of the high methane readings and develop a Mitigation and Monitoring Plan to ensure that the closed landfill remains in compliance with the statutes, and

WHEREAS, staff has recommended and the Council has approved and authorized the Parks, Recreation and Neighborhoods Department to issue a Request For Proposals (RFP) for the preparation of a Site Assessment and development of a Mitigation and Monitoring Plan for the closed Carpenter Road Landfill, and

WHEREAS, this Mitigation and Monitoring work will require a funding source, and staff is recommending the establishment of a Carpenter Road Landfill Mitigation Fund, initially as a sub-fund of the Solid Waste Fund, and subsequently as a separate Fund with the adoption of the FY 2007-2008 Budget, and
WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on December 12, 2006, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, and

WHEREAS, by a memo dated December 6, 2006, staff requested that the public hearing be continued until January 2, 2007, to allow staff time to incorporate additional information, and

WHEREAS, on December 12, 2006, the City Council, by motion, approved continuing the hearing to January 2, 2007, and

WHEREAS, a duly noticed public hearing was held at said time and place, at which time evidence, both oral and documentary, was received and considered, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the Parks, Recreation and Neighborhoods Department should be authorized to issue a Request For Proposals (RFP) for the preparation of a Site Assessment and development of a Mitigation and Monitoring Plan for the closed Carpenter Road Landfill, and

WHEREAS, it was found and determined by the Council of the City of Modesto that a Carpenter Road Landfill Mitigation Fund should be established, initially as a sub-fund of the Solid Waste Fund, and subsequently as a separate Fund with the adoption of the FY 2007-2008 Budget, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the General Fund should loan the Carpenter Road Landfill Mitigation Fund up to $150,000 to perform the Site Assessment and develop the Mitigation and Monitoring Plan, with the General Fund to be reimbursed via the garbage rates or from some other funding source upon determination of the actual cost of this work, and
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes that a Carpenter Road Landfill Mitigation Fund is established as a sub-fund of the Solid Waste Fund, to be subsequently established as a separate Fund with the adoption of the FY 2007-2008 Budget, and that the Finance Director or his designee is hereby authorized to take the steps necessary to implement this provision.

BE IT FURTHER RESOLVED that the General Fund shall loan the Carpenter Road Landfill Mitigation Fund up to $150,000 to perform the Site Assessment and develop the Mitigation and Monitoring Plan, with the General Fund to be reimbursed via the garbage rates or from some other funding source upon determination of the actual cost of this work.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-042

A RESOLUTION DESIGNATING THE PROPERTY AT 218 ELMWOOD COURT AS A MODESTO LANDMARK PRESERVATION SITE (OWNER: CHEZ LUNDGREN)

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

WHEREAS, a public hearing was held on September 18, 2006 at the McHenry Museum, 1402 I Street, Modesto, California, in which the Landmark Preservation Commission found and recommended in their Resolution No. 2006-3, that the property at 218 Elmwood Court is eligible for designation as a Landmark Preservation Site for the following reasons:

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

WHEREAS, the Safety and Communities Committee met on December 4, 2006 and supported the Landmark Preservation Commission recommendation, and

WHEREAS, a report dated December 15, 2006, from the Parks, Recreation and Neighborhoods Department, a copy of which is on file in the office of the City Clerk, sets forth said recommendation, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on January 2, 2007, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, and
WHEREAS, a duly noticed public hearing was held at said time and place, at which time evidence, both oral and documentary, was received and considered, and

WHEREAS, after said public hearing, the Council found and determined that the property at 218 Elmwood Court is eligible for designation as a Landmark Preservation Site for reasons set forth by the Landmark Preservation Commission,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the property located at 218 Elmwood Court is more particularly described in Exhibit “A” attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the property at 218 Elmwood Court has historical significance for the following reason:

This 1926 Provincial-style house was part of the Coldwell subdivision, which was formed on August 24, 1903 and owned by Virginia Coldwell. Mr. and Mrs. Coldwell came to Stanislaus County in 1875 and purchased a 400-acre ranch about three miles north of Modesto. The subdivision was not developed until the mid to late 1920’s.

BE IT FURTHER RESOLVED that the property at 218 Elmwood Court has architectural significance as a Provincial-style house from the 1920’s and is hereby designated a Landmark Preservation Site for the following reason:

Architectural significance-Possessing distinctive characteristics of a style, place, period, method or materials or construction, builder or architect.

Built in 1926, this one-story Provincial-style house is sheathed in rough stucco and topped by a steeply pitched roof with intersecting gables and exposed rafters. There are two front facing gables with the front gable containing a louvered vent in the peak and a multipaned casement window. The second gable is recessed slightly behind the front and lower gable and shelters the main entrance in a small porch with arched openings. A large arched stationary window with a single center pane flanked by multipane side lights faces the street. There is an exterior chimney to one side of the house. This house design was a popular Revival style in the 1920’s.
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 2\textsuperscript{nd} day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2007-043  

A RESOLUTION DESIGNATING COUNCILMEMBER HAWN TO SERVE AS VICE MAYOR FOR THE ENSUING YEAR PURSUANT TO SECTION 603 OF THE CHARTER OF THE CITY OF MODESTO.  

BE IT RESOLVED by the Council of the City of Modesto that Councilmember Hawn is hereby designated to serve as Vice Mayor for the ensuing year pursuant to Section 603 of the Charter of the City of Modesto.  

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:  

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

NOES: Councilmembers: None  

ABSENT: Councilmembers: None  

Attest: Jean Morris, City Clerk  

(SEAL)  

APPROVED AS TO FORM:  

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-044

A RESOLUTION APPROVING TASK ORDER NO. 4 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH HARRIS AND ASSOCIATES, FOR THE PREPARATION OF A FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE TIVOLI SPECIFIC PLAN AREA

WHEREAS, the City Council is desirous of creating a Facilities Master Plan ("FMP") and Infrastructure Finance Plan ("IFP") for the Tivoli Specific Plan Area ("Project"), and

WHEREAS, Russell A. Newman, Professional Law Corporation ("Applicant"), has a legal interest in real property located within the Tivoli Specific Plan Area, shown in Exhibit "A", and is interested in pursuing development of properties in the Specific Plan Area, and

WHEREAS, on September 26, 2006, by Resolution No. 2006-599, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services with Harris and Associates ("Consultant"), for the preparation of FMPs, IFPs, technical studies and related on-call services as assigned by City, and

WHEREAS, Consultant has prepared Task Order No. 4 ("Task Order") for the Project, attached as Exhibit "B", and

WHEREAS, Applicant has advanced a deposit in the amount of three hundred thousand dollars ($300,000) to the City to fund a portion of Task Order No. 4 and to pay staff and consultant expenses expected to be incurred in connection with the Project, and

WHEREAS, additional deposits will be provided by Applicant, as required by the City and as necessary to fund the Task Order, and

010207/CMO /dsheatsley/item05 1 2007-044
WHEREAS, the City will issue Notices to Proceed to the City’s Consultant only for those subtasks for which the Applicant has deposited funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Task Order No. 4, attached as Exhibit “B” hereto is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January, 2007, 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:

By Susana Alcala Wood, City Attorney
This Task Order No. 4 is made and entered into by and between the City of Modesto, a municipal corporation (hereinafter “CITY”), and Harris and Associates, a California corporation (hereinafter “CONSULTANT”) and is effective as of _____________, 2007.

