RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE PURCHASE AND INSTALLATION OF SEVEN (7) PAY-PER-SPACE PARKING MACHINES FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO BAY CITIES AUTOMATIC GATES, SAN CARLOS, CA; AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $131,669.48

WHEREAS, the City of Modesto operates three (3) parking garages and five (5) surface parking lots. The City’s parking facilities are fully funded through hourly parking rates and monthly contractual charges to area businesses, and

WHEREAS, the City Council, on April 24, 2007, by Resolution No. 2007-231, authorized the Purchasing Manager to issue formal Request for Proposals (RFP) for the purchase of a parking automated attendant system (hardware/software) for the Parks, Recreation and Neighborhoods Department, Building and Parking Services Division, and

WHEREAS, the Purchasing Division issued RFP No. 0809-02 to twenty-four (24) prospective proposers, none of which were local companies, posted the proposal on the City’s website and formally advertised as required by law, and

WHEREAS, RFP’s were formally opened in the City Clerk’s office. Of the twenty-four (24) prospective proposers, four (4) companies chose to respond. All four (4) companies provided responsive and responsible proposals, and

WHEREAS, an evaluation committee comprised of three (3) City staff and one representative from the City of Stockton evaluated and graded the proposals. Mayor Ridenour was invited to observe the evaluation process. The Purchasing Division facilitated the evaluation process. Neither Mayor Ridenour nor the Purchasing staff graded participants, and
WHEREAS, based on being ranked highest in total evaluation criteria the evaluation committee recommends the award of proposal and contract for the purchase and installation of seven (7) pay-per-space parking machines for the Public Works Department, Fleet Services Division, to Bay Cities Automatic Gates, San Carlos, CA, for an estimated total cost of $131,669.48, and

WHEREAS, the Public Works Department, Fleet Services Division anticipates the need for additional pay-per-space parking machines for expanded coverage of the current automated lots and for the possible automation of additional lots within the Parking Services Program, by accessing the terms of the award of this agreement. Any request for the purchase and installation of additional machines will come back before Council for authorization to award, 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 proposal and contract for the purchase and installation of seven (7) pay-per-space parking machines for the Public Works Department, Fleet Services Division, to Bay Cities Automatic Gates, San Carlos, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in appropriation Unit: 6000-350-P597-6040,

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 and installation of seven (7) pay-per-space parking machines for the Public Works Department, Fleet Services Division, to Bay Cities Automatic Gates, San Carlos, CA.
BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for an estimated total cost of $131,669.48.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ________________________________

By: ________________________________

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for Fiscal Year 2009-2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2009-2010 budget have been adjusted as shown in Exhibit A, which is incorporated by reference herein.

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 special meeting of the Council of the City of Modesto held on the 4th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following votes:

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

NOES:     Councilmembers:  None

ABSENT:  Councilmembers:  None

ATTEST:  STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  SUSANA ALCALA WOOD, City Attorney
PARKS, RECREATION AND NEIGHBORHOODS

This budget adjustment allocates $139,284 from the General Fund reserve to provide funding for: 1) the maintenance of park restrooms from August 2009 through Thanksgiving ($41,057); 2) the maintenance and watering of parkette properties ($49,098); and, 3) the maintenance, oversight, and watering of six public right of ways ($49,129). The public right of ways include the Kansas Overpass, Bowen Avenue roundabout, Briggsmore Overpass (3 areas) and the Encina median and roundabout. These adjustments may be partially or fully offset by the future sale of surplus park properties as discussed and recommended by the Finance Committee at their meeting of September 21, 2009.

APPROPRIATIONS

FROM: General Fund Reserves 0100-800-8000-8003 (139,284)

TO: Part Time Salary & Wages 0100-350-3522-0140 29,838
Temporary Agency (Labor) 0100-350-3522-0269 13,742
Services Professional & Other 0100-350-3522-0235 95,704

POLICE DEPARTMENT

The following budget adjustments transfer budgeted salary and benefit funding for Police Department positions that are grant funded out of the General Fund and into the Special Revenue Fund Operating Organizations where the grant funding for the position resides. This will provide for better accountability of grant funds. This adjustment also reverses the transfers out of the Special Revenue Funds to the General Fund. A transfer from the General Fund will be made within each organization’s existing appropriations to ensure that the positions are fully budgeted for each fiscal year.

STEP GRANT

APPROPRIATIONS

FROM: Salary Reduction 0100-190-1954-0184 (38,385)
Benefit Reduction 0100-190-1954-0194 (14,625)

TO: Salary Increase 0410-190-2100-0181 51,180
Benefit Increase 0410-190-2100-0191 19,500

TRANSFERS BETWEEN FUNDS

FROM: Transfer from Fund 0410 0100-700-1954-9041 (53,010)
Transfer to Fund 0100 0410-700-2100-7010 (53,010)

CALGRIP
### Appropriations

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### Transfers Between Funds

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### Transfers Between Funds

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### Traffic Offender
APPROPRIATIONS
FROM:
Salary Reduction 0100-190-1952-0184 (280,836)
Benefit Reduction 0100-190-1952-0194 (166,894)

TO:
Salary Increase 0610-190-1908-0181 280,836
Benefit Increase 0610-190-1908-0191 166,894

TRANSFERS BETWEEN FUNDS
FROM:
Transfer from Fund 0610 0100-700-1952-9061 (443,266)
Transfer to Fund 0100 0610-700-1908-7010 (443,266)

PULBIC WORKS
In Fiscal Year 2006-07 the Storm Drain Fund received a General Fund transfer in the amount of $70,000 for the Storm Drain Master Plan (CIP Q231). In December 2007, Council approved the conversion of General Fund transfers to the Storm Drain Fund into loans. Inadvertently, a transfer from General Fund to the Storm Drain Fund occurred in Fiscal Year 2007-08. This budget adjustment returns the transfer back to the General Fund.

TRANSFERS BETWEEN FUNDS
FROM:
Transfer Out to Fund General Fund 6280-700-7000-7010 70,000

TO:
Transfer in from the Storm Drain Fund 0100-700-7000-9628 70,000

In conjunction with the establishment of Capital Improvement Project H018, 2010 Pavement Condition Survey (0700-430-H018), this budget adjustment recognizes Federal Grant revenues related to this project, and increases the Transfer In from Gas Tax Revenue, 0710, to the Special Gas Tax Fund, 0700, to offset City match funding for this project.

REVENUES
TO:
Federal TEA-21 RSTP 0700-430-H018-3532 200,000

APPROPRIATIONS
TO:
2010 Pavement Condition Survey 0700-430-H018-6010 225,912
Eng/Dsgn/Admin

TRANSFERS BETWEEN FUNDS
FROM:
Transfer Out to Special Gas Tax Fund 0710-700-H018-7070 25,912
In conjunction with the establishment of Capital Improvement Project H030, Oakdale Road from Scenic to Sylvan Pavement Rehabilitation, (0700-430-H030), this budget adjustment recognizes Federal Grant revenues related to this project, and increases the Transfer In from Gas Tax Revenue, 0710, to the Special Gas Tax Fund, 0700, to offset City match funding for this project.

REVENUES

TO:
Federal TEA-21 RSTP

0700-430-H030-3532
285,000

APPROPRIATIONS

TO:
Oakdale/Scenic-Sylvan Pvmr Rehab
Eng/Dsgr/Admin

0700-430-H030-6010
321,925

TRANSFERS BETWEEN FUNDS

FROM:
Transfer Out to Special Gas Tax Fund

0710-700-H030-7070
36,925

TO:
Transfer In from Prop 1B Streets Fund

0700-700-H030-9071
36,925

In conjunction with the establishment of Capital Improvement Project H027, Sylvan Ave. from Coffee to Oakdale Pavement Rehabilitation (0700-430-H027), this budget adjustment recognizes Federal Grant revenues related to this project, and increases the Transfer In from Gas Tax Revenue, 0710, to the Special Gas Tax Fund, 0700, to offset City match funding for this project.

REVENUES

TO:
Federal TEA-21 RSTP

0700-430-H027-3532
285,000

APPROPRIATIONS

TO:
Sylvan/Coffee-Oakdale Pvmr Rehab
Eng/Dsgr/Admin

0700-430-H027-6010
321,925
### TRANSFERS BETWEEN FUNDS

**FROM:**
Transfer Out to Special Gas Tax Fund 0710-700-H027-7070 36,925

**TO:**
Transfer In from Prop 1B Streets Fund 0700-700-H027-9071 36,925
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-528

A RESOLUTION ACCEPTING THE REPORT ON XCLAMATION FEST 2009
HOSTED BY CHRIS RICCI PRESENTS, INC. IN DOWNTOWN MODESTO

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

WHEREAS, the Safety and Communities Committee met on October 6, 2008,
and supported approval of Xclamnation Fest 2009 for July 18, 2009, and

WHEREAS, on November 5, 2008, by Resolution No. 2008-619, the City
Council approved Xclamnation Fest 2009, to be hosted by Chris Ricci Presents, Inc. in
downtown Modesto on Saturday, July 18, 2009, and

WHEREAS, the ninth annual Xclamnation Fest was held on Saturday, July 18,
2009, and

WHEREAS, Xclamnation Fest 2009 was financially successful, and provided a
safe, entertaining festival for Modesto residents, and

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

WHEREAS, this event is of financial benefit to the City of Modesto and
downtown merchants,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts staff’s report on Xclamation Fest 2009, held in downtown Modesto on Saturday, July 18, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4 th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SIGNATURE)

STEFANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-529

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 BUDGET, ESTIMATING REVENUE OF $22,600 FROM ASSET FORFEITURES TO POLICE OPERATIONS FOR THE PURCHASE OF THREE POLICE CANINES AND THE ASSOCIATED COSTS FOR THEIR PURCHASE

WHEREAS, there will be three police canines retired from the Police Department Canine Unit, and

WHEREAS, the Police Department needs to replace these dogs to maintain its canine unit at full capacity, and

WHEREAS, costs for the dogs and their air transport back to Modesto is $22,600, and

WHEREAS, the Asset Forfeiture Trust Fund has monies available for this purchase,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2009/2010 Operating Budget is hereby amended as indicated below:

Appropriate:
To: 0100-190-1961-5001 $22,600 Police Field Operations

Revenue:
From: 0100-190-1961-7202 $22,600 Seized Forfeitures

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 special meeting of the Council of the City of Modesto held on the 4th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH STANISLAUS COUNTY FOR THE LEASE OF SPACE AT THE CITY OF MODESTO TRANSPORTATION CENTER AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto Downtown Transportation Center was designed to be an intermodal public transit facility, and

WHEREAS, a lease agreement was entered into by the City of Modesto and Stanislaus County on the 14th Day of December 1993 to lease space in the Modesto Transportation Center located at 1001 Ninth Street, Modesto, and

WHEREAS, the Stanislaus County transit service (Stanislaus Regional Transit) has been using the Center as a transfer point for over fifteen years, and

WHEREAS, the City and County desire to continue joint use of this key transit facility, and

WHEREAS, the Stanislaus County Board of Supervisors approved a new five-year agreement with the City of Modesto for use of the Transportation Center,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Stanislaus County for the lease of space at the City of Modesto Transportation Center.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The forgoing resolution was introduced at a regular meeting of the Council of the City of Modesto on the 4th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and this resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANNA ALCALA WOOD, City Attorney
RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF CLEO GRIFFITH FROM THE CULTURE COMMISSION

WHEREAS, Cleo Griffith was appointed a member of the Culture Commission on June 13, 2006, and

WHEREAS, Cleo Griffith has tendered her resignation from the Culture Commission, and

NOW, THEREFORE, BE IT RESOLVED that the resignation of Cleo Griffith from the Culture Commission be, and hereby is accepted with regret.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

(Seal)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

11/10/2009/PR&N/JRay/Item 1 1 2009-531
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-532

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM TASK FORCE MEMBERSHIP AND APPROVING THE CAPITAL IMPROVEMENT PROGRAM POLICIES AND PROCEDURES

WHEREAS, in 2008, the City Council initiated the process to evaluate and prioritize capital improvement projects for the annual preparation of the Capital Improvement Program (CIP), and

WHEREAS, the process included a CIP Task Force consisting of a City Councilmember, a City Planning Commission member, an Airport Advisory Committee member, two representatives of the public-at-large, and interdepartmental staff, and

WHEREAS, on September 22, 2009, the City Council, by Resolution No. 2009-437, appointed members to the Fiscal Year 2010-2011 CIP Task Force, and

WHEREAS, on October 13, 2009, the CIP Task Force recommended that a member of the Stancog Citizens Advisory Committee be appointed to fill the vacant public-at-large seat on the CIP Task Force, and

WHEREAS, the Stancog Citizens Advisory Committee recommended that Dennis Wilson be appointed to the CIP Task Force, and

WHEREAS, on October 13, 2009, the CIP Task Force also reviewed and discussed the Capital Improvement Program Policies and Procedures (CIP Policies and Procedures), and

WHEREAS, the CIP Task Force recommended revisions be made to the CIP Policies and Procedures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the addition of Dennis Wilson to the fiscal year 2010-2011 CIP
BE IT FURTHER RESOLVED that the City Council hereby approves the Capital Improvement Program Policies and Procedures, attached as Exhibit A.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, 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: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

STEFANI LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
CAPITAL IMPROVEMENT PROGRAM

Policies and Procedures Related to the City of Modesto’s Capital Improvement Program (CIP)

I. Purpose

The 10-year Capital Improvement Program (CIP) strives to reflect the goals and policies established by the General Plan by systematically planning, scheduling, managing, monitoring and financing capital projects to ensure cost-effectiveness and conformity with established policies and adopted Specific Plans. The CIP guides the funding and construction of all public improvements constructed by the City, including roads, wastewater treatment facilities and lines, water lines, and parks. The CIP reflects a balance between capital replacement projects that repair, replace or enhance existing facilities, equipment or infrastructure and capital facility projects that significantly expand or add to the City’s existing fixed assets. Attention should be given to utilize available resources and grants in a manner that legitimately maximizes the city’s capacity to complete the capital improvements described above.