RECITALS

A. CONSULTANT has entered into a Master Professional Services Agreement for Consultant Services, (hereinafter “Agreement”), dated September 26, 2006 (“AGREEMENT”) with the CITY, by which the CONSULTANT has agreed to provide professional engineering and financial engineering services for various development projects, which is incorporated herein by reference.

B. At the request of CITY and in compliance with the terms of the AGREEMENT, CONSULTANT has prepared the Task Order No. 4, a copy of which is attached hereto as Exhibit A.

C. CITY and CONSULTANT desire that CONSULTANT perform the services as identified in the attached Task Order.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. INCORPORATION OF MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES. This Task Order hereby incorporates by reference all terms and conditions set forth in the Master Professional Services Agreement, unless expressly modified by this Task Order. The AGREEMENT and this Task Order shall, to the fullest extent possible, be read and considered as fully integrated documents and shall be interpreted so as to avoid inconsistencies, comply with all applicable laws and ensure that the objectives of the parties will be fully realized.

   Nothing in this Task Order is intended to supersede, terminate, modify or otherwise affect any provision of the AGREEMENT, except to the extent that a provision of this AGREEMENT is in direct and irreconcilable conflict with a provision of the AGREEMENT. Then, and only in that event, the provisions of the AGREEMENT shall prevail over the contradictory provision of the Task Order.

2. SCOPE OF SERVICES. CONSULTANT shall perform the services described in Exhibit “A” attached hereto and incorporated herein by reference. CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT use any subcontractors or subconsultants not listed in this Task Order, without the prior written consent of CITY.

3. TIME OF PERFORMANCE. CONSULTANT shall commence performance within five (5) working days after receipt of a Notice to Proceed from City, and shall complete all required services no later than the dates set forth in Exhibit “A”.
4. **COMPENSATION.** For services performed by CONSULTANT in accordance with this Task Order, CONSULTANT agrees to accept a sum not to exceed $704,043. CONSULTANT shall be paid at the times and in the manner set forth in Paragraph 3 of the Master Professional Services Agreement, unless expressly provided otherwise in the attached Task Order.

5. **SIGNATURES.** The individuals executing this Task Order represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Task Order on behalf of the respective legal entities of the CONSULTANT and CITY. This Task Order shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2007---, adopted by the Council of the City of Modesto on the ____ day of _________, 2007, and _________ has caused this Agreement to be duly executed in duplicate as of the Effective Date set forth above.

CITY OF MODESTO, a municipal corporation

By __________________________
GEORGE W. BRITTON,
City Manager

CONSULTANT, Harris & Associates, a California corporation*

By __________________________
Name STEVIE E. KELLY Title V.I.P.

By __________________________
Name GUY A. ERIKSON Title President

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

By __________________________
ALISON A. BARRATT-GREEN,
Senior Deputy City Attorney

Consultant’s Federal ID # 94-2385238

* Corporations - signature of two (2) officers required or one (1) officer plus corporate seal.

** Partnership - signature of a partner required**

ATTEST:

By __________________________
JEAN MORRIS, City Clerk
The following describes Harris and Associates' (Harris) approach and level of effort for this scope of work. There are four sub consultants on this project; West Yost and Associates for Water; Carollo Engineers for Wastewater; Omni Means for Traffic; and Stantec for Storm Drainage. The scopes of work for each of the sub consultants are shown in Exhibits A through D. The cost estimate for Harris' hours and the sub-consultants are summarized in Exhibit E. Harris' hourly rates are shown in Exhibit F. In addition, Goodwin Consulting Group will prepare the necessary documents for the Community Facilities District. That fee is included in Exhibit D.

The following work will be performed on a time and materials (four sub-tasks):

- Task 4.1 reviews the technical studies associated with the project’s Final EIR and defines the obligation (benefit and burden) that each acre of land within the development will have for infrastructure improvements;
- Task 4.2 produces the infrastructure financing plan for the build out of the Tivoli development and specifically sets the financing for the Capital Improvement Projects that are triggered by the development and anticipated during the first 10 years. The City and developer will define the phasing of development and the costs as identified in Task 4.1;
- Task 4.3 prepares the Facilities Master Plan for the proposed development.
- Task 4.4 establishes the Community Facilities District formation.

Task 4.1 – Preparation of a Benefit and Burden Analysis

The City will provide all of the technical studies prepared for the project’s Final EIR, and Harris will review the required data on land uses that are anticipated in the Tivoli Specific Plan Area. Harris will collect from the developer, with the City’s help, this land use data in electronic format. The land use data will include the development layout, irrigation areas (potable water demand), land uses, acreage, dwelling units, square footage of non-residential building space, pavement areas, and planned layout of the arterial streets and internal street network, which will be the responsibility of the project on and off-site infrastructure, as outlined in the project’s Specific Plan and Draft EIR. Harris will also review the Draft Environmental Impact Report to determine all recommended mitigation measures.

Harris will describe each type of capital facility that has been and will need to be constructed to serve the Tivoli Specific Plan Area. This data will be given to each of the sub-consultants to prepare the necessary reports to support the development of the Infrastructure Finance Plan.
(IFP). These sub-consultants’ reports will tier off the work completed for the Draft EIR by the City, and will include conceptual layouts and cost estimates of the infrastructure needed to support build-out of the development.

Based on the existing technical studies for the EIR and the new studies to support the IFP, Harris will prepare a Benefit and Burden Analysis. This analysis will define the infrastructure and cost burden that each land use will receive from the infrastructure that will be included in the IFP and detailed in the Facilities Master Plan (FMP). It will also identify the cost burden that each acre of land will have towards public facility improvements, by land use, at build-out of the development area. The benefit and burden analysis will also identify those projects that will need to be funded up-front by the developer in order to allow the development to proceed regardless of how the developer chooses to phase the construction of the project. This analysis will not define how these costs will be paid for. The analysis will be prepared for the entire development area. As the project is further defined, if a phased Benefit and Burden Analysis is proposed, additional scope and consultant fees will be required.

Traffic Assessment – Omni-Means, Ltd.
Based on provided traffic model updated by Downling and Associates, Omni-Means will perform a “select link” analysis to identify traffic improvements required to mitigate the Tivoli development impact. These improvements will be determined based on existing deficiencies and the proportion of total improvements needed for new development phasing. Omni-Means will also prepare cost estimates for these mitigation projects, including cost per square foot for right-of-way acquisition. The traffic fee will be developed and applied on a cost per trip generation rate for each land use. Additionally, possible alternative funding sources will be reviewed and evaluated.

Water Capacity Study – West Yost associates (WYA)
Based on provided information regarding land use, roadway alignments, etc. WYA will model the proposed water system for project build-out. WYA will modify the existing water system hydraulic model to be representative of the new water demands of the project. This model will then be used to evaluate the potential hydraulic impacts of adding the new water demands required to serve the project on the City’s existing water system. If the City’s existing water system cannot meet the City’s minimum water system design criteria with the increased demands, then WYA will make recommendations for whatever new water supply sources and/or water system infrastructure facilities will be required to mitigate the hydraulic impacts of the Project for both build-out and project phasing. WYA will prepare an estimate of the probable construction costs for the infrastructure required to provide adequate supply.

Wastewater – Carollo Engineers
Based on provided land use information, Carollo will update the hydraulic model to reflect changes in planning assumptions that have occurred since they completed the 2005 Final Wastewater Capacity Study. Carollo will revise needed sewer improvements to reflect changes in planning assumptions. The collection system and WWTP improvements will also be revised as necessary to accommodate growth based on revisions to the hydraulic model and updates to the WWTP Master Plan currently being prepared by Carollo. Carollo will develop probable construction cost estimates to reflect changes in the Capacity Study.
Storm Drain - Stantec

Based on provided land use information, existing studies, and Developer provided grading plans and detention basin plans and inverts, Stantec will define drainage sub-basin areas and perform hydrologic evaluations to determine 10-year and 100-year discharges that will be generated by the development at build-out. Stantec will additionally provide peer review of the proposed dual use detention basin to access conformance to existing City guidelines.

Harris will participate in one (1) City Council presentation associated with this task, as well as three (3) meetings with staff and the developer. Harris will also set and attend meetings related to each infrastructure analysis with the sub consultants and various City departments as necessary. The Benefit and Burden analysis will define water, sewer, traffic, park, storm drainage and public and government facilities impacts.

Harris will provide ten (10) copies of the Draft Benefit and Burden Analysis for review by the City staff. Once written comments have been received, at the City’s direction, a final draft will be prepared for review by the developers. At this point, Harris will try to reach consensus among the parties in order to proceed with a facility cost summary that all agree is appropriate. Twenty (20) final copies, including 1 electronic copy, will be provided to the City once all final comments have been received and incorporated.

Harris will assist the City in the preparation of the City Council staff report associated with the presentation of the Tivoli Development Benefit and Burden Analysis.

Estimated Level of Effort and Costs for Task 4.1:

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<th>Firm</th>
<th>Hours</th>
<th>Costs</th>
<th>Meetings in Scope</th>
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<td><strong>Totals</strong></td>
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Deliverables for Task 4.1

10 copies of the draft Benefit and Burden Analysis
10 copies of a final draft of the Benefit and Burden Analysis
20 copies of the final Benefit and Burden Analysis
1 electronic copy of the final Benefit and Burden Analysis.
Task 4.2 – Infrastructure Finance Plan

After the Benefit and Burden analysis is completed and prior to beginning the Infrastructure Finance Plan or Facilities Master Plan, Harris will meet with the developer and the City to determine how all of the infrastructure project costs will be paid. These payment methods include: 1) Developer “build and dedicate”, 2) condition of approval on the development mapping, 3) defined points within a development agreement, 4) part of a land secure financing district and/or 5) paid for by the development impact fees for the Tivoli development.

Harris will work with the City and developer(s) to set project phasing. Harris, the sub-consultants and the City will build upon the Benefit and Burden analysis, and shall meet with and proceed with the coordination of all Finance Plan Consultants, including City CFD staff, the Appraiser, and Bond Counsel (assumed to have separate contracts with the City) regarding assumptions upon which the Tivoli Development Project IFP shall be performed.

The purpose of the IFP will be to clearly describe what is expected to occur with regard to land uses, infrastructure costs and financing. This is an iterative process that will require consensus building among all of the stakeholders. Harris will play an integral role in generating this consensus.

The IFP will define the financing details related to water, sewer, storm drainage, traffic, public facilities and parks. For those portions of the infrastructure that are associated with impact fees being prepared by Harris or the CFD being prepared by the City, a cash flow analysis will be provided defining when each project is anticipated and can be funded.

Harris will prepare a Draft Infrastructure Finance Plan based on the Technical Analyses performed by the Sub-consultants to include for each program: a project detail sheet, the project description, the itemized project costs, the capital improvement program (CIP) numbers, a priority list of projects, and cash flow projections based upon estimated revenue from fees and debt financing.

Upon approval of the draft plan, Harris will assist City staff in two (2) City Council presentations for the IFP. The first presentation will be a public meeting to present the IFP and receive comments. The second presentation will adopt the IFP and associated Development Impact Fees for Tivoli.

Harris will assist the City in the preparation of all required City Council staff reports, resolutions and public notices associated with the adoption of the IFP.

Harris will provide ten (10) copies for City staff review. At the City’s direction, Harris will complete a final draft to be presented to stakeholders.
Estimated Level of Effort and Costs for Task 4.2:

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Deliverables for Task 4.2

- 10 copies of the draft Infrastructure Finance Plan
- 10 copies of a final draft of the Infrastructure Finance Plan
- 20 copies of the final Infrastructure Finance Plan
- 1 electronic copy of the final Infrastructure Finance Plan.

Task 4.3 – Facilities Master Plan

Harris will prepare the Facilities Master Plan, which includes the following:

- Introduction
- Sanitary Sewer System
- Storm Drainage System
- Construction Phasing
- Opinion of Probable Cost (shown in IFP)
- Circulation System
- Potable Water System
- Parks (provided by City)

Harris will prepare the "Tivoli Facilities Master Plan". It will incorporate all of the information provided by the Sub-consultants related to infrastructure requirements. This task assumes that no aerial or field surveying is required but will be available from the other work being completed by the developer. If survey information is not available, then an additional task to provide this service will be needed.

The document will also include:

- Mitigation Measures from the EIR for Tivoli Specific Plan.
- Implementation and Funding
- Amendment Process.

This scope of work assumes that thirty (30) sheets of drawings will be created during this process.
Harris assumes that the adoption of the FMP will occur as part of the IFP process discussed in Task 4.2.