II. Capital Improvement Program Task Force

The General Plan calls for the creation of an organization-wide method for identifying and ranking CIPs for proposed inclusion in the annual CIP and to guide the City’s applications for regional, state, federal, or other funds. Initiated in fiscal year 2008-2009, the Capital Improvement Program Task Force (CIP Task Force) was fully implemented during the fiscal year 2009-2010 CIP process. This new approach incorporates a CIP Task Force that is broader in scope and purpose and includes interdepartmental representation. Additional opportunity for the City Council and the community to participate in the CIP process promotes its importance and relevance to daily life.

Each CIP Task Force member participates in the evaluation and prioritization of projects and each member has equal voting weight. The process is designed to promote open dialogue and consensus building. Preapproved evaluation criteria and protocol guide the CIP Task Force through the prioritization process.

The General Plan outlines the following criteria by which the organization-wide method for identifying and ranking capital improvement projects should be structured:

1. Establish an objective rating system that includes criteria that are appropriate for each facility type (bridges, roadways, traffic signals, pedestrian, drainage, water, sewer, parks, libraries, fire, police, etc.).
2. Ensure projects conform to community plans and Infrastructure Financing Plans (IFP) and incorporate community-level priorities identified in each of the plans in the ranking process.

3. Develop broad-based regional financing options for regional-serving capital projects.

4. Assign “high priority” preference to projects located within existing and potential Specific Plan Areas that are also located within communities not meeting General Plan-identified public facilities guidelines or acceptable levels of service for the type of facility or service being considered. This is followed by preference to projects in areas generally located outside existing and potential Specific Plan Area locations, as previously described, in areas that are not meeting public facilities guidelines or acceptable levels of service as identified in the General Plan for the type of facility or service being considered.

5. Include in the ranking process preference for funding of new or expanded public facilities and services which can address needs in multiple areas.

6. Coordinate with other public, private, and not-for-profit entities to include areas with existing needs as a major criterion for allocating resources for new or expanded infrastructure, facilities, or amenities.

**A. Objectives:**

1. Develop a credible process for identifying top priority projects.

2. Use a coordinated approach to linking CIP projects with other planning efforts and community goals.

3. Engage staff, elected officials and citizens in the process of developing and administering the CIP to garner greater community support and attention.

**B. Membership:**

The CIP Task Force Membership consists of one City Councilmember, one Planning Commission member, one Airport Advisory Member, members of the public at large and key City personnel.
C. Evaluation Criteria

Seven evaluation criteria have been developed for project evaluation. Every project is evaluated against all seven criteria and assigned points on a scale of -5 to +5. This ensures the most objective process possible and leads to consistent decision making.

1. Public Health, Safety and Other Mandates
   - Does the project improve or specifically address a health, safety or other regulatory mandate in the community?
   - Does the project specifically address a legal requirement or abate a potential health or safety crisis?

2. Supports Stated Community Goals and Policies
   - Does the project help implement policies in the General Plan, Strategic Plan, or other adopted plan?
   - Is the project a part of or consistent with an articulated, acceptable mid, short or long-range program or departmental strategic plan?
   - Does the request implement some or all of the recommendations of a previous study?
   - Has the project been specifically identified by the public in previous community forums, surveys, etc.?
   - Has the project consistently been included in previous capital improvement programs?

3. Capital Fiscal Impact
   - Does the project have a positive impact on the General Fund budget?
   - Does the project bring in additional outside funds or grants in some proportion?
   - Is the project realistic from a financial standpoint? (Consider direct costs, as well as ongoing and additional costs such as those to provide temporary services during implementation of the project.)
   - Are funds already dedicated or available for the project?
   - Will funding the project now result in a significant savings or economies of scale?
4. Promotes Economic Development
   - Does the project facilitate a job producing development?
   - Does the project facilitate development that will provide positive revenue enhancement to the City?
   - Does the project help prevent revenue leakage?

5. Operation and Maintenance Fiscal Impact
   - Does the project have a positive impact on the City's Operating and Maintenance (O&M) budget?
   - Is the project an efficiency improvement project?
   - Is the project a low-maintenance project?
   - Does the City have the ability (staff, funds, etc.) to support the project in O&M?

6. Impact on Service Levels
   - Does the project bring the service up to a desired level?
   - Does the project improve service levels?

7. Relationship to Other Projects/Coordination
   - Does the project coordinate well with other projects underway?
   - Can the project be effectively coordinated with other projects (for instance, water and/or sewer line repairs done in conjunction with road work?)
   - Will all prerequisite projects be complete before this project is scheduled?
   - Is the project timely or does it provide a critical window of opportunity?
   - Is the project planned to create minimal disruption or inconvenience to the public?
   - Is the project the best use of funding for the fund category (as ranked by sponsoring department)?
D. Criteria Weights

The CIP Task Force determined that certain criteria are worthy of greater emphasis. In the evaluation process, this is accomplished by creating "weighting points" that are assigned to each of the seven criteria. These weighting points are automatically calculated as the CIP Task Force scores each project.

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Weighting Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Health and Safety Mandates</td>
<td>95</td>
</tr>
<tr>
<td>Community Goals</td>
<td>85</td>
</tr>
<tr>
<td>Promotes Economic Development</td>
<td>85</td>
</tr>
<tr>
<td>Capital Fiscal Impact</td>
<td>75</td>
</tr>
<tr>
<td>Operation and Maintenance Fiscal Impact</td>
<td>75</td>
</tr>
<tr>
<td>Impact on Service Levels</td>
<td>65</td>
</tr>
<tr>
<td>Relationship to Other Projects/Coordination</td>
<td>65</td>
</tr>
</tbody>
</table>

E. Final Project Scoring

Projects should first be grouped into categories based on their project location. Using the evaluation criteria and weights above, the CIP Task Force will score each project. Some of the projects may not be scored by the Task Force because they are under a legal or regulatory mandate to be completed. Because the City is already obligated to complete these projects expeditiously, scoring them would serve no purpose.

All project rankings have been added to the project detail sheets. The scores range from 0 to 3000. Projects ranked the highest by the CIP Task Force will have a priority code of 3000. For each project ranked by the CIP Task Force, its corresponding priority score can be found below the project title of the project detail sheets.

The CIP Task Force will review and prioritize all existing capital projects to assure consistency with the City's General Plan and the City's vision statement. A recommendation will then be made to the Planning Commission.

III. Budgeting Process

A. Budgeting Process – Generally

Section 65401 of the Government Code and Section 10-1.102 of the Modesto Municipal Code, requires the Planning Commission to review all new capital projects to determine if they conform with the City's adopted Modesto Urban Area General Plan. Existing CIPs will be reviewed quarterly by the CIP Task
Force. This review will utilize not only financial information to identify project progress and completion timelines but also project status updates from Project Managers. This will be integrated into the budget proforma review process. The CIP budget will be organized into the same functional groupings used for the operating programs.

Based on the recommendation from the CIP Task Force, the City of Modesto Planning Commission will review for General Plan conformity and will forward a final recommendation to the City Council. The City Council will then review the final CIP recommendation and approve the funding of new projects and the re-appropriation of funds for existing projects as part of the annual CIP budget cycle.

**B. Budgeting Policies**

1. Project costs are appropriated only when the required revenues are available.

2. For projects financed with grant monies, the grant award must be accepted by the City Council. (Note: a copy of the final grant award must be provided to the Finance Department.)

3. For projects financed with debt, it can be considered for inclusion in the CIP but the appropriation will not be released until the financing has been completed.

4. Budget actions involving any Federal, State, or grant funded CIPs are restrained by the conditions of the funding award.

5. Project costs will be included in the CIP in phases, i.e. projects that are not bid-ready will reflect appropriations only through the design phase.

6. Appropriations needed for the construction phase are based on the bid awarded at the time the appropriation(s) for construction, contingency and construction management costs are requested.

7. Projects to be closed will be identified by the Project Managers and submitted by the appropriate Department Director through the Finance Director to the City Manager for closure. The City Manager has the final authority to close the projects using the CIP Closure Form. The reasons for closing a project may include Project Completion, delays due to unanticipated costs or events and change in City Council direction.
8. All new CIPs must be submitted to the CIP Task Force for consideration and review before they are presented to the City Council for appropriation approval.

C. Requirements to Qualify as a CIP

1. A "Project" description and cost estimate should include all phases, from environmental assessment and right of way acquisition through construction, regardless of whether or not all funding will be available within the current fiscal year budgeting cycle.

2. Typically, the cost of a Project should be $100,000 or greater over the life of the Project. Also, a CIP will have a useful life of five or more years. Exceptions to this threshold may be approved by the CIP Task Force.

3. Project revenues and expenditures must be clearly identified and balanced.

4. Projects must have identifiable timelines that include periodic milestones.

5. While (1) maintenance costs to increase the life of the City's infrastructure, (2) replacement costs for infrastructure and (3) set-aside reserve amounts to create future funding for a project are not considered a "Project"; they are included in the CIP budget. Examples include pavement maintenance, water system downstream improvements and accumulation of funds for the Pelandale-99 interchange.

6. Certain purchases and installation of fixed assets may also be included in the CIP budget plan.

7. Every capital project will have a Project Manager who will prepare the project proposal, ensure that required phases are completed on schedule, authorize all project expenditures, ensure that all regulations and laws are observed, and periodically report project status to the CIP Task Force. The Project Manager ensures that projects comply with the requirements imposed by the guidelines controlling the various revenue sources that are used to finance capital project costs. The Project Manager shall also coordinate project accounting with the Finance Department.

D. Primary-Secondary Project Relationships
The City Council previously approved grouping similar projects together in a "primary-secondary" relationship. An example would be replacement of upgrade of traffic signals at different intersection throughout the City. "Traffic Signals" would be the primary project and individual "secondary" projects would then be indentified when either construction or construction design on each specific intersection begins. The primary project description must include a description of each of the secondary projects related to it. The primary project was designed to serve as the budgetary control device for both the primary and secondary components. Currently, the City Manager has the authority to move funding from one secondary project to another secondary project, as long as the overall primary project appropriation level does not change. This approach was designed to allow for greater flexibility and efficiency when programming multiple projects of the same type.

With the creation and empowerment of the CIP Task Force, the primary-secondary project budgeting relationship creates difficulty for the CIP Task Force in reviewing and ranking projects. The stand-alone budgeting method is more effective in that it allows the CIP Task Force to review and rank a specific "project" rather than being tasked to review and rank a primary account that may contain several secondary projects.

For utility funds, the primary-secondary budgeting relationships may be used for existing and new CIPs.

For all non-utility funds, the existing primary-secondary budgeting relationships may remain as currently budgeted, but the total revenues may not exceed the total appropriations. (For example, if there are three secondary accounts and their collective budgets are $100,000; the revenue of the primary account may not exceed $100,000.) All new non-utility fund CIPs should be budgeted using the stand-alone budgeting method.

E. Project Status Reports

Project milestones will be listed as objectives in the CIP program narratives to facilitate project tracking. Status reports for all CIPs should be provided to the CIP Task Force on a quarterly basis and then referred to the City Council for informational purposes. The format and content of the report will be coordinated between the CIP Task Force Administrator and the Finance Department.
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-533

RESOLUTION AUTHORIZING THE AWARD OF CONTRACT FOR THE PURCHASE OF THREE (3) PICKUP TRUCKS FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO HERITAGE FORD, MODESTO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $73,712

WHEREAS, the City Manager authorized the Purchasing Manager to solicit a formal Request for Bids (RFB) and take advantage of various competitive processes for the purchase of new vehicles and heavy equipment throughout FY 09/10, with the Purchasing Division coming back to Council for award authorization. Two (2) of these pickup trucks are for new service requirements and one pickup truck is for replacement, as determined by the Fleet Services Division, and

WHEREAS, recently Council approved the purchase of three (3) similar pickup trucks through a competitive bid process. Staff elected to solicit pricing from a local vendor to test current market conditions. Through this process the local vendor provided pricing that resulted in a cost savings of $1,386 per vehicle, and

WHEREAS, based on providing the lowest responsive and responsible pricing, City staff recommends the award of contract for the purchase of three (3) pickup trucks for the Public Works Department, Fleet Services Division, to Heritage Ford, Modesto, CA, and authorize the Purchasing Manager to issue a purchase order for an estimated total cost of $73,712, and

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

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

WHEREAS, the purchase of three (3) pickup trucks with Heritage Ford, Modesto, CA, conforms to MMC Section 8-3.204(d).