Ten (10) copies of the 30% design level drawings will be submitted to the City for review. The 30% submittal would include all drawings anticipated to be submitted and would include alignments and planned locations of all facilities. Once the City has submitted written comments to Harris, 90% drawings will be completed. Ten (10) copies of the 90% drawings will be submitted to the City for final review. The 90% submittal would include all alignments for roads and pipes including face of curb, edge of pavement, existing right-of-way, future right-of-way, and existing buildings, profiles for all roads and pipes including slopes, and elevation call-outs, cross section of roads including lane widths, landscaping widths and side walk widths, intersection details including lengths of turn lanes, lane configurations, face of curb, edge of pavement, existing right of way, future right of way, and any existing buildings and location of any planned detention basins, parks, schools, and any other pertinent facilities. The 90% would also include all notes, all call-outs, any details that are to be incorporated such as curb and gutter, sidewalk, etc. or reference to the City's design standards.

Twenty (20) copies of the final drawings, including an electronic copy, will be provided to the City when all comments have been addressed.

Task 4.3 assumes 4 meetings with the City and/or developers to discuss the drawings.

**Estimated Level of Effort and Costs for Task 4.3:**

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<th>Meetings in Scope</th>
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**Deliverables for Task 4.3**

10 copies of the 30% level drawings of the Facilities Master Plan
10 copies of a 90% level drawings of the Facilities Master Plan
20 copies of the final Facilities Master Plan
1 electronic copy of the final Facilities Master Plan

**Task 4.4 – Community Facilities District**

Harris will manage the formation of the Community Facilities District.
A. Goodwin Consulting Group, Inc. (GCG) will serve as special tax consultant to assist the City of Modesto (City) in the formation of a Mello-Roos Community Facilities District (CFD) that will fund public improvements and public services required to serve the Tivoli project. GCG will meet with City staff, property owners, the City’s financial advisor, bond counsel and other members of the financing team to compile data, and to discuss the structure and components of the Mello-Roos cash flow analysis.

This task will include:

(i) Determining the initial boundaries of the CFD and future annexation areas both inside and outside existing City limits
(ii) Identifying proposed land uses, public facilities to be financed, annual storm drain and landscape maintenance costs, anticipated absorption rates, and timing and number of bond issues
(iii) Discussing assumptions to be used for the initial allocation of special taxes to land uses within the CFD and reviewing the advantages and disadvantages associated with various allocation methods
(iv) Evaluating the potential for separate CFDs, improvement areas or tax zones based on the objectives of the City and developers, and
(v) Coordinating with the financial advisor regarding the anticipated bond structure, including special tax/debt service escalator, bond interest rate, short-term reinvestment rate, capitalized interest, reserve fund, and other features that may affect the size of bond issues and the corresponding annual debt service.

B. Mello-Roos Cash Flow Analysis: GCG will use the information compiled to prepare an analysis of the annual cash flow of the CFD. The analysis will identify the maximum special tax that will be needed to maintain required debt service coverage on bonded indebtedness issued on behalf of the CFD.

In addition, the cash flow analysis will

(i) Estimate the special tax burden on undeveloped property based on a given absorption scenario
(ii) Determine the size of the initial and subsequent bond sales taking into consideration minimum value-to-lien requirements set forth in state law and City policy, and
(iii) Evaluate the increased bonding capacity that is created from an escalating special tax and debt service or other unique bond structure.

GCG will present the cash flow analysis at a second meeting and discuss alternatives that the working group would like analyzed. Subsequent iterations of the analysis will be prepared based on feedback from City staff, affected property owners, the financial advisor, bond counsel and other members of the working group. Ultimately, through review and discussion of each alternative, the team will select a special tax structure, which GCG will incorporate in the Rate and Method of Apportionment of Special Tax outlined below.

C. Rate and Method of Apportionment of Special Tax: Based on the special tax structure selected pursuant to Task B-2 above, GCG will prepare the Rate and Method of
Apportionment of Special Tax (RMA), which will serve as the official special tax formula for the CFD. The RMA will provide detail and direction as to how the special tax should be levied in future years to ensure adequate revenues are available for timely repayment of debt service on bonded indebtedness issued by the CFD. The RMA will be included as an exhibit to the Resolution of Intention to Form the CFD, which will be adopted by the City Council as part of the first set of actions taken towards forming the CFD.

In addition to providing guidance relative to the annual levy of special taxes in the CFD, the RMA will provide some or all of the following items:

- Identification of the maximum special tax for each special tax category, including each category of developed and undeveloped property
- Provision for a back-up special tax or alternate mechanism to be used to maintain maximum special tax revenues in the event that land uses change in future years
- A detailed prepayment formula that will provide flexibility for a property owner to prepay all or a portion of the special tax obligation after some or all bonds have been issued for the CFD
- If additional property is expected to annex into the CFD, a description of the "catch-up tax" that will apply to annexing parcels to equalize the cumulative special tax burdens (if applicable)

D. Contributions and Review of Other CFD Formation Documents: In coordination with Harris, the City, and Stakeholders, GCG will review, prepare and contribute to other documents required in the CFD formation proceedings. Specifically, GCG will prepare the CFD Report required, pursuant to Section 53321.5 of the Government Code, to be filed with the City Clerk prior to the public hearing. GCG will also review all CFD formation documents and, based on results of the cash flow analysis, assist in calculating the maximum bond authorization and appropriations limit for the CFD. GCG will also ensure that the CFD boundary map is consistent with the areas expected to be included in the CFD when the maximum special tax and/or bonding capacity is calculated.

E. In preparation for the issuance of bonds, GCG will review the bond purchase agreement, fiscal agent agreement and/or bond indenture to assure that the flow of special tax revenues and interest earnings as set forth in these documents are consistent with assumptions used in the Mello-Roos cash flow analysis.

In addition, GCG will review the preliminary official statement and, at the request of the financial advisor or underwriter, prepare one or more of the following:

- A table demonstrating special tax coverage based on the projected stream of revenues compared to annual debt service on the bonds
- If multiple landowners/developers are included within the CFD, a table showing diversification of special tax burdens among the major participants
- Incorporating information provided in the appraisal, a table identifying the value-to-lien ratios for each assessor parcel or major property owner
• A table summarizing a sample tax bill for individual residential units within each tax
category to demonstrate compliance with City policy pertaining to the total effective tax
rate
• Any other tables requested by the financial advisor and/or underwriter to assist in
disclosure related to the special tax formula

F. Certification of Special Tax Revenues and Acceptance of Associated Liability: GCG will
execute the Certificate of Special Tax Consultant, which commits to bond buyers that the
minimum debt service coverage will be maintained by application of GCG’s tax formula
regardless of land use changes that occur within the CFD in future years.

Task 4.4 assumes 4 meetings with the City and/or developers.