WHEREAS, funds are budgeted in Fiscal Year 09/10, in the following Fleet Equipment Replacement Fund accounts: 7210-480-5814-5517, 6100-480-5013-5700,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of contract for the purchase of three (3) pickup trucks for the Public Works Department, Fleet Services Division, to Heritage Ford, Modesto, CA, for a total estimated cost of $73,712,

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for a total estimated cost of $73,712.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, 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: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-534

A RESOLUTION APPROVING THE ELIMINATION OF THE CATHODE RAY TUBE COLLECTION PROGRAM CONDUCTED BY THE CITY’S LICENSED SOLID WASTE HAULERS

WHEREAS, in August, 2001 the State of California adopted new rules that banned landfill disposal of TV tubes, computer monitors, and other cathode ray tubes ("CRT’s"), giving residents no way to dispose of them, and

WHEREAS, in 2001 the Council therefore approved having the City’s licensed solid waste collection companies implement a program to collect and legally dispose of CRT’s, and

WHEREAS, under this program, residents receive a coupon from the haulers that lets them drop off 2 CRT’s per year at the transfer stations, and

WHEREAS, the haulers then package the CRT’s and ship them to a recycler, and

WHEREAS, at the request of the Economic Development Committee, City staff conducted an analysis of this program, among other special services offered by the collection companies, and determined that the use of this program by residents was not significant, and

WHEREAS, City staff further determined that within the last few years, a developing market for CRT components has resulted in a proliferation of recycling businesses that take CRT’s for free, and

WHEREAS, in addition, residents can dispose of CRT’s at mobile collection events and at the Household Hazardous Waste Facility on Morgan Road, and
WHEREAS, on October 12, 2009, staff recommended to the Economic Development Committee that the CRT collection program conducted by the haulers be eliminated, and

WHEREAS, a report dated November 10, 2009, from the Parks, Recreation and Neighborhoods Department, a copy of which is on file in the office of the City Clerk, sets forth said recommendations, and

WHEREAS, said matter was set for a public meeting of the City Council to be held at 5:30 p.m. on November 10, 2009, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, at which date and time the report was presented, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the cathode ray tube program currently being conducted by the City’s licensed solid waste collection companies should be eliminated,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it approves the elimination of the Cathode Ray Tube collection program that is currently being conducted by the City’s licensed solid waste collection companies.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, 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: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

(SEAL)

ATTEST: STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-535

RESOLUTION APPROVING AN AGREEMENT WITH HDR ENGINEERING, INC. FOR PROFESSIONAL SERVICES RELATED TO THE STANISLAUS WASTE-TO-ENERGY FACILITY, IN AN AMOUNT NOT-TO-EXCEED $105,355; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the County of Stanislaus and the City of Modesto (collectively referred to as the “Contracting Communities”), share responsibility and contractual obligations, pursuant to the Joint Powers Agreement (“JPA”), for the operations and maintenance of the privately owned and operated Waste-to-Energy Facility (the “Facility”), and

WHEREAS, the Facility was developed via a public-private partnership with Covanta Energy Corporation, and is owned and operated by Covanta under a 20-year contract with the Contracting Communities (the “Service Agreement”) through January 1, 2010, with an option to extend it until January 1, 2016, and

WHEREAS, in May 2009, pursuant to Section 11.01 of the Service Agreement, the Contracting Communities exercised the option to extend the Service Agreement to January 1, 2016, and

WHEREAS, Covanta is required to operate the Facility in accordance with all permits and applicable regulations, achieve the contractual performance standards, and maintain the Facility in accordance with industry standards and good engineering practices, and

WHEREAS, in May, 2006, the Contracting Communities entered into a contract with HDR Engineering, Inc. (HDR) for technical engineering services to assess the
condition of the facility and assist in negotiating a new Service Agreement with Covanta, and

WHEREAS, the term of this contract was from June 1, 2006 through December 31, 2009, with an expenditure limit of $150,000, and

WHEREAS, as the Facility operations continue beyond 2010 and negotiations are ongoing, the Contracting Communities will continue to have a need for reasonable assurances that the Facility is in good mechanical condition and for assistance with negotiations, and

WHEREAS, based on HDR’s familiarity with the Facility and cost savings on the initial agreement, HDR’s services continue to be necessary, and

WHEREAS, County Counsel has recommended that the contract extension be in the form of a new Agreement following the new County template for Professional Design Services, and the City Attorney’s office has reviewed and approved of the format of the proposed new Agreement, and

WHEREAS, the proposed Professional Design Services Agreement with HDR Engineering, Inc. (Attachment “A”), has a six-year term expiring on January 1, 2016, and a not-to-exceed cost of $105,355 for the two main tasks of Operating Condition Assessment and Contract Negotiation Assistance, and

WHEREAS, funds for this work are available in the Fiscal Year 2009-2010 Waste-to-Energy project budget,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with HDR Engineering, Inc. for professional
services related to the Stanislaus Waste-to-Energy Facility, in an amount not-to-exceed $105,355.

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 10th day of November, 2009, by Councilmember Lopez, 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: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
STANISLAUS COUNTY
PROFESSIONAL DESIGN SERVICES AGREEMENT

This Agreement is made and entered into by and between the County of Stanislaus, a political subdivision of the State of California, and the City of Modesto (collectively referred to as the "Contracting Communities") and HDR Engineering, Inc., hereinafter referred to as "Consultant".

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0 PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT

1.1. Scope of Services: Consultant shall provide the professional services described in Exhibits "A" attached hereto and incorporated herein by reference.

1.2. Professional Practices: All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise Contracting Communities of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Representations: Consultant represents that it has reviewed the Scope of Services and that in its professional judgment the services to be performed under this Agreement can be performed within the maximum fee set forth herein below and within the time specified in the Project Schedule attached hereto. Consultant represents that it is qualified to perform the professional services required by this Agreement and possesses the necessary licenses and permits required to perform said services.

1.4. Warranty: Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement.

1.5. Non-Discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code. Violation of this provision may result in the imposition of penalties referred to in Labor Code, Section 1735.

1.6. Non-Exclusive Agreement. Consultant acknowledges that Contracting Communities may enter into agreements with other consultants for services similar to those services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of Contracting Communities. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

2.0 COMPENSATION AND BILLING

2.1. Compensation: Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "B", attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant's compensation shall in no case exceed One Hundred Five Thousand, Three Hundred Fifty-Five Dollars ($105,355.00).

2.2. Additional Services: Consultant shall not receive compensation for any services provided outside the scope of services specified in the Response unless the Contracting Communities or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation

Professional Services Agreement Form (Rev. 3/05/09 TEB)
2.3. **Method of Billing.** Consultant may submit invoices to Contracting Communities' Project Manager for approval on a progress basis, but no more often than once each calendar month. Said invoice shall be based on the total of all Consultants' services that have been completed to Contracting Communities sole satisfaction. Contracting Communities shall pay Consultant's invoice within forty-five (45) days from the date Contracting Communities receives said invoice. Each invoice shall describe in detail, the services performed and the associated percentage of tasks completed. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. **Records and Audits.** Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to Contracting Communities or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the termination of this Agreement.

### 3.0 TIME OF PERFORMANCE

3.1. **Commencement and Completion of Work.** The professional services to be performed pursuant to this Agreement shall commence within five (5) days after Contracting Communities delivers its Notice to Proceed. Said services shall be performed in strict compliance with the Project Schedule approved by Contracting Communities as set forth in Exhibit "C", attached hereto and incorporated herein by this reference. The Project Schedule may be amended by mutual agreement of the parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. **Excusable Delays.** Neither party shall be responsible for delays nor lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

### 4.0 TERM OF CONTRACT AND TERMINATION

4.1. **Term.** This Agreement shall commence January 1, 2010 and end on December 31, 2015, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. **Notice of Termination.** The Contracting Communities reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the Contracting Communities.

4.3. **Compensation.** In the event of termination, Contracting Communities shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of Contracting Communities written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth in Exhibit "B." In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the Contracting Communities or in the possession of the Consultant.

4.4. **Documents.** In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the Contracting Communities within ten (10) days of delivery of termination notice to Consultant, at no cost to Contracting Communities. Any use of incomplete documents without specific written authorization from Consultant shall be at Contracting Communities sole risk and without liability or legal expense to Consultant.

### 5.0 INSURANCE REQUIREMENTS

5.1. **Minimum Scope and Limits of Insurance.** Consultant shall obtain and maintain during the life of this Agreement all of the following insurance coverage:

(a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than One Million Dollars ($1,000,000.00), combined single limits, per occurrence and aggregate. If Commercial General Liability insurance or other form with a general aggregate limit is used,
either the general aggregate limit shall apply separately to any act or omission by Consultant under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

(b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars ($1,000,000.00), combined single limits, per occurrence and aggregate.

(c) Workers' compensation insurance as required by the State of California.

(d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars ($1,000,000.00), per claim, in the aggregate, covering the negligent acts, errors, or omissions of Consultant in connection with the performance of Consultant's services. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The Consultant shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, naming the Contracting Communities and its officers, officials and employees as additional insureds regarding:

(a) Liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Consultant, including the insured's general supervision of its subcontractors;

(b) Services, products and completed operations of the Consultant;

(c) Premises owned, occupied or used by the Consultant; and

(d) Automobiles owned, leased, hired or borrowed by the Consultant.

(e) For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the Contracting Communities, its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Consultant.

5.3. Deductibles: Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by Contracting Communities. At the option of the Contracting Communities, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the Contracting Communities guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The Contracting Communities, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Consultant agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Consultant's defense and indemnification obligations as set forth in this Agreement.

5.4. Certificates of Insurance: At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant shall furnish Contracting Communities with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Consultant. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in Contracting Communities sole and absolute discretion, approved by Contracting Communities. Contracting Communities reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

5.5. Non-limiting: Nothing in this Section or the insurance described herein shall be construed as limiting in any way, the indemnification provisions contained in this Agreement, or the liability of Consultant and Consultant's officers, employees, agents, representatives or subcontractors for payments of damages to persons or property.

5.6. Primary Insurance: The Consultant's insurance coverage shall be primary insurance regarding the Contracting Communities and Contracting Communities officers, officials and employees. Any insurance or self-insurance maintained by the Contracting Communities or Contracting Communities officers, officials and employees shall be excess of the Consultant's insurance and shall not contribute with Consultant's insurance. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Contracting Communities or its officers, officials and employees. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.7. Cancellation of Insurance: Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days prior written notice has been given to Contracting Communities. The Consultant shall promptly notify, or cause the insurance carrier to promptly notify, the Contracting Communities of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.
5.8. **California Admitted Insurer:** Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide of no less than A-VII; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance.

5.9. **Subcontractors:** Consultant shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

5.10. **Certificates of Insurance:** At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant shall furnish Contracting Communities with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Consultant. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in Contracting Communities sole and absolute discretion, approved by Contracting Communities. Contracting Communities reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

### 6.0 INDEMNIFICATION

6.1. **Indemnification:** To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the Contracting Communities and its officers, agents, employees and representatives from and against any and all claims, suits, actions, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, which are founded upon, arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the alleged negligence, recklessness, or willful misconduct of Consultant, its officers, agents, employees, volunteers, representatives, contractors and subcontractors, excluding, however, such liabilities caused in part by the sole negligence, active negligence or willful misconduct of the Contracting Communities, its agents, employees, and representatives.

6.2. **Duty to Defend:** The duty of Consultant to indemnify and save harmless as set forth herein, shall include both the duty to indemnify and at Consultant's own cost and expense the duty to defend as set forth in Section 2778 of the California Civil Code. This duty to defend arises when such claim is made and shall be independent of any finding of the Contracting Communities negligence. Consultant shall provide legal counsel reasonably acceptable to the Contracting Communities.

6.3. **Duty to Cooperate:** Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement. Specifically, Consultant shall take all steps necessary to assist the Contracting Communities in the defense of any claim brought by a contractor hired to construct the Project regarding any errors, flaws, and/or omissions in the plans or specifications of the Project.

6.4. **Patent Rights:** Consultant represents that professional services provided by Consultant pursuant to this Agreement does not infringe on any other copyrighted work. Consultant shall defend, indemnify and hold harmless the Contracting Communities from all loss, cost, damage, expense, liability or claims, including attorneys' fees, court costs, litigation expenses and expert consultant or witness fees, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by the Contracting Communities of any articles or services supplied under this agreement.

### 7.0 GENERAL PROVISIONS

7.1. **Entire Agreement:** This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

7.2. **Representatives:** The Director of the Stanislaus Contracting Communities Department of Environmental Resources, or her designee, shall be the representative of Contracting Communities for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the Contracting Communities, called for by this Agreement, except as otherwise expressly provided in this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise
7.3. **Project Managers:** Contracting Communities shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager who shall represent it and be its agent in all communications with Contracting Communities during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by Contracting Communities.

7.4. **Designated Personnel:** A material covenant of this agreement is that the Consultant shall assign the individuals designated below to perform the functions designated so long as they continue in the employ of the Consultant. The designated individuals shall, so long as their performance continues to be acceptable to Contracting Communities, remain in charge of the services for the Project from beginning through completion of services.
   a. **Project Manager:** Rachel E. Davis, P.E.
   b. **Lead/Manager:** Andrew Cramer, P.E.

7.5. **Removal of Personnel or Sub-Consultants:** If the Contracting Communities, in its sole discretion at any time during the term of this agreement, desires the removal of any person or sub-consultant assigned by Consultant to perform services, then the Consultant shall remove such person or consultant immediately upon receiving notice from the Contracting Communities.

7.6. **Notices:** Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County: Stanislaus County
Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, CA 95358
Attn: Susan M. Garcia, C.P.M.

If to City: City of Modesto
P.O. Box 642
Modesto, CA 95353
Attn: Jocelyn Reed

If to Consultant: HDR Engineering, Inc.
8404 Indian Hills Drive
Sacramento, CA 95827
Attn: Ambrose McCready

7.7. **Attorneys’ Fees:** In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys’ fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

7.8. **Governing Law:** This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Stanislaus County, California.

7.9. **Assignment:** Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant’s interest in this Agreement without Contracting Communities prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of Contracting Communities consent, no subletting or assignment shall release Consultant of Consultant’s obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

7.10. **Independent Contractor:** Consultant is and shall be acting at all times as an independent contractor and not as an employee of Contracting Communities. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder.
7.11. Ownership of Documents: Any interest, including copyright interests, of Consultant or its contractors or subconsultants in studies, reports, memoranda, computational sheets, drawings, plans or any other documents, including electronic data, prepared in connection with the Services, shall be the property of Contracting Communities. To the extent permitted by law, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of the Contracting Communities. In the event that it is ever determined that any works created by Consultant or its subconsultants under this Agreement are not works for hire, Consultant hereby assigns to Contracting Communities all copyrights to such works. With the Contracting Communities prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

7.12. Reuse of Design Documents: Should the Contracting Communities desire to reuse the documents specified above and not use the services of the Consultant, then the Contracting Communities agrees to require the new consultant to assume any and all obligations for the reuse of the documents, and the Contracting Communities releases Consultant and its subconsultants from all liability associated with the reuse of such documents.

7.13. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to Contracting Communities may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs Contracting Communities of such trade secret. The Contracting Communities will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The Contracting Communities shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

7.14. Responsibility for Errors: Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the Contracting Communities representative, regarding any services rendered under this Agreement at no additional cost to Contracting Communities. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to Contracting Communities, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of Contracting Communities and to participate in any meeting required with regard to the correction.

7.15. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP.

7.16. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

7.17. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of Contracting Communities and Consultant and no other party is intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

7.18. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

7.19. Amendments: Only a written Amendment executed by the parties hereto or their respective successors and assigns may amend this Agreement.

7.20. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.21. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to
be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

7.22. **Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

7.23. **Corporate Authority:** The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers:

<table>
<thead>
<tr>
<th>COUNTY OF STANISLAUS</th>
<th>HDR ENGINEERING, INC.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Environmental Resources</td>
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</tr>
<tr>
<td>By: Sonya K. Harrigfeld</td>
<td>By: Name</td>
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<tr>
<td>Director</td>
<td>Title</td>
</tr>
<tr>
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<td>“Consultant”</td>
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</table>

APPROVED AS TO FORM:
John P. Doering
County Counsel

By: Thomas E. Boze
Assistant County Counsel

<table>
<thead>
<tr>
<th>CITY OF MODESTO</th>
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</tr>
</thead>
<tbody>
<tr>
<td>By: Greg Nyhoff</td>
<td>By: Julie G. Hannon</td>
</tr>
<tr>
<td>City Manager</td>
<td>Director</td>
</tr>
</tbody>
</table>

APPROVED AS TO CONTENT:
Department of Park, Recreation, and Neighborhood

By: Julie G. Hannon
Director

APPROVED AS TO FORM:
Susana Alcala Wood
City Attorney

By: Roland R. Stevens
Assistant City Attorney
A. INTRODUCTION

The County of Stanislaus and the City of Modesto (collectively referred to as the “Contracting Communities”), share responsibility and contractual obligations, pursuant to their Joint Powers Agreement (“JPA Agreement”), regarding the operations and maintenance of a privately owned and operated waste-to-energy facility located in Stanislaus County, California (Stanislaus Waste-to-Energy Facility). That facility was developed via a public-private partnership with Covanta Stanislaus, Inc. (“Company”) under a 20-year contract term (“Service Agreement”).

Pursuant to the Service Agreement, the Company has an obligation to operate Stanislaus WTE Facility (“Facility”) in accordance with all permits and applicable regulations, achieve the contractual performance standards and maintain the facility in accordance with industry standards and good engineering practice. The Contracting Communities rely on the Company to fulfill this obligation to provide reliable, environmentally sound solid waste management services at reasonable and predictable costs.

The Service Agreement expires on January 1, 2010, but the Contracting Communities have provided the Company a timely notice with their intent to exercise the extension option of the Service Agreement to January 1, 2016, in the event that a new or amended Service Agreement could not be secured by December 31, 2010. Prior to considering any new or amended Service Agreement beyond 2016, the Contracting Communities need reasonable assurance that the Facility will continue to perform as required. In order to provide this assurance, the Consultant shall conduct a facility condition assessment. The Consultant shall assess the state of the Facility and identify maintenance issues that need to be addressed to preserve the asset value beyond the current term of the Service Agreement and to set an expected facility performance baseline for any future contract extension. If the Contracting Communities do not elect to extend the Service Agreement, the Contracting Communities have a range of options to consider in order to transition from the current to a future agreement.

The Contracting Communities rely on the Facility to provide waste disposal capacity and to maximize energy revenue that offsets the cost of the operation. Therefore, the Contracting Communities have the right to monitor the Facility’s performance. The long-term cost-effective operation of the Facility, which is an important component of the solid waste management system, is of significant interest to the Contracting Communities.

B. FACILITY DESCRIPTION

Background

The Facility is a mass burn, solid waste disposal, resource recovery and electric generating facility built, owned and operated by Covanta Stanislaus, Inc. (formerly known as Ogden Martin Systems of Stanislaus, Inc.), a California corporation (the “Company”). The Facility was developed by the Company pursuant to a service agreement (the “Service Agreement”) with the Contracting Communities. The Facility utilizes solid waste mass burn technology owned by Martin, GmbH, the rights to which in North America have been acquired by Covanta Energy Corporation. (formerly known as: Ogden Martin). Covanta Energy Corporation is a wholly owned, indirect subsidiary of Covanta Holding Company (formerly known as; Danielson Holding Corporation). The Company is a corporation organized and existing under the laws of the State of California and a wholly owned, subsidiary of Covanta Energy Corporation.

The Facility site is owned by the County and leased to the Company pursuant to a Facility Site Lease Agreement (the “Facility Site Lease”). The Facility is located in the southwest corner of the county near the community of Crows Landing, about 25 miles from Modesto. The Facility was substantially completed and commenced startup operations in August 1988 and performance testing began in December 1988. After a performance demonstration period, the Facility was effectively accepted by the Contracting Communities on January 10, 1989, as provided under the terms of the Service Agreement. Planned modifications to the Facility were made by the Company in 2001, pursuant to the provisions of the Service Agreement, to address the EPA Emissions Guidelines for Large MWC Facilities promulgated in 1997.

The Stanislaus Waste-To-Energy Financing Agency was established by the Contracting Communities pursuant to the Extended Joint Exercise of Power Agreement (the “JPA Agreement”) on December 1, 1989, in accordance with the Governmental Code of the State of California Title 1, Division 7, Chapter 5, as amended and supplemented (the “Act”). Pursuant to the Act and the JPA Agreement, the Agency is a public entity separate from the Contracting Communities. The Agency’s sole purpose is to provide for the financing and refinancing of the Facility. The Series 2000 Certificates (par $58,780,000), tax-exempt variable rate revenue bonds, were issued to refinance a portion of the cost of the acquisition and construction of the Facility. The Agency prepaid the Series 2000 Certificates in full in December 2008, about a year before
maturity. Since the County was the operator of the landfill and the scale facilities, the responsibility for managing the billing of tipping fees and management of the collected monies was delegated to the County Treasurer. A separate account was established to manage these funds, which is currently known as the Resource Recovery Account, pursuant to the terms of the Service Agreement.

The Facility is an important component of the Contracting Communities' solid waste disposal system. The Facility generates steam, which is used to produce electricity for sale to Pacific Gas and Electric Company ("PG&E"), pursuant to a power purchase agreement (the "Energy Agreement") between the Company and PG&E. The gross electrical generation capacity of the Facility is 22.5 MW.

The Contracting Communities are obligated, pursuant to the Service Agreement, to deliver Acceptable Waste, not less than the Guaranteed Tonnage, to the Facility, in accordance with an agreed upon monthly delivery schedule and to pay the Service Fee, which includes debt service and operating costs less credits for Energy Revenues. Except in the event of Unforeseen Circumstances which prevents the Company's performance, the Company must dispose of Acceptable Waste up to the Guaranteed Tonnage (243,300 tons per year) either through the Facility or through an alternate method, including land filling. It is the intent of the Company and the Contracting Communities that the Company will process Acceptable Waste delivered to the Facility up to the available disposal capacity of the Facility, as provided in the Service Agreement.

Ferrous metals are recovered from the ash residue produced by the Facility and the revenues from the sale of recovered material are shared by the contracting parties. The ash residue and any excess or unprocessed waste are transported, under a private commercial contract, for disposal in the adjacent Fink Road Landfill (the "Landfill"). The Landfill is owned and operated by the County and currently contains two active disposal units: one Class II landfill for the ash residue and one Class III landfill for all other non-hazardous waste. The Class II landfill is expected to have capacity beyond the current Service Agreement term of January 1, 2010. If needed, the County has the resources to expand the landfill capacity of the Class III landfill, beyond January 1, 2010.

Facility Description
The Facility is comprised of two, independent, mass-burn, combustion units and air emissions control systems, a condensing turbine generator and associated ancillary equipment. The Facility is designed to process a maximum of 800 tons per day (tpd) of municipal solid waste (MSW) with an average higher heating value (HHV) of 5200 Btu per pound. Each combustion unit consists of:

- a proprietary Martin mass-burn grate system,
- an integrated furnace and Zurn Industries waterwall boiler,
- automated combustion controls for carbon monoxide and hydrocarbon control,
- an ammonia injection (i.e., Thermal DeNOx, licensed by Exxon) for nitrogen oxide (NOx) control,
- a carbon injection system for mercury control
- a dry-flue gas scrubber for acid gas control,
- a Flakt baghouse type fabric filters for removal of particulates,
- a Martin ash discharge system and vibratory conveyor, and
- various ancillary equipment

The uncontrolled extraction-condensing turbine generator was manufactured by Elliott Turbomachinery Co. Inc. Electricity is produced for both in-house requirements and for sale to PG&E. The gross electrical generation capacity of the turbine is 22.5MW, 24.5 KVA at 13,800 volts. Approximately three MWs are consumed in-house for Facility operations.

C. SCOPE OF WORK

The Consultant shall perform professional and technical engineering services to prepare a facility condition assessment, provide periodic performance monitoring, and assist with contract negotiations of the Facility. The Consultant shall work closely with representatives of the Contracting Communities as well as, the Contracting Communities legal and financial consultants as may be required.

A more detailed description of the Scope of Work is provided below:

Task 1. End-of-Contract Operating Condition and Regulatory Review
Assess the physical and operating condition of the Facility and its ability to perform as anticipated through the term of an extension of the contract through January 1, 2016, and through the term of any extension of the contract beyond January 1, 2016. In addition, the Consultant shall review the environmental status of the Facility and compliance records to assess its ability to meet current regulatory requirements, pending regulatory changes, and reasonably foreseeable changes. The task shall include the review and evaluation of the following elements:
- Review of critical project agreements, permits and background information
- Review of existing facility operational data
- A thorough on-site inspection of current physical conditions and operations
- Operations and physical conditions comparison to similar waste-to-energy and solid waste facilities
- Review of current and expected regulatory guidelines that would affect the Facility
- Preparation of a report identifying deficiencies that must be corrected by the Company
- Preparation of a technical letter with findings and recommendations
- Assist the Contracting Communities in its enforcement of the existing permits and contract provisions relating to Facility condition
- Submit a draft and final report indicating findings and present these findings to the Contracting Communities

Consultant shall review existing documents that define the expected operating performance and compare operating performance requirements with operating records. Consultant shall visit the Facility site on a periodic basis, scheduling visits to coincide with outages or other notable events, where practical. Consultant shall perform site observations, inspections, data reviews and interview key Company staff.

During these periodic visits, Consultant shall conduct a two-day inspection of the Facility and review of the Company maintenance records. Prior to the inspection, the Consultant shall hold a meeting with the Contracting Communities and the Company to discuss plant performance and key maintenance issues.

This meeting shall include key plant staff such as the plant, manager, maintenance supervisor, operations superintendent, environmental supervisor and safety coordinator. The work plan for the facility inspection shall be discussed. The inspection shall then be conducted and shall address the state of repair of the facility systems, equipment and the ancillary buildings and systems, such as ferrous recovery and ash storage. The Consultant shall take photographs of selected areas of the Facility to document recorded deficiencies or observed conditions, as deemed appropriate by the Consultant.

The inspection shall include review of the following:
- Condition of equipment and structures affecting the reliability of the Facility;
- General facility housekeeping
- Apparent level of maintenance, including repair and replacement
- Adequacy of spare parts inventory
- Compliance with the Facility operating plan
- Compliance with applicable environmental law, and good engineering and industry practice
- Assessment of the potential impacts of pending environmental regulations

The Consultant inspection team shall prepare a draft report based on the inspection and review of operating records. The report shall summarize and include evaluations, analyses, and opinions regarding the operation, repair and maintenance of the Facility and shall provide a review and an opinion on the following:
- The inadequacy of equipment and structures affecting the reliability of the Facility
- The adequacy of the Company in performing its obligations under the Service Agreement, the environmental permits and the Facility operating plan
- Assessment of Facility condition and impact on its ability to operate beyond the term of the Service Agreement

The report shall provide recommendations that shall address the following:
- Identification of any observed environmental/regulatory issues
- Improvements to Facility operations and maintenance and report on observed deficiencies and progress in resolution of prior deficiencies
- Improvements to Facility performance or reductions in the cost of operations

Upon completion of the Contracting Communities review of the Draft Report, the Consultant shall finalize the report within the timeframe specified by the Contracting Communities and distribute the final report to the Contracting Communities.