Estimated Level of Effort and Costs for Task 4.4:

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Deliverables for Task 4.4

See items A through E above.
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-045

A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007 OPERATING BUDGET TO CREATE A MULTI-YEAR ACCOUNT (2900-020-0265) AND APPROPRIATING $300,000, FUNDED BY RUSSELL A. NEWMAN, PROFESSIONAL LAW CORPORATION, FOR THE PREPARATION OF A FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE TIVOLI SPECIFIC PLAN AREA

WHEREAS, the Tivoli Specific Plan Area is in need of a Facilities Master Plan ("FMP"), and Infrastructure Finance Plan ("IFP") to plan for necessary facilities and associated costs for buildout of that specific plan area, and

WHEREAS, on September 26, 2006, by Resolution No. 2006-599, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services ("Agreement") with Harris and Associates, a California corporation, for the preparation of FMPs, IFPs, technical studies and related on-call services as assigned by City, and

WHEREAS, on January 9, 2007, by Resolution No.2007-044, the Council of the City of Modesto approved Task Order No. 4 to the Agreement for the preparation of a FMP, IFP, and for formation of a Community Facilities District ("CFD"), and

WHEREAS, on January 9, 2007, by Resolution No.2007-046, an Advanced Funding Agreement between the City and Russell A. Newman, Professional Law Corporation ("Applicant") was approved by the City Council, and

WHEREAS, Applicant has deposited with the City the amount of three hundred thousand dollars ($300,000.00) to fund a portion of the costs for the Project and provide for reimbursement as appropriate, and
WHEREAS, additional deposits will be provided by Applicant, as required by the City and as necessary to fund Task Order No. 4, and

WHEREAS, the City will issue Notices to Proceed to the City’s Consultant only for those subtasks for which the Applicant has deposited funds,

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 create a multi-year account for the preparation of the Tivoli Specific Plan Area Facilities Master Plan and Infrastructure Finance Plan and appropriates $210,000 to 2900-020-0265-0235 for professional services and $90,000 to 2900-020-0265-0255 for City services.

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 9th day of January, 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

010207/CMO/Gedney/item05 2 2007-045
MODESTO CITY COUNCIL  
RESOLUTION NO. 2007-046

A RESOLUTION APPROVING AN ADVANCED FUNDING AGREEMENT FOR THE TIVOLI SPECIFIC PLAN AREA BETWEEN THE CITY OF MODESTO AND RUSSELL A. NEWMAN, PROFESSIONAL LAW CORPORATION, FOR THE PREPARATION OF A FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE TIVOLI SPECIFIC PLAN AREA AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, Russell A. Newman, Professional Law Corporation ("Applicant"), has agreed to advance all funds necessary to prepare a Facilities Master Plan ("FMP") and Infrastructure Finance Plan ("IFP"), and for formation of a Community Facilities District ("CFD") for the Tivoli Specific Plan Area, and

WHEREAS, the parties agreed to enter into an Advanced Funding Agreement for the Tivoli Specific Plan Area by and between the City and the Applicant relating to advances made and to be made by the Applicant to the City, and providing for potential reimbursement to the Applicant if and when certain funds from the Tivoli CFD become available, a copy of which is attached as Exhibit A,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Advanced Funding Agreement for the Tivoli Specific Plan Area between the City of Modesto and Russell A. Newman, Professional Law Corporation, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Advanced Funding Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January, 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:

By: __________________________

SUSANA ALCALA WOOD, City Attorney
ADVANCED FUNDING AGREEMENT
FOR THE TIVOLI SPECIFIC PLAN AREA

THIS ADVANCED FUNDING AGREEMENT FOR THE TIVOLI SPECIFIC PLAN AREA (this “Agreement”), dated as of __________, 2007, is entered into by and between the CITY OF MODESTO, a municipal corporation of the State of California (the “City”) and RUSSELL A. NEWMAN, PROFESSIONAL LAW CORPORATION (the “Applicant”).

RECITALS:

A. Applicant has a legal interest in real property located within a portion of the Tivoli Specific Plan Area (“Specific Plan”), shown in Exhibit A attached hereto and incorporated herein by this reference, and is interested in pursuing development of properties in the Specific Plan.

B. Applicant has requested that the City prepare a Facilities Master Plan and Infrastructure Finance Plan (“FMP/IFP”), and create an appropriate financing mechanism, such as a community facilities district (“CFD”) for the principal purpose of master planning and financing the various public facilities and services which are necessary to serve or desirable for the development of the Specific Plan (collectively the “Project”).

C. City has either retained, or will retain outside consultants, to assist it with the Project and, if the City determines to proceed with the formation of a CFD, to assist it in connection therewith and with the possible issuance of bonds.

D. The scope of work for the Project (“Scope”), including the estimated costs for completing the Project (“Estimated Costs”), is attached as Exhibit B.

E. Applicant is prepared to deposit with the City the amount needed to fund Task 1 as set forth in the Scope plus 30% for staff time and expenses in order to provide the City with an initial source of funds with which to pay expenses expected to be incurred in connection with the Project. Additional deposits will be provided by Applicant, as required by the City.

F. The City and Applicant are desirous of entering into this Agreement in order to provide monies for the City’s costs for preparing the Project on a time and materials basis, to provide mechanisms by which the funds deposited under this Agreement shall be applied and by which Applicant may make additional deposits, and to reimburse Applicant for monies advanced for the benefit of other landowners in the Project.

G. Pursuant to California Government Code Section 53314.9 and the City’s CFD Policies and Procedures, the City Council of the City is authorized to accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or work-in-kind for any authorized purpose, including, but not limited to, paying any costs incurred in connection with the planning and formation of a community facilities district. The City Council of the City is also authorized to enter into an agreement, by resolution, with the person or entity advancing the funds or work-in-kind to repay all or a portion of the funds advanced or to reimburse the person or entity for the cost or value of the work-in-kind provided that certain conditions are met. The conditions to be satisfied with respect to funds advanced require that (1) the proposal to repay the funds or to pay the cost or value of the work-in-kind must be included in the resolution of intention for the proposed community
facilities district and in the resolution of formation for the proposed community facilities district, (2) any proposed special tax is approved by the qualified electors of the community facilities district and, if a proposed special tax is not approved, any funds advanced which have not been committed for any authorized purpose by the time of the election must be returned to the person or entity advancing funds and (3) any work-in-kind accepted shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the local agency.

H. The City and the Applicant are desirous of entering into this Agreement in accordance with Government Code Section 53314.9 and the City's CFD Policies and Procedures in order to provide a mechanism by which the Applicant may make additional deposits if determined necessary pursuant to the City's CFD Policies and Procedures and, when and if bonds are issued and proceeds are available, the CFD can reimburse the Applicant for the amounts advanced by the Applicant.

**AGREEMENT**

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. **Recitals.** Each of the above recitals is incorporated herein and is true and correct.