If the Contracting Communities approve multiple inspections, the inspections shall be scheduled alternately between outages for combustion units 1 and 2 each year. If deemed necessary, both combustion units shall be inspected the first year followed by one per year thereafter. This option shall require two site visits or an extended inspection period, since outages for each unit are normally staggered to maximize the daily
throughput of the Facility. During such inspections it is anticipated that operation/maintenance records, such as ultrasonic tube thickness testing, shall be made available and the Contracting Communities shall endeavor to obtain all such records.

Task Deliverables: A narrative report on Facility operating condition and status of regulatory compliance including supporting data shall be prepared by the Consultant. Identification of any outstanding issues, potential risks associated with facility contract extension, planned regulatory changes equipment condition and other areas of concern. Baseline performance parameters shall be established in terms of operating and maintenance criteria for early identification of potential contractual compliance issues. Reports shall be provided to the Contracting Communities in a digital format. Printed copies of reports are a reimbursable expense.

Planned Meetings: One two-day site visit for two Consultant professionals (one mechanical engineer and one electrical engineer) to the Facility site to meet with the Company’s staff and gather information is anticipated for each inspection event. A series of conference calls/emails shall be utilized to gather additional data regarding the System's operations and maintenance and planned system changes to minimize expenses.

Information and Services Provided by Others: The Contracting Communities shall arrange to provide available documents and data and shall assist in obtaining necessary records and data from the Contractor or other appropriate parties that are necessary for the preparation of the report. The Contracting Communities shall coordinate meetings and provide for access to the Facility operations. The Contracting Communities shall arrange a two-day site visit by the Consultant’s staff person at the site.

The Consultant shall perform Task 1, one (1) time, between the time frame of January 1, 2010 and December 31, 2015. The Contracting Communities will provide at least a 90-day notice to the Consultant prior to the date the Consultant will be required to perform Task 1.

Task 2. Contract Negotiation Assistance
At the discretion of the Contracting Communities, the Consultant may be requested to perform the work described herein identified under Task 2. Perform an evaluation of the existing Service Agreement to identify key issues, improvements to be included in any new Service Agreement, development of negotiation posture and assist in the negotiation of a new Service Agreement or extension/amendment for the Facility operation. Assist the Contracting Communities in developing a scope of services for the Company including consideration of the responsibilities of the Contracting Communities in the Service Agreement. Assist the Contracting Communities in drafting a new service agreement or an amendment to the existing agreement.

- Submit a draft scope of services for a new Service Agreement
- Attend coordination meetings with the Contracting Communities and the Company
- Assist in evaluation of responses
- Provide contract negotiation services
- Assist in evaluation of impacts to the Facility as a result of any new or pending State and Federal Regulations (Change-in-Law)

The Consultant shall review the terms and conditions of the existing Service Agreement with the Contracting Communities representatives to define key contractual issues that have arisen during the term of the existing Service Agreement. The Consultant shall assess the potential options for addressing these issues under a contract extension or amendment. The Consultant shall identify and develop potential responses to the Company requested changes or reactions to the Contracting Communities proposed changes in order to assist the Contracting Communities in developing a negotiation posture.

The Consultant shall assist in preparing a negotiation agenda in conjunction with the negotiation team for discussions with the Company. The Consultant shall facilitate the technical aspects of the negotiation and provide advice on other contractual issues.

Deliverables: Including but not limited to the items listed above, the Consultant shall also provide:
- A brief position memorandum of the principal discussion topics for the Contracting Communities
- Meeting agenda for the negotiations meetings
- Meeting notes documenting discussions, decisions and action items regarding each negotiation meeting
- Comments on draft documents related to the contractual negotiations

Reports shall be provided in digital format. Printed copies of reports are a reimbursable expense.
Planned Meeting: The Consultant shall attend five (5) meetings in the city of Modesto, California for a new Service Agreement. Additional discussions shall be handled in telephone conference calls. If major contractual modifications require additional meetings or more extensive negotiations, these services shall be provided as Additional Services.

Information and Services Provided by Others: Issues related to contractual provisions, flow control mechanism and any legislative or judicial activities that might arise will be referred to the Contracting Communities' legal advisors.

C. COMPENSATION

The Consultant shall be compensated for the services provided under this Agreement as follows:

1. Consultant shall be compensated on a lump sum basis for the not to exceed limits in each task, as set forth in Exhibit B attached hereto and, by this reference, made a part hereof. The not to exceed lump sum amounts for each task are comprised of the hourly billable rates set forth in Exhibit B. In addition to the aforementioned fees, Consultant shall be reimbursed for the following expenses, plus any expenses agreed to by the parties as set forth in a Schedule of Rates – Exhibit B attached hereto, that are reasonable, necessary and actually incurred by the Consultant in connection with the services:

   (a) Expenses, fees or charges for printing, reproduction or binding of documents at actual costs.

   (b) Travel expenses shall be reimbursed in accordance with the Contracting Communities' travel policy, which is incorporated herein by reference.

Fees plus reimbursable expenses shall not exceed the amounts set forth in Exhibit B and a copy of the original invoice for the items listed in a, b or c above shall be attached to the invoice submitted to the Contracting Communities for reimbursement. Payments shall be based upon work documents submitted by the Consultant to the Contracting Communities and accepted by the Contracting Communities, as being satisfactory to Contracting Communities' needs, not work in process. The Contracting Communities shall not pay a mark up on any of the above items listed in a, b or c or any item identified in Exhibit B. Items such as telephone, fax, postage or freight are already included in the billable hourly rate.

D. INVOICE REMIT TO:

Consultant shall submit a detailed invoice for work actually completed. The invoice is to include but not be limited to the following information: hours worked by Consultant's Staff, the title of the Staff, billable rate and reimbursable items that are reasonable, necessary and actually incurred by the Consultant in connection with the services.

The remit to address is:
Stanislaus County
Department of Environmental Resources
Attention: Mandip Dhillon
3800 Cornucopia Way, Suite C
Modesto, CA 95358

E. REPRESENTATIVES

The Contracting Communities representative is Mandip Dhillon, Project Manager (209) 525-6786. The Consultant's representative is David Traeger, Senior Management Consultant, (402) 399-1355.

F. PROTECTION OF EXISTING FACILITIES

Consultant shall take every precaution to protect all public and private property during the performance of this Agreement. Any damages caused by Consultant's personnel or equipment will be promptly repaired to the condition existing before the damage or be replaced. All such costs for such repairs or replacement shall be the sole responsibility of the Consultant.

G. SAFETY REQUIREMENTS

All services and merchandise must comply with current California State Division of Industrial Safety Orders and OSHA.

H. WORK SCHEDULE
Consultant is obligated to perform in a timely manner the services and work provided for under this Agreement and the Contracting Communities hereby gives the Consultant notice to proceed with the work as of the effective date of this Agreement. It is understood by Consultant that the performance of these services and work shall require the Consultant to perform the services and work in conformance with a work schedule agreed to by the parties in Exhibit C attached hereto and made a part of this Agreement.

(Intentionally left blank)
EXHIBIT B
PRICE SCHEDULE

HOURLY RATES
The Consultant shall be compensated on a time and material basis based on the hourly rates, and the not to exceed amounts for each task as set forth below.

HoURLY RAteS

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<th>TITLE</th>
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</table>

SERVICE CHARGE
The Consultant's service charge for sub-consultant work shall be actual cost plus 15%. The Consultant shall provide County copies sub-consultant's invoice to Consultant along with any invoices submitted for reimbursement of the Consultant's service charge.

PROJECT PRICE
The below project pricing is devised to allow the Contracting Communities the ability to identify costs associated with the frequency of tasks performed in a given calendar year. The Consultant shall be compensated the first year based on the hourly rates set forth above to perform the work associated with each task, not to exceed the amounts listed below. The hourly rates for subsequent years may be increased upon the mutual consent of the Contracting Communities and the Consultant. Maximum Total Task Price includes fees and reimbursable expenses.

Task 1 – End-of-Contract Operating Condition and Regulatory Review
(Performed one time between 2010 and 2015)

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>2010-2015 Not to Exceed Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Review of existing operational data</td>
<td>$ 1,770.00</td>
</tr>
<tr>
<td>2</td>
<td>On-Site Inspection of current Physical Conditions and Operations</td>
<td>$ 7,060.00</td>
</tr>
<tr>
<td>3</td>
<td>Operations and Physical Conditions Comparison to Similar Waste-to Energy and Solid Waste Facilities</td>
<td>$ 5,170.00</td>
</tr>
<tr>
<td>4</td>
<td>Identification of deficiencies that must be corrected by Operator</td>
<td>$ 1,440.00</td>
</tr>
<tr>
<td>5</td>
<td>Preparation of a technical letter with findings and recommendations</td>
<td>$ 3,670.00</td>
</tr>
<tr>
<td>6</td>
<td>Assist the Contracting Communities in its enforcement of the existing permits and contract provisions relating to Facility condition</td>
<td>$ 3,630.00</td>
</tr>
<tr>
<td>7</td>
<td>Submit a draft and final report indicating findings and present these findings to the Contracting Communities</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>8</td>
<td>TOTAL NOT TO EXCEED TASK 1 PRICE</td>
<td>$33,740.00</td>
</tr>
</tbody>
</table>
Task 2 – Contract Negotiation Assistance

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Not to Exceed Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Submit a draft scope of services for a new service agreement</td>
<td>$18,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Attend coordination meetings with Contracting Communities</td>
<td>$9,400.00</td>
</tr>
<tr>
<td>3</td>
<td>Assist in evaluation of responses</td>
<td>$21,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Provide contract negotiation services</td>
<td>$23,215.00</td>
</tr>
<tr>
<td>5</td>
<td><strong>TOTAL NOT TO EXCEED TASK 2 PRICE</strong></td>
<td><strong>$71,615.00</strong></td>
</tr>
</tbody>
</table>

The above not to exceed prices include estimates for Consultant expenses such as travel reimbursements.
EXHIBIT C

PROJECT TIMELINE

The following is a timeline for which the tasks identified below shall be performed or completed:

<table>
<thead>
<tr>
<th>Task</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 1 - Data Gathering</td>
<td>Complete 3 weeks prior to inspection.</td>
</tr>
<tr>
<td>Task 1 - Inspection</td>
<td>Conduct during maintenance outage.</td>
</tr>
<tr>
<td>Task 2 - New Contract</td>
<td>Assume a minimum 6-month negotiation process, with 5 meetings</td>
</tr>
</tbody>
</table>
MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2009-536  

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 BUDGET ESTIMATING REVENUE OF $10,381.02 FROM ASSET FORFEITURES TO POLICE INVESTIGATIONS AND TRAINING FOR THE PURCHASE OF SURVEILLANCE EQUIPMENT AND TO SEND EIGHT OFFICERS TO NARCOTICS TRAINING

WHEREAS, the Modesto Narcotic Enforcement Team (MNET) is the primary narcotics unit within the City of Modesto and responsible for handling all drug related investigations, and

WHEREAS, MNET investigations often involve conducting surveillance of suspected narcotics users and dealers, and

WHEREAS, the narcotic unit surveillance equipment is crucial to accomplishing this task, and

WHEREAS, eight of the MNET members need advanced narcotic training, and

WHEREAS, the Asset Forfeiture Trust Fund has monies available for this purchase,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2009/10 Operating Budget is hereby amended as indicated below:

**Appropriate:**

<table>
<thead>
<tr>
<th>To:</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0100-190-1941-0225</td>
<td>$4,580.02</td>
<td>Police Investigations Division</td>
</tr>
<tr>
<td>0100-190-1941-0308</td>
<td>$1,236.00</td>
<td>Police Investigations Division</td>
</tr>
<tr>
<td>0100-190-1921-0209</td>
<td>$4,565.00</td>
<td>Police Training</td>
</tr>
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</table>

**Revenue:**

<table>
<thead>
<tr>
<th>From:</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0100-190-1961-7202</td>
<td>$10,381.02</td>
<td>Seized Forfeitures</td>
</tr>
</tbody>
</table>

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 10th day of November, 2009, by Councilmember Lopez, 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: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-537

RESOLUTION APPROVING AMENDMENT NO. 1 TO THE FIXED-ROUTE TRANSIT SYSTEM OPERATIONS AGREEMENT WITH MV TRANSPORTATION, INC.

WHEREAS, MV Transportation, Inc. (MV) and the City of Modesto entered into an agreement dated June 5, 2007, for the purpose of providing fixed-route public transportation service within the Modesto urban area, and

WHEREAS, City’s contract with MV requires an annual adjustment in MV’s rate of payment by the same percentage that the Consumer Price Index (CPI) changes, and

WHEREAS, an increase in the CPI requires an increase in payment and a decrease in the CPI (negative CPI) results in a payment reduction, and

WHEREAS, the proposed amendment would allow the City Manager the option, in the event of a negative CPI, to maintain the current rate of payment or impose a commensurate rate reduction, and

WHEREAS, effective June 30, 2009, for the 12-month period ending May 31, 2009, the CPI was a negative 1.3%, causing a reduction of $.54 in the rate paid per vehicle service hour ($42.27 to $41.73/hour), and

WHEREAS, if the amendment is not approved and the reduced rate continues through June 29, 2010, payments to MV for the 12-month period would be reduced a total of $78,291, and

WHEREAS, notwithstanding the CPI decrease MV’s costs continue to increase and,
WHEREAS, to help ensure the continuation of high quality transit service and maintain MV's stability it is important not to decrease the compensation rate at a time when MV's expenses are increasing, and

WHEREAS, Amendment No. 1 to Fixed-Route Transit System Operations Agreement would authorize the City Manager to make no reduction to MV's payment rate during periods when the CPI is negative,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 1 to Fixed-Route Transit System Operations Agreement with MV Transportation, Inc.