2. **Proposed Preparation of the Facilities Master Plan and Infrastructure Financing Plan.**
   a. Applicant agrees to pay all costs of preparing, processing and approving the FMP/IFP.
   b. Within ten (10) calendar days after the City Council approves this Agreement, Applicant shall deposit with the City the sum of $300,000.00 ("Initial Deposit") to fund Task 1 as identified in the Scope ("Task 1"). The Initial Deposit includes 30% for staff time and expenses associated with said Task. The Initial Deposit will be held in trust by the City and used solely for the purposes set forth in this Agreement. Upon receipt by the City of the Initial Deposit and all documents deemed necessary by the City to proceed with the Project, the City will commence work on Task 1 on a time and materials basis and will provide a Notice to Proceed to its Consultant to proceed with Task 1. In connection therewith, the City has either retained, or will retain, the consultants that the City determines necessary or convenient to assist it with the Project and, if the City determines to proceed with the formation of the CFD, to assist it in connection therewith and with the possible issuance of bonds.

   After the Initial Deposit has been expended on the Project, Applicant shall make additional advances to the City as provided by subparagraph (d), below, until the Project has been completed or terminated, and all costs associated with the Project have been fully paid. City will commence work on subsequent Tasks as identified in the Scope on a time and materials basis and will provide a Notice to Proceed to Consultant for each such Task within ten (10) calendar days after it has received an additional deposit sufficient to cover the estimated costs for said Task plus 30% for staff time and expenses associated with said Task.
c. The consultants shall submit invoices to the City for payments based on work
completed; such invoices will be promptly sent by the City to the Applicant,
which will have five (5) business days to challenge the work performed, and the
City will in good faith consider the position of the Applicant prior to approving
payment. Applicant understands and agrees that City shall have the right, in its
sole discretion, to approve and pay all such consultant invoices, and may do so
without obtaining Applicant’s approval.

Applicant shall make additional advances to the City within ten (10) business
days following receipt from the City of a request for an additional advance to the
cover the costs referred to herein. In the event that Applicant does not deliver the
requested amount to the City within such ten (10) business day period, the City
will have no obligation to proceed with any activity relating to the Project. The
Applicant may notify the City at any time, in writing, of its intention to abandon
the Project. Immediately upon City’s receipt of such notice, but in no case later
than two (2) business days, the City shall instruct in writing its consultants to
cease work immediately. The Applicant shall be responsible for all costs and
expenses incurred by the City or any City consultant or advisors relating to the
Project until City issues this cease work notice.

d. Within 60 calendar days after issuance of a cease work notice, City agrees to
return to Applicant all unexpended amounts of the Initial Deposit (and any
subsequent deposits) which exceed all costs and expenses incurred by City
relating to the Project.

e. Applicant agrees that, notwithstanding the Applicant’s funding and
reimbursement obligation under this Agreement, the consultants selected by the
City shall be the contractors exclusively of the City and not of the Applicant.
Except for those disclosures required by law including, without limitation the
Public Records Act, all conversations, notes, memoranda, correspondence, and
other forms of communication by and between the City and its consultants shall
be, to the extent permissible by law, privileged and confidential and not subject to
disclosure to the Applicant. Applicant agrees that it shall have no claim to, nor
shall it assert any right in any reports, correspondence, plans, maps, drawings,
news releases or any and all other documents or work project produced by City’s
consultants. Applicant understands that it will not be a third party beneficiary to
City’s contracts with the consultant. City will consult with Applicant prior to
replacing its current consultants; however, Applicant agrees that City may select
other consultants to replace its current consultants and may do so without
obtaining Applicant’s approval.

f. City and Applicant shall work cooperatively and in good faith to facilitate
completion of Project as quickly as possible and in the most cost effective way.
City and Applicant shall meet and consult on dates and times as may be mutually
agreed upon to discuss the progress and any key issues involved in the Project;
provided, however, that Applicant’s role is advisory only and that City shall
control all aspects of the Project. The final work product to be produced by
City’s consultants shall be subject to the City’ sole approval and control.
3. **Proposed Formation of the CFD and Issuance of Bonds.**

   a. Applicant agrees to pay all costs of preparing, processing and forming a CFD for the Specific Plan area.

   b. Upon receipt by the City of a completed application for the formation of the CFD, the formation deposit for the CFD, and all documents related thereto as described in the City's CFD Policies and Procedures, the City will undertake to analyze the appropriateness of forming the CFD and the issuance of bonds by it. In connection therewith, the City has either retained or will retain, at the Applicant’s expense, the consultants that the City determines necessary or convenient to assist it in studying the proposed formation of the CFD and, if the City determines to proceed with the formation of the CFD, to assist it in connection therewith and with the possible issuance of bonds.

   c. Pursuant to the City’s CFD Policies and Procedures, the Applicant shall make additional advances to the City within ten (10) days following receipt from the City of a request for an additional advance to cover the costs referred to herein. In the event the Applicant does not deliver the requested amount to the City within such ten (10) day period, the City will have no obligation to proceed with any activity relating to the formation of the CFD and/or the issuance of bonds. The Applicant may notify the City at any time, in writing, of its intention to abandon the formation of the CFD or the issuance of bonds. Upon receipt of such notice, the City shall instruct its consultants to cease work as soon as practicable. The Applicant shall be responsible for all costs and expenses incurred by the City or any City consultant or advisor relating to the proposed formation of the CFD and/or bond issuance until work with respect to the proposed formation or bond issuance ceases following the receipt of the Applicant’s notice of abandonment. Within 60 calendar days after receipt of the Applicant’s notice of abandonment, City agrees to return to Applicant all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by City relating to the Project.

4. **Reimbursement Procedure.** If the CFD is formed and bonds are issued, bond proceeds in excess of the amount determined by the City’s District Administrator to be required in order to satisfy the requirements of the City’s CFD Policies and Procedures with respect to capitalized interest and reserves and to pay for the Facilities and other Incidental Expenses may be used to reimburse the Applicant for the amounts that the Applicant has advanced to the City in connection with this Agreement, all as provided for in the City's CFD Policies and Procedures. In the event that the CFD is not formed for any reason, or in the event that the CFD is formed and bonds are not issued for any reason, the City shall return any funds which have been advanced by the Applicant pursuant to this Agreement and which have not been expended, obligated or otherwise committed for any authorized purpose, subject to the complete reimbursement to the City of all of its direct and indirect costs. If the amounts previously advanced by the Applicant are insufficient to fully reimburse the City for all of its direct and indirect costs, the Applicant shall promptly pay to the City the amount of the deficiency. The City shall be entitled to pay any refund required pursuant to the provisions hereof to the entity that is the signatory to this Agreement irrespective of any changes in the ownership of the property or the organization of the Applicant, and the City shall not be required to pay interest on any amount required to be refunded pursuant to this Agreement.
5. **Abandonment of the Project.** The Applicant understands that, subject to the satisfaction of all applicable legal requirements, the decision to review, process, prepare or approved the proposed Project, shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to review, process, prepare or approve the proposed Project. The City shall have no liability to Applicant for a decision not to review, process, prepare or approve the proposed Project.

6. **Abandonment of Proposed CFD.** The Applicant understands that, subject to the satisfaction of all applicable legal requirements, the decision to form the CFD and the decision to issue bonds shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to form the CFD or to issue bonds. Should the proceedings to form the CFD be abandoned for any reason, the City shall provide written notification of such abandonment to the Applicant and shall return to the Applicant all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by the City relating to formation of the CFD. Said monies shall be returned within 60 days of the issuance of the written notice of abandonment. Except for such reimbursement, the City shall have no liability to Applicant for a decision not to form the CFD or issue bonds.

7. **Indemnification and Hold Harmless.** The Applicant hereby assumes the defense of, and indemnifies and saves harmless, the City and each of its officers, directors and employees, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of or arising out of any acts or omissions of the Applicant or any of the Applicant’s officers, employees, contractors and agents in connection with the proposed formation of the CFD or any work-in-kind provided by or on behalf of the Applicant or its consultants, except for any action, damages, claims, losses or expenses arising out of the sole negligence or willful misconduct of the City, its officers, directors, employees or agents.

8. **Notices.** Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail if delivery is by postage paid registered or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time.

Applicant: RUSSELL A. NEWMAN, Professional Law Corporation
1020 Tenth Street
Modesto, CA 95354
Attention: Dave Romano

and

Cal-Pacific
c/o Reininga Corporation
456 Montgomery Street, Suite 1000
San Francisco, CA 94104
Each party may change its address for delivery of notice by delivering written notice of such change of address to the other party.

9. **Assignment.** The Applicant may not assign its interest in this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld. Any assignment or attempt to assign this Agreement without the prior written consent of City shall be deemed null and void as of the date of the purported assignment. All covenants, stipulations, and agreements in this Agreement shall bind any such representatives, successors and assigns.

10. **Severability.** If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent permitted by law.

11. **Entire Agreement.** This Agreement contains the entire agreement between the parties with respect to the matters provided for herein. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

12. **Amendments.** This Agreement may be amended or modified only by written instrument signed by all parties. Any amendment or addendum to this Agreement shall expressly refer to this Agreement.

13. **Governing Law.** This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

14. **No Third Party Beneficiaries.** No person or entity shall be deemed to be a third party beneficiary hereof; and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the City (and its officers, directors, employees and agents providing services under this Agreement) and the Applicant, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

15. **Singular and Plural: Gender.** As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

16. **Termination.** This Agreement shall terminate and be of no further force and effect on the third anniversary of the date of this Agreement unless expressly amended by the parties; provided, however, that the Applicant’s obligations under Section 7 shall survive the termination and the City’s obligation to provide reimbursement in accordance with Section 4 for expenses incurred prior to the termination date shall also survive termination.
17. **Time is of the Essence.** Except as otherwise expressly stated, time is of the essence in the performance of each and every action required pursuant to this Agreement.

18. **Language Construction.** The language of each and all paragraphs, terms and/or provisions of this Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

19. **Representations of Authority.** Each party signing this Agreement on behalf of a party which is not a natural person hereby represents and warrants to the other party that all necessary legal prerequisites to that party’s execution of this Agreement have been satisfied and that he or she has been authorized to sign this Agreement and bind the party on whose behalf he or she signs.

20. **Relationship of Parties.** Nothing contained in this Agreement shall be interpreted or understood by any of the parties, or by any third person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between City and Applicant or its agents, employees or contractors. Except as City may specify in writing, Applicant shall have no authority to act as an agent of City or to bind City to any obligation.

21. **Title of Parts and Sections.** Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of this Agreement’s provisions.

22. **Waiver.** The waiver by any party to this Agreement of any action, obligation, or commitment required by this Agreement or of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof or of any action, obligation, or commitment required by this Agreement unless specifically stated in writing.

23. **Discretion of the City.** City’s execution of this Agreement in no way limits the discretion of City in the permit and approval process in connection with any entitlements within City’s jurisdiction, including those related to the Project, or with the design, construction or funding of any onsite or offsite infrastructure improvements within the City’s jurisdiction.
IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2007-__, adopted by the Council of the City of Modesto on the __ day of ____________, 2007, and Russell A. Newman, PLC, has caused this Agreement to be executed in duplicate, effective as of the date first written above.

CITY OF MODESTO, a municipal corporation

By: ____________________________
    GEORGE W. BRITTON, City Manager

ATTEST:

By: ____________________________
    JEAN MORRIS, City Clerk

RUSSELL A. NEWMAN, Professional Law Corporation

By: ____________________________

Name: __________________________

Title: __________________________

APPROVED AS TO FORM:
SUSANA ALACALA WOOD, City Attorney

By: ____________________________
    ALISON A. BARRATT-GREEN
    Senior Deputy City Attorney

Signature Requirements

Corporation:
1. Signature of two (2) officers
   or
2. Signature of one (1) officer plus the corporate seal

Partnership: Signature of one partner

Sole Proprietorship: Signature of proprietor
A RESOLUTION APPROVING AMENDMENT NO. 2 TO THE STANDARD AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND GEORGE OSNER, AICP, FOR ON-CALL PLANNING AND ENVIRONMENTAL SUPPORT SERVICES FOR THE COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT AND PUBLIC WORKS DEPARTMENT, FOR AN ADDITIONAL AMOUNT OF $50,000, FOR A TOTAL AMOUNT NOT TO EXCEED $189,999 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, on November 14, 2005, the City of Modesto entered into a Standard Agreement for consultant services with George Osner, AICP, Planning Consultant, to provide planning services for the Community & Economic Development Department, in an amount not to exceed $49,000, and

WHEREAS, on July 11, 2006, by Resolution No. 2006-429, the contract was amended for an additional $90,000, for a total amount not to exceed $139,999, and

WHEREAS, the contract amendment extended planning services for the Community & Economic Development Department, Planning Division for an additional amount of $50,000, and,

WHEREAS, the remaining $40,000 was budgeted for services to the Public Works Department, Capital Improvement Services Division, through the Community & Economic Development Department, and,

WHEREAS, the Planning Division performs a number of tasks requiring planning support services, and,

WHEREAS, due to workload levels, and shortfalls in staffing levels, on-call planning support services are necessary to augment planning services provided by the Planning Division, and,
WHEREAS, Mr. Osner is currently providing planning services to the Community & Economic Development Department, including interpreting and applying environmental quality laws, and regulations to ensure City projects are in compliance with State and Federal laws, assisting in preparing request for proposals, preparing amendments to the Zoning Code for review and consideration, preparing ordinances for review and consideration, developing recommendations and preparing planning reports on various development proposals and applications and special studies, preparing appropriate planning, statistical, financial and narrative reports with technical studies, preparing planning applications, brochures and handout material associated with the development review process, and,