The forgoing resolution was introduced at a regular meeting of the Council of the City of Modesto on the 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and this resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: STEPHENIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANNA ALCALA WOOD, City Attorney

WHEREAS, the City of Modesto desires to acquire a portion of a property located at 1218 Bangs Avenue (APN: 046-002-001) owned by William R. Luchessa, trustee of the William R. Luchessa 2004 Trust as to an undivided ½ interest and Natividad Luchessa, as successor trustee of the Alvin Luchessa and Natividad Luchessa 2004 Trust, (the subject property) to be purchased by the City of Modesto for the Pelandale Avenue Widening project, and

WHEREAS, the Pelandale Avenue Widening Project involves the expansion of Pelandale Avenue to include four additional lanes of traffic to create a six-lane arterial expressway between Dale road and McHenry Avenue, and

WHEREAS, Assessor's Parcel Number 046-002-001 is currently encumbered by a Williamson Act contract, and

WHEREAS, the location of the project generally, and specifically on this parcel, is not based primarily on a consideration of the lower cost of acquiring land in an
agricultural preserve, but rather on the current location and alignment of Pelandale Avenue and related improvements, the residential neighborhoods abutting Pelandale Avenue, and the purpose of increasing circulation on a six lane expressway, and

WHEREAS, there is no other land within or outside the preserve on which it is reasonably feasible to locate the project, and

WHEREAS, the appraisal of the land was without consideration of the involved Williamson Act contract pursuant to Civil Code section 51295, and

WHEREAS, the acquisition of the subject property and the location of the Project will not interfere with the continued agricultural use of the remainder parcel, and

WHEREAS, the Project requires acquisition of the subject property, and

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with the landowners to purchase the portion of real property described herein, to compensate the landowner for severance damages (loss of trees) and for extension of the term of a temporary construction easement needed for the scope of work required for the Project, and

WHEREAS, a purchase agreement has been negotiated between the City and the landowners,

NOW THEREFORE IT IS FOUND, DETERMINED, AND ORDERED as follows:

1. The public interest and necessity require the acquisition of the subject Property.
2. The Project is planned and located in the manner which was not based primarily on, nor in part on a consideration of a lower cost of acquiring land within an agricultural preserve.
3. There is no other land within or outside the agricultural preserve on which it is reasonably feasible to plan and locate the project.
4. The acquisition of the subject property will not interfere with continued
agricultural use of the remainder parcel.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves an Agreement for Purchase and Sale of Real Property (Fee, Grant
Deed, Temporary Construction Easement) between the City of Modesto and William R.
Luchessa 2004 Trust, as to an undivided ½ interest and Natividad Luchessa, as successor
trustee of the Alvin Luchessa and Natividad Luchessa 2004 Trust in the amount of
$32,101, for the acquisition of a portion of property, including loss and removal of trees
and extension of the temporary construction easement, located at 1218 Bangs Avenue
(APN: 046-002-001) for the Pelandale Avenue Widening project.

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

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez,
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: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-539

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A CERTIFICATE OF ACCEPTANCE FORM FOR THE GRANT DEED FOR THE ACQUISITION OF A PORTION OF PROPERTY LOCATED AT 1218 BANGS AVENUE (APN: 046-002-001), OWNED BY WILLIAM R. LUCHESSA, TRUSTEE OF THE WILLIAM R. LUCHESSA 2004 TRUST, AS TO AN UNDIVIDED ½ INTEREST AND NATIVIDAD LUCHESSA, AS SUCCESSOR TRUSTEE OF THE ALVIN LUCHESSA AND NATIVIDAD LUCHESSA 2004 TRUST TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PELANDALE AVENUE WIDENING PROJECT

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

WHEREAS, the City of Modesto desires to acquire a portion of a parcel (APN: 046-002-001) for the Pelandale Avenue Widening Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute a Certificate of Acceptance Form for the Grant Deed for the acquisition of a portion of property located at 1218 Bangs Avenue (APN: 046-002-001), owned by William R. Luchessa, trustee of the William R. Luchessa 2004 Trust, as to an undivided ½ interest and Natividad Luchessa, as successor trustee of the Alvin Luchessa and Natividad Luchessa 2004 Trust to be purchased by the City of Modesto for the Pelandale Avenue Widening project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, 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: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____________________________

SEAL

APPROVED AS TO FORM:

By: _________________________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-540

A RESOLUTION AUTHORIZING THE SOLE SOURCE PROCUREMENT FOR THE REPAIR OR REPLACEMENT OF A SIEMENS SCREW PUMP FOR THE SUTTER TREATMENT PLANT FROM SIEMENS WATER TECHNOLOGIES, THOMASVILLE, GA., AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR THE REPAIR OR REPLACEMENT FOR A TOTAL COST NOT TO EXCEED $900,000

WHEREAS, the Sutter Treatment Plant utilizes four (4) InternalLift screw pumps in a single wet pit to elevate untreated sewage from the main trunk lines to the headworks process, and

WHEREAS, InternalLift pumps are a very unique proprietary design that utilize a large diameter tube with fixed, twisted flights inside to elevate the water as the tube rotates, and

WHEREAS, on September 19, 2009, influent pump #2 had a catastrophic failure of the lower bearing assembly, which is 9 feet in diameter and carries a rotating load of 92,000 lbs, and

WHEREAS, the pump was removed from the influent pit for inspection and repair, and

WHEREAS, Siemens Water Technologies, the original equipment manufacturer, was called out to assist in the evaluation, and it was determined that the pump could not be fully inspected, assessed, or repaired in the field, and

WHEREAS, the pump must be shipped to the Siemens facility in Thomasville, GA, which is the only facility with trained technical experts and equipment large enough to handle this size pump to restore it to service, and
WHEREAS, Siemens will then evaluate the pump to determine if it can be repaired or must be replaced, and

WHEREAS, estimated cost for repair only is approximately $300,000; however, should Siemens determine that the pump cannot be repaired, the cost for a new pump would be approximately $900,000, and

WHEREAS, funds are available through a separate Council action that transferred funds from Account No. 6210-480-B576-6052 ($500,000) and from Wastewater Reserves Account No. 6210-800-8000-8003 ($400,000) into new Capital Improvement Program Account Number 6210-480-B191-6070 – Siemens Screw Pump Repair for this expenditure, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid; however, one exception to the formal bid process, MMC Section 8-3.204(b), states, "Where the Purchasing Agency's requirements can be met solely by a single article or process." The sole source procurement of the repair or replacement of the Siemens Screw Pump for the Public Works Department, Water Quality Control Services Division, conforms to the MMC,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the sole source procurement of the repair or replacement of a Siemens Screw Pump for the Sutter Treatment Plant from Siemens Water Technologies, Thomasville, GA.
BE IT FURTHER RESOLVED that the Council authorizes the Purchasing Manager to prepare a purchase order for a total cost not to exceed $900,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, 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: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-541

A RESOLUTION AUTHORIZING THE TRANSFER OF $500,000 FROM CAPITAL IMPROVEMENT PROJECT 6210-480-B576-6052 -RENEWAL / REPLACEMENT SUTTER TP AND THE TRANSFER OF $400,000 FROM WASTEWATER RESERVES 6210-800-8000-8003 TO NEW CAPITAL IMPROVEMENT PROJECT ACCOUNT 6210-480-B191-6070 - SIEMENS SCREW PUMP REPAIR

WHEREAS, the Sutter Treatment Plant utilizes four (4) Internal Lift screw pumps in a single wet pit to elevate untreated sewage from the main trunk lines to the headworks process, and

WHEREAS, Internal Lift pumps are a very unique proprietary design that utilizes a large diameter tube with fixed, twisted flights inside to elevate the water as the tube rotates, and

WHEREAS, on September 19, 2009, influent pump #2 had a catastrophic failure of the lower bearing assembly, which is 9 feet in diameter and carries a rotating load of 92,000 pounds, and

WHEREAS, estimated cost for repair is approximately $300,000; however, should Siemens determine that the pump cannot be repaired, the cost for a new pump would be approximately $900,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the transfer of $500,000 from Capital Improvement Project 6210-480-B576-6052 - Renewal/Replacement Sutter TP and the transfer of $400,000 from Wastewater Reserves 6210-800-8000-8003 to new Capital Improvement Project account 6210-480-B191-6070 - Siemens Screw Pump Repair.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, 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: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature] SUSANA ALCALA WOOD, City Attorney
EXHIBIT “A”
Siemens Screw Pump

<table>
<thead>
<tr>
<th>Fund</th>
<th>Wastewater Expense Adjustments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>6210-480-B576-6052 Renewal/Repl Sutter TP</td>
</tr>
<tr>
<td></td>
<td>6210-800-8000-8003 Wastewater Fund Reserves</td>
</tr>
<tr>
<td></td>
<td>6210-480-B191-6070 Siemens Screw Pump</td>
</tr>
<tr>
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<tr>
<td></td>
<td>-$400,000</td>
</tr>
<tr>
<td></td>
<td>+$900,000</td>
</tr>
</tbody>
</table>
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-542

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED, "WELLHEAD TREATMENT AND BLENDING LINES – WELLS 283 & 236", CONTINGENT UPON RECEIPT OF EXECUTED SECOND AMENDMENT TO FUNDING AGREEMENT WITH CALIFORNIA DEPARTMENT OF PUBLIC HEALTH (CDPH), ACCEPTING THE BID AND APPROVING A CONTRACT WITH CONCO-WEST, INC. IN THE AMOUNT OF $940,300, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Wellhead Treatment and Blending Lines – Wells 283 & 236 project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Wellhead Treatment and Blending Lines – Wells 283 & 236 project were opened at 11:00 a.m. on October 6, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $940,300 received from Conco-West, Inc. be accepted as the lowest responsible bid and the contract be awarded to Conco-West, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Wellhead Treatment and Blending Lines – Wells 283 & 236 project, contingent upon receipt of executed Second Amendment to Funding Agreement with California Department of Public Health (CDPH), accepts the bid of Conco-West, Inc. in the amount of $940,300, and awards Conco-West, Inc. the contract for the Wellhead Treatment and Blending Lines – Wells 283 & 236 project.
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 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney

2009-542
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-543

A RESOLUTION APPROVING A NEW CAPITAL IMPROVEMENT PROGRAM ACCOUNT FOR THE PROJECT TITLED, “ARRA WELLHEAD TREATMENT AND BLENDING LINES – WELLS 283 & 236”, WHICH DID NOT APPEAR IN THE ADOPTED CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEAR 2009-2010

WHEREAS, on February 27, 2009, City staff submitted the preapplication for design and construction funds for the ARRA Wellhead Treatment and Blending Lines – Wells 283 & 236 project (Project) to California Department of Health (CDPH), and

WHEREAS, on April 28, 2009, by Resolution 2009-187, Council authorized submittal of an application to CDPH, and

WHEREAS, on August 5, 2009, by Resolution 2009-383, Council authorized the City Manager, or Deputy City Manager, to sign the Funding Agreement with CDPH under the California Safe Drinking Water State Revolving Fund and the American Recovery and Reinvestment Act of 2009, and

WHEREAS, on September 17, 2009, the Funding Agreement with CDPH for the Project was executed for a total amount of $800,000.00, and

WHEREAS, this CIP project account was not included in the adopted CIP for Fiscal Year 2009-2010, and

WHEREAS, City staff recommends approving a new CIP Account 0340-430-W029 for the project titled, “ARRA Wells 283 & 236 Blending”,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a new Capital Improvement Program Account 0340-430-W029 for the project titled, “ARRA Wells 283 & 236 Blending”.