WHEREAS, in accordance with the amended agreement, George Osner has been providing on-call and environmental planning support services, and the amended amount of $50,000 has almost been reached, and,

WHEREAS, in order to satisfy on-going needs, the Community and Economic Development Department is proposing an Amendment No. 2 to the Standard Agreement for Consultant Services with George Osner for an additional amount of $50,000, for a total amount not to exceed $189,999, and,

WHEREAS, George Osner, AICP, is familiar with the City’s standards, policies, municipal code and operating procedures, having provided prior services in conjunction with the City’s overall urban and environmental planning efforts, and has demonstrated satisfactory services to the City on past and current projects, and
WHEREAS, staff has selected Mr. Osner, AICP, to provide on-call planning and environmental support services because of his extensive experience in the planning field and on similar projects, and

WHEREAS, Mr. Osner, AICP, will be paid on an hourly basis for actual hours required to perform specific tasks orders at a set rate, and

WHEREAS, funding for the services to the Community and Economic Development Department is allocated in the FY 06/07 CEDD budget in the amount of $50,000, located in the 0235 Professional Services Object of organization 1430, in combination with salary savings as a result of vacant positions for a Planning Division Manager, an Office Supervisor, a Senior Planner and an Administrative Services Technician II,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 2 to the Standard Agreement for Consultant Services between the City of Modesto and George Osner, AICP, Planning Consultant, for on-call planning and environmental support services for the Community & Economic Development Department and public Works Department, for an additional amount of $50,000, for a total amount not to exceed $189,999.

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 9th day of January, 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: SUSAN ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-048

A RESOLUTION APPROVING AMENDMENT NO. 2 TO THE STANDARD AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND JERRY HAAG, FOR PLANNING SUPPORT SERVICES FOR THE COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT, FOR AN ADDITIONAL AMOUNT OF $50,000, FOR A TOTAL AMOUNT NOT TO EXCEED $99,999 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, on November 14, 2005, the City of Modesto entered into a Standard Agreement for consultant services with Jerry Haag, Planning Consultant, to provide planning services for the Community & Economic Development Department, in an amount not to exceed $49,000, and

WHEREAS, on November 14, 2006, the contract was amended to extend the term of agreement to continue in effect until CITY’S acceptance of and payment for all services authorized by CITY and performed by CONSULTANT, and

WHEREAS, the Planning Division performs a number of tasks requiring planning support services, and,

WHEREAS, due to workload levels, and shortfalls in staffing levels, planning support services are necessary to augment planning services provided by the Planning Division, and,

WHEREAS, contract planning assistance is necessary to assist the City to efficiently manage the specific plan project load in a manner that is responsive to the City’s customers, and,

WHEREAS, there are currently 7 specific plan proposals underway in the City,
WHEREAS, Mr. Haag is currently providing planning services on a time and materials basis, to manage 2 specific plans currently underway: Woodglen and Pelandale-McHenry, and,

WHEREAS, Mr. Haag has also assisted the City in reviewing and providing comments on preliminary concept plans for the Johansen-Empire North Specific Plan and the Kiernan Business park East Specific Plan Amendment, and,

WHEREAS, in accordance with the Standard Agreement, Jerry Haag has been providing planning support services, and the contract amount of $49,999 has almost been reached, and,

WHEREAS, in order to satisfy on-going needs, the Community and Economic Development Department is proposing an Amendment No. 2 to the Standard Agreement for Consultant Services with Jerry Haag for an additional amount of $50,000, for a total amount not to exceed $99,999, and,

WHEREAS, Jerry Haag, is familiar with the City’s standards, policies, and operating procedures, having provided prior services in conjunction with the City’s overall urban and environmental planning efforts, and has demonstrated satisfactory services to the City on past and current projects, and,

WHEREAS, Mr. Haag is also qualified to provide the requested planning support services in a timely and cost effective manner, and,

WHEREAS, Mr. Haag has intimate knowledge of coordinating with City staff in furtherance of planning services and conferring with and advising City staff regarding environmental laws, regulations, and policies, and,

WHEREAS, funding for the services to the Community and Economic Development Department is allocated in the FY 06/07 CEDD budget in the amount of
$50,000, located in the 0235 Professional Services Object of organization 1430, in combination with salary savings as a result of vacant positions for a Planning Division Manager, an Office Supervisor, a Senior Planner and an Administrative Services Technician II,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 2 to the Standard Agreement for Consultant Services between the City of Modesto and Jerry Haag, Planning Consultant, for planning support services for the Community & Economic Development Department, Planning Division for an additional amount of $50,000, for a total amount not to exceed $99,999.

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 9th day of January, 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:

SUSAN ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-049

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF FEDERAL BRAND AMMUNITION FOR THE POLICE DEPARTMENT, TO SAN DIEGO POLICE EQUIPMENT CO., INC., SAN DIEGO, 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 $75,902

WHEREAS, the Police Department maintains an inventory of Federal Brand Ammunition for issuance to sworn staff and for training purposes, and

WHEREAS, a one-time purchase is made each fiscal year to replenish the supply for the department, and

WHEREAS, the FBI established a standardized bullet testing protocol, and

WHEREAS, about six (6) years ago the Modesto Police Department tested several bullet brands using the FBI protocol, and

WHEREAS, at the time the department was using Remington Brand, and

WHEREAS, the best performing bullet was the Speer Gold Dot; however, this brand is very expensive, and

WHEREAS, the next best performing brand was Federal, and

WHEREAS, Federal is competitively priced when compared to Remington and Winchester brands, and

WHEREAS, for this reason, the department purchases Federal Brand, and

WHEREAS, on October 10, 2006, Council approved Resolution No. 2006-647 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of Federal Brand Ammunition for the Police Department, for a two (2) year
agreement, with three (3) one-year extension options at the sole discretion of the City,

WHEREAS, on November 3, 2006, the Purchasing Division issued Request for Bid No. 0607-17 for the purchase of Federal Brand Ammunition to seven (7) Federal Brand distributors, three (3) of which were local companies, posted the bid on the City’s web site, and formally advertised as required by law, and

WHEREAS, on December 5, 2006, RFB’s were formally opened in the City Clerk’s office, and

WHEREAS, of the seven (7) prospective bidders, one (1) company chose to respond, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of Federal Brand Ammunition for the Police Department, to San Diego Police Equipment Co., Inc., San Diego 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 $75,902, 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 Federal Brand Ammunition for the Police Department, conforms to code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of Federal Brand Ammunition for the Police Department, to San Diego Equipment Co., Inc., San Diego,
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 $75,902.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase agreement for the purchase of Federal Brand Ammunition for the Police Department, to San Diego Equipment Co., Inc., San Diego, 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 $75,902.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January, 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

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney

ATTEST: Jean Morris, City Clerk