11/10/2009/PW/DPhillips/Item 11
BE IT FURTHER RESOLVED that the Finance Director, or his/her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-544

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET, AS PER EXECUTED FUNDING AGREEMENT AND AMENDMENT TO FUNDING AGREEMENT WITH CALIFORNIA DEPARTMENT OF PUBLIC HEALTH (CDPH), AND CONTINGENT UPON RECEIPT OF EXECUTED SECOND AMENDMENT TO FUNDING AGREEMENT WITH CDPH, IN ORDER TO FULLY FUND THE DESIGN AND CONSTRUCTION ACTIVITIES FOR THE ARRA FUNDED WELLS 283 & 236 BLENDING PROJECT

WHEREAS, a budget adjustment in the amount of $1,146,830 is necessary to fully fund the design and construction activities for the ARRA funded Wells 283 & 236 Blending project including contingency and construction administration, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget must be amended, as per executed Funding Agreement with California Department of Public Health (CDPH), and contingent upon receipt of executed Amendment to Funding Agreement and Second Amendment to Funding Agreement with CDPH, as shown in Exhibit A, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amendment of the Fiscal Year 2009-2010 Capital Improvement Program budget, as per executed Funding Agreement and Amendment to Funding Agreement with California Department of Public Health (CDPH), and contingent upon receipt of executed Second Amendment to Funding Agreement with CDPH, as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Finance Director, or his/her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez,
who moved its adoption, which motion being duly seconded by Councilmember Keating,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:

SUSANA ALCALA WOOD, City Attorney
Exhibit A

FUND:
ARRA Environment – Water

REVENUES:
ARRA Environment – Water 0340-430-W029-3650-50 $1,146,830

EXPENDITURES:  Increase/(Decrease)
ARRA Wells 283 & 236 Blending 0340-430-W029-6010 $18,470
ARRA Wells 283 & 236 Blending 0340-430-W029-6040 $940,300
ARRA Wells 283 & 236 Blending 0340-430-W029-6050 $94,030
ARRA Wells 283 & 236 Blending 0340-430-W029-6060 $94,030
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-545

A RESOLUTION REJECTING ALL BIDS FOR THE PRIMARY OUTFALL REHABILITATION PROJECT-PHASE I AND AUTHORIZING STAFF TO IMMEDIATELY REVISE THE PLANS AND SPECIFICATIONS, AND RE-ADVERTISE A PROJECT WITH A REDUCED SCOPE FOR THE PRIMARY OUTFALL REHABILITATION PROJECT-PHASE I

WHEREAS, the bids received for the Primary Outfall Rehabilitation Project-Phase I were opened at 11:00 a.m. on September 15, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, on September 16, 2009, Spiniello Companies, the second lowest bidder, submitted a letter to the City Clerk as an official protest to the bid results and award, and

WHEREAS, on September 18 and October 20, 2009, Ebert McGuire and Hester, the third low bidder, submitted letters protesting the award of the project to either of the two lowest bidders, Colich & Sons L.P. or Spiniello Companies, and

WHEREAS, Public Works and legal staff have reviewed all information and have determined it is in the best interest of the City to recommend that all bids be rejected, and

WHEREAS, staff recommends immediately revising the plans and specifications by eliminating the most contentious work from the plans and specifications and re-advertising a project with a reduced scope for the Primary Outfall Rehabilitation Project Phase I, and

WHEREAS, staff will also research the use of alternative materials for the limited length deleted from Phase I and include this portion of pipe with the Primary Outfall Rehabilitation Phase II, to be advertised for bid and constructed after Phase I is completed,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that all bids received for the Primary Outfall Rehabilitation Project-Phase I, opened in the office of the City Clerk on September 15, 2009, are hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to immediately re-advertise a project with a reduced scope for the Primary Outfall Rehabilitation Project-Phase I.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2009-546

A RESOLUTION APPROVING A JOINT POWERS AGREEMENT BETWEEN THE COUNTY OF STANISLAUS AND THE CITIES OF MODESTO, HUGHSON, PATTERSON, CERES AND WATERFORD, TO ESTABLISH THE STANISLAUS ANIMAL SERVICES AGENCY FOR THE JOINT OPERATION AND MANAGEMENT OF THE ANIMAL SHELTER FOR A TWENTY-FIVE YEAR AGREEMENT, WITH AN ESTIMATED CUMULATIVE DEBT SERVICE COST TO THE CITY OF MODESTO OF $5,874,265; AND AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, since June of 2009, City staff has collaborated with staff members from the County of Stanislaus, cities of Ceres, Hughson, Patterson, and Waterford to review and finalize the Joint Powers Agreement (JPA) that will establish the Stanislaus Animal Services Agency, and

WHEREAS, the partnering jurisdictions have reached a tentative agreement on the JPA, and

WHEREAS, the JPA will be governed by a board, the members of which shall be appointed by each member agency, to include the County Chief Executive Officer and the City Manager of each member agency with equal representation, and

WHEREAS, the JPA shall have the common power of the member agencies to plan, establish and exercise all government functions necessary to provide animal services for the benefit of the member agencies, and

WHEREAS, a member agency may withdraw from the JPA at any time by giving notice to all other member agencies by resolution of intent to withdraw, and

WHEREAS, upon a member agency's withdrawal, the JPA will have the first right of refusal to purchase the withdrawing member's share, and
WHEREAS, if the JPA does not purchase the exiting member’s percentage share, the existing member can sell it to another agency for current debt outstanding at the date of termination of membership in the JPA, and

WHEREAS, member agencies will be required to pay their proportional share of capitalized costs on the date of actual occupancy, and member agencies may elect to pay capitalized costs in advance of the facility’s completion, and

WHEREAS, the MOU between the County and the City of Modesto addresses the future disposition of the existing Finch Road site, as well as a phased in debt payment plan to address past contributions made by the City to the County’s Shelter operations, and

WHEREAS, this MOU establishes a twenty-five year debt service repayment schedule for the repayment to the County of Stanislaus for the cost of construction of the Animal Shelter, the specific terms of which are detailed in the Joint Powers Agreement entered by the parties,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between the County of Stanislaus and the cities of Modesto, Hughson, Patterson, Ceres and Waterford, to establish the Stanislaus Animal Services Agency for the joint operation and management of the animal shelter for a twenty-five year agreement, with an estimated cumulative debt service cost to the City of Modesto of $5,874,265.

BE IT FURTHER RESOLVED that the Mayor, 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 10th day of November, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Keating, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-547

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF STANISLAUS AND THE CITY OF MODESTO RELATING TO SHELTER CAPITAL COSTS AND THE DISPOSITION OF THE FINCH ROAD ANIMAL SHELTER; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MEMORANDUM OF UNDERSTANDING

WHEREAS, since June of 2009, City staff has collaborated with staff members from the County of Stanislaus, cities of Ceres, Hughson, Patterson, and Waterford to review and finalize the Joint Powers Agreement (JPA) that will establish the Stanislaus Animal Services Agency, and

WHEREAS, the partnering jurisdictions have reached a tentative agreement on the JPA, and

WHEREAS, the JPA will be governed by a board, the members of which shall be appointed by each member agency, to include the County Chief Executive Officer and the City Manager of each member agency with equal representation, and

WHEREAS, the JPA shall have the common power of the member agencies to plan, establish and exercise all government functions necessary to provide animal services for the benefit of the member agencies, and

WHEREAS, a member agency may withdraw from the JPA at any time by giving notice to all other member agencies by resolution of intent to withdraw, and

WHEREAS, upon a member agency’s withdrawal, the JPA will have the first right of refusal to purchase the withdrawing member’s share, and
WHEREAS, if the JPA does not purchase the exiting member’s percentage share, the existing member can sell it to another agency for current debt outstanding at the date of termination of membership in the JPA, and

WHEREAS, member agencies will be required to pay their proportional share of capitalized costs on the date of actual occupancy, and member agencies may elect to pay capitalized costs in advance of the facility’s completion, and

WHEREAS, the Memorandum Of Understanding (MOU) between the County of Stanislaus and the City of Modesto addresses the future disposition of the existing Finch Road site, as well as a phased in debt payment plan to address past contributions made by the City to the County’s Shelter operations, and

WHEREAS, this MOU establishes a twenty-five year debt service repayment schedule for the repayment to the County of Stanislaus for the cost of construction of the Animal Shelter, the specific terms of which are detailed in the Joint Powers Agreement entered by the parties,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Memorandum of Understanding between the County of Stanislaus and the City of Modesto relating to shelter capital costs and the disposition of the Finch Road Animal Shelter.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Memorandum of Understanding.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 10th day of November, 2009, by Councilmember
Keating, who moved its adoption, which motion being duly seconded by Councilmember
Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

(ATTEST: )

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-548


WHEREAS, on Tuesday, November 3, 2009, a Regular Municipal Election was held in the City of Modesto (herein called “City”) and in the Modesto High School District (herein called “District”) of Stanislaus County to elect the following:

1. One Councilmember to District 2 for a four year term;
2. One Councilmember to District 4 for a four year term;
3. One Councilmember to District 5 for a four year term;
4. Four Board of Education Members for four year terms; and

WHEREAS, as set forth in Section 5 hereof, Measures A, B, C, D and E were Advisory measures, and were submitted to the qualified electors in the November 3, 2009, City of Modesto election, and

WHEREAS, said election was held on Tuesday, November 3, 2009, in accordance with law and the proceedings of this Council, and the votes thereat received and canvassed, and the returns thereof ascertained, determined, and declared in all respects as required by law, and

WHEREAS, the City Clerk canvassed the returns of said regular municipal election in accordance with law, and certified the results of the election of the Council by a Certificate of Canvass and Statement of Votes dated November 24, 2009, a copy of which is attached hereto marked Exhibit “A” and made a part hereof,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto as follows:
SECTION 1. Said canvass by the City Clerk as shown on the Certificate of Canvass and Statement of Votes and the results of the election are hereby ratified, confirmed and approved.

SECTION 2. That in accordance with Section 10264 of the Elections Code, a copy of said Certificate of Canvass and Statement of Votes, which is attached hereto marked as Exhibit “A” and made a part hereof, shows a complete tabulation of the following:

(A) The whole number of votes cast in Districts 2, 4, and 5 in the City.
(B) The whole number of votes cast in the Modesto High School District.
(C) The names of the persons voted for.
(D) For what office each person was voted for.
(E) The number of votes given in the City to each person.
(F) The number of votes given in the City for each Measure.

SECTION 3. That, at said Regular Municipal election, the following named persons having received a majority of the votes cast for the elective offices, as designated on Exhibit “A”, are hereby declared to be duly and regularly elected to such office, and the City Clerk is hereby directed to issue a Certificate of election to each such persons, certifying his/her election to the office appearing after his/her name, and to administer to each of said persons the oath of office prescribed by the Constitution and laws of the State of California and the Charter of the City, to wit:

Dave Geer  Councilmember for a term of four years, District 2, Modesto City Council.
Joe Muratore  Councilmember for a term of four years, District 4, Modesto City Council.
Kristin Olsen  Councilmember for a term of four years, District 5, Modesto City Council.
Nancy Cline  Member, Modesto Board of Education, for a term of four years.

Cindy Marks  Member, Modesto Board of Education, for a term of four years.

Ruben A. Villalobos  Member, Modesto Board of Education, for a term of four years.

Sue Zwahlen  Member, Modesto Board of Education, for a term of four years.

SECTION 4. The following votes were cast for Measures A, B, C, D and E:

<table>
<thead>
<tr>
<th>Measure</th>
<th>Total Votes For</th>
<th>Total Votes Against</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Measure A:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated “Kiernan Avenue Corridor CPDs, including Kiernan / Carver North CPD and portions of Kiernan / Carver and Salida CPDs.” Generally bordered north by General Plan boundary and future Pirrone centerline; east by Tully and McHenry centerlines; south by Bangs centerline; west by American and Stoddard centerlines.</td>
<td>8,294</td>
<td>12,467</td>
</tr>
<tr>
<td><strong>Measure B:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated “College West Comprehensive Planning District” in Modesto Urban Area General Plan. Generally bordered on east by Union Pacific Railroad and Poust Road centerline/extended north; south by Shoemake Avenue centerline and existing residential properties that front Mozart Drive; west by Morse Road centerline/extended north.</td>
<td>7,288</td>
<td>13,358</td>
</tr>
<tr>
<td>Measure</td>
<td>Description</td>
<td>Area (acres)</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
<td>--------------</td>
</tr>
<tr>
<td>C</td>
<td>Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated as “130-acre Regional Commercial portion of the Hetch-Hetchy Comprehensive Planning District”. Generally, area is bordered on north by Claribel Road centerline; east by imaginary line 0.25 miles east of centerline of McHenry Avenue; south by Claratina Avenue centerline; west by McHenry Avenue centerline.</td>
<td>7,883</td>
</tr>
<tr>
<td>D</td>
<td>Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated “Northwest portion of the Roselle/Claribel Comprehensive Planning District” in the Modesto Urban Area General Plan. Generally, the area is bordered on north by centerline of Claribel Road, on east by Roselle Avenue, on south by Claratina Avenue, and west by Oakdale Road.</td>
<td>7,490</td>
</tr>
<tr>
<td>E</td>
<td>Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated “830-acre Village Residential Portion of Hetch-Hetchy Comprehensive Planning District” in the Modesto Urban Area General Plan. Generally bordered north by Claribel Road centerline; east by Oakdale Road centerline; south by Claratina Avenue centerline; west by imaginary line 0.25 miles east of McHenry centerline.</td>
<td>6,213</td>
</tr>
</tbody>
</table>

**Measures A, B, C, D and E.** Less than a majority of all of the votes cast at the election for Measures A, B, C, D and E were in favor of said proposed Measures A, B, C, D and E and said Measures A, B, C, D and E did not carry, were not approved, and were not ratified by a majority of the qualified voters voting on said Measures.
CERTIFICATE OF CANVASS
AND
STATEMENT OF VOTE

CITY OF MODESTO REGULAR MUNICIPAL ELECTION
November 3, 2009

I, Stephanie Lopez, City Clerk of the City of Modesto, do hereby certify that I caused the Stanislaus County Clerk’s Office, on November 3, 2009, to publicly canvass the returns of the City of Modesto Regular Municipal Election held on November 3, 2009, in accordance with Modesto City Council Resolution 67-36. The following are the results of said election:

<table>
<thead>
<tr>
<th>CANDIDATES</th>
<th>NUMBER OF VOTES</th>
<th>PERCENTAGE OF VOTE</th>
</tr>
</thead>
<tbody>
<tr>
<td>District 2, Modesto City Council</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dave Geer</td>
<td>596</td>
<td>56.82%</td>
</tr>
<tr>
<td>Al Nava</td>
<td>448</td>
<td>42.71%</td>
</tr>
<tr>
<td>Total Votes Cast for District 2</td>
<td>1,149</td>
<td></td>
</tr>
<tr>
<td>Non-Qualified Write-in Candidates</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>District 4, Modesto City Council</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jeff Perine</td>
<td>1,227</td>
<td>32.04%</td>
</tr>
<tr>
<td>Robert Stanford</td>
<td>456</td>
<td>11.91%</td>
</tr>
<tr>
<td>Joe Muratore</td>
<td>2,135</td>
<td>55.74%</td>
</tr>
<tr>
<td>Total Votes Cast for District 4</td>
<td>4,021</td>
<td></td>
</tr>
<tr>
<td>Non-Qualified Write-in Candidates</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>District 5, Modesto City Council</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Joe Cataline</td>
<td>1,591</td>
<td>33.90%</td>
</tr>
<tr>
<td>Kristin Olsen</td>
<td>3,090</td>
<td>65.84%</td>
</tr>
<tr>
<td>Total Votes Cast for District 5</td>
<td>4,975</td>
<td></td>
</tr>
<tr>
<td>Non-Qualified Write-in Candidates</td>
<td>12</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MEASURES</th>
<th>NUMBER OF VOTES</th>
<th>PERCENTAGE OF VOTE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Measure A</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated “Kiernan Avenue Corridor CPDs, including Kiernan / Carver North CPD and portions of Kiernan / Carver and Salida CPDs.” Generally bordered north by General Plan boundary and future Pirrone centerline; east by Tully and McHenry centerlines; south by Bangs centerline; west by American and Stoddard centerlines.

<table>
<thead>
<tr>
<th></th>
<th>NUMBER OF VOTES</th>
<th>PERCENTAGE OF VOTE</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES</td>
<td>8,294</td>
<td>39.95%</td>
</tr>
<tr>
<td>No</td>
<td>12,467</td>
<td>60.05%</td>
</tr>
</tbody>
</table>

Measure B

Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated “College West Comprehensive Planning District” in Modesto Urban Area General Plan. Generally bordered on
east by Union Pacific Railroad and Poust Road centerline/extended north; south by Shoemake Avenue centerline and existing residential properties that front Mozart Drive; west by Morse Road centerline/extended north.

Measure C
Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated as “130-acre Regional Commercial portion of the Hetch-Hetchy Comprehensive Planning District”. Generally, area is bordered on north by Claribel Road centerline; east by imaginary line 0.25 miles east of centerline of McHenry Avenue; south by Claratina Avenue centerline; west by McHenry Avenue centerline.

Measure D
Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated “Northwest portion of the Roselle/Claribel Comprehensive Planning District” in the Modesto Urban Area General Plan. Generally, the area is bordered on north by centerline of Claribel Road, on east by Roselle Avenue, on south by Claratina Avenue, and west by Oakdale Road.

Measure E
Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated “830-acre Village Residential Portion of Hetch-Hetchy Comprehensive Planning District” in the Modesto Urban Area General Plan. Generally bordered north by Claribel Road centerline; east by Oakdale Road centerline; south by Claratina Avenue centerline; west by imaginary line 0.25 miles east of McHenry centerline.

<table>
<thead>
<tr>
<th>CANDIDATES</th>
<th>NUMBER OF VOTES</th>
<th>PERCENTAGE OF VOTE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Member, Modesto Board of Education – 4 year term</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Steve Collins</td>
<td>8,349</td>
<td>9.58%</td>
</tr>
<tr>
<td>Nancy Cline</td>
<td>10,491</td>
<td>12.04%</td>
</tr>
<tr>
<td>Sue Zwahlen</td>
<td>14,665</td>
<td>16.84%</td>
</tr>
<tr>
<td>Solange G. Altman</td>
<td>9,456</td>
<td>10.86%</td>
</tr>
<tr>
<td>Belinda Rolicheck</td>
<td>5,443</td>
<td>6.25%</td>
</tr>
<tr>
<td>Ruben A. Villalobos</td>
<td>11,111</td>
<td>12.76%</td>
</tr>
<tr>
<td>Joshua Vander Veen</td>
<td>6,581</td>
<td>7.56%</td>
</tr>
<tr>
<td>Jim Standart</td>
<td>9,108</td>
<td>10.46%</td>
</tr>
<tr>
<td>Cindy Marks</td>
<td>11,744</td>
<td>13.48%</td>
</tr>
<tr>
<td>Non-Qualified Write-in Candidates</td>
<td>159</td>
<td>.18%</td>
</tr>
</tbody>
</table>
**VOTER TURNOUT:**

<table>
<thead>
<tr>
<th></th>
<th>87,107</th>
<th>100%</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TOTAL REGISTERED VOTERS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City of Modesto Council District 2</td>
<td>9,476</td>
<td>1,149</td>
</tr>
<tr>
<td>City of Modesto Council District 4</td>
<td>15,514</td>
<td>4,021</td>
</tr>
<tr>
<td>City of Modesto Council District 5</td>
<td>17,434</td>
<td>4,975</td>
</tr>
<tr>
<td>Measures A, B, C, D and E</td>
<td>93,005</td>
<td>21,918</td>
</tr>
<tr>
<td>Modesto High School District</td>
<td>118,056</td>
<td>26,936</td>
</tr>
</tbody>
</table>

**STEPHANIE LOPEZ**  
City Clerk  
City of Modesto  

November 24, 2009
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-549

A RESOLUTION APPROVING A THIRD ADDENDUM TO THE AGREEMENT WITH THE LAW FIRM OF RENNE SLOAN HOLZMAN & SAKAI, LLP AUTHORIZING THE ENGAGEMENT OF A HUMAN RESOURCES CONSULTANT, AND AUTHORIZING THE CITY MANAGER AND THE CITY ATTORNEY TO EXECUTE THE THIRD ADDENDUM TO AGREEMENT

WHEREAS, the City of Modesto entered into an Agreement for outside Legal Services with the Law Firm of Renne Sloan Holzman & Sakai, LLP (Renne Sloan) on January 1, 2009, for specialized legal and consultant services in the area of labor, employment and personnel matters, and

WHEREAS, as a result of the City of Modesto’s Voluntary Separation Incentive Program of 2009 the Human Resources Director retired effective June 1, 2009, and

WHEREAS, the City Council has directed the City Manager to review all positions in the City and make determinations and recommendations regarding efficiencies in operation of all departments, divisions and work units in the City, and

WHEREAS, the City Manager has requested the opportunity to conduct such a review by engaging a Human Resources consultant to oversee the operations of the Human Resources Department for a limited term, and make any recommendations to the City Manager regarding operations and other process efficiencies, and

WHEREAS, Renne Sloan also associates in a number of non-attorney professionals who are highly experienced former public agency directors and managers to provide technical assistance to their clients as needed, and the City Manager wishes to avail himself of these technical services to study efficiencies in the Human Resources Department in response to the Council’s direction, and
WHEREAS, Mark Gregersen has been recommended by Renne Sloan as a consultant associated with their firm who has over 25 years of City and County experience in Human Resources and Finance who is available to assist the City Manager in this regard, and

WHEREAS, the original Agreement with Renne Sloan for outside legal services was executed pursuant to the authority granted to the City Attorney under Modesto City Charter Section 902 for engagement of legal services, and so the City Attorney has recommended, out of an abundance of form, that the Council approve the expanded scope of that Agreement to include the technical services to be provided by Mr. Gregersen, and

WHEREAS, the Third Addendum provides for an amount not to exceed $168,000, which shall be allocated in amounts no greater than $4,000 per week for Interim Director of Human Resources services, and at a rate of $205 per hour, plus reasonable and customary expenses, for human resources and labor relations consulting services provided when it is determined that Interim Director of Human Resource Services are no longer needed, and

WHEREAS, funding for this action will be brought separately to Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Third Addendum to the Agreement for Legal Services with the Law Firm of Renne Sloan Holtzman & Sakai, LLP to expand the scope of services to include the provision of technical assistance.

BE IT FURTHER RESOLVED that the City Manager and the City Attorney are hereby authorized to execute the Third Addendum to Agreement.

11/24/2009/CM/GNyhoff/Item 5  2009-549
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

SUSAN ALCALA WOOD, City Attorney
RESOLUTION APPROVING AN APPLICATION IN THE AMOUNT OF $1 MILLION TO THE FISCAL YEAR 2010-2011 BICYCLE TRANSPORTATION ACCOUNT TO FUND THE CONTINUED DEVELOPMENT OF THE VIRGINIA CORRIDOR PROJECT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY NECESSARY DOCUMENTS

WHEREAS, the State of California has made funding available through the Department of Transportation’s Bicycle Transportation Account for Fiscal Year 2010-2011, and

WHEREAS, development of the Virginia Corridor Project (the “Project”) is consistent with the Bicycle Transportation Act of the State of California’s Department of Transportation program, and

WHEREAS, if selected, the City of Modesto will enter into a contract with the State of California for the Project,

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

1. Approves the filing of a grant application for $1 million from the State of California’s Department of Transportation through the Bicycle Transportation Account for Fiscal Year 2010-2011; and

2. Certifies that the City of Modesto has or will have sufficient funds to operate and maintain the Project; and

3. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and

4. Authorizes the City Manager, or his designee, as agent of the City of Modesto, to conduct all negotiations and execute and submit all documents, including but
not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws, which may be necessary for the completion of the aforementioned Project upon acceptance of said grant by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-551

RESOLUTION APPROVING (1) A PURCHASE AND SALE AGREEMENT BETWEEN JP MORGAN AND CHASE BANK (SELLER) AND THE CITY OF MODESTO (PURCHASER) FOR REAL PROPERTY LOCATED AT 1712 SAINT CHARLOTTE LANE, MODESTO, FOR THE PURCHASE PRICE OF $98,782.00; (2) THE SUBSEQUENT TRANSFER OF TITLE TO BORGES CONSTRUCTION, A FOR-PROFIT NEIGHBORHOOD STABILIZATION (NSP) PARTICIPANT/RECIPIENT IN CONSIDERATION FOR EXECUTION OF NSP LOAN AGREEMENT, PROMISSORY NOTE, DEED OF TRUST AND REGULATORY AGREEMENT; AND (3) AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN A CERTIFICATE OF ACCEPTANCE, REQUIRED TRANSFER DOCUMENTS, LOAN DOCUMENTS AND ALL RELATED DOCUMENTS TO COMPLETE AND CLOSE THE TRANSACTION

WHEREAS, on May 12, 2009, the City Council, by Resolution No. 2009-212, approved the Fiscal Year 2009-2010 Annual Action Plan (AAP) which included activities for the allocation of Neighborhood Stabilization Program (NSP) funds, and

WHEREAS, of the $8.1 million in NSP funding, $2 million was allocated for the purchase and rehabilitation of foreclosed homes within specific focus areas, and

WHEREAS, under the City’s program, qualified non-profit and for-profit organizations are able to request funding for eligible property acquisition and rehabilitation, and

WHEREAS, the requests are reviewed by a sub-committee of the Citizens Housing & Community Development Committee (CH&CDC) based on previously approved criteria. Once approved, funding is allocated for the property purchase. Rehabilitation costs are included in the loan amount but are paid out on a reimbursement basis, and

WHEREAS, Borges Construction, a qualified for-profit participant, submitted a property acquisition request for a foreclosed home located at 1712 Saint Charlotte Lane,
Modesto, for funding and was approved by the CH&CDC sub-committee; however, in processing the loan, the City was advised that JP Morgan and Chase Bank will only sell their discounted properties to governmental agencies and/or non-profits, and

WHEREAS, to comply with this requirement, it will be necessary to open a double escrow account and a reconveyance of title will be made. The title of reconveyance will be made to Borges Construction as an eligible and approved NSP participant, and

WHEREAS, approval of the proposed action will help the City meet its goal of spending the NSP funds before the September 2010 deadline,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Purchase and Sale Agreement and a Certificate of Acceptance between JP Morgan and Chase Bank and the City of Modesto for real property located at 1712 Saint Charlotte Lane, Modesto, for $98,782, approving the transfer of title of the property to Borges Construction.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the Purchase and Sale Agreement and any related documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of November 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE FUTURE PURCHASE AND SALE AGREEMENTS, NSP FUNDED TRANSACTIONS APPROVED BY A SUBCOMMITTEE OF THE CITIZEN’S HOUSING & COMMUNITY DEVELOPMENT COMMITTEE (CH&CDC) BASED ON PREVIOUSLY APPROVED CRITERIA AND GUIDELINES

WHEREAS, on May 12, 2009, the City Council, by Resolution No. 2009-212, approved the Fiscal Year 2009-2010 Annual Action Plan (AAP) which included activities for the allocation of NSP funds, and

WHEREAS, of the $8.1 million in NSP funding, $2 million was allocated for the purchase and rehabilitation of foreclosed homes within specific focus areas, and

WHEREAS, under the City’s program, qualified non-profit and for-profit organizations are able to request funding for eligible property acquisition and rehabilitation, and

WHEREAS, the requests are reviewed by a sub-committee of the Citizens Housing & Community Development Committee (CH&CDC) based on previously approved criteria. Once approved, funding is allocated for the property purchase. Rehabilitation costs are included in the loan amount but are paid out on a reimbursement basis, and

WHEREAS, certain financial institutions require that discounted property sales only be made to qualified non-profit or governmental agencies which precludes the City’s for-profit participants from buying properties except through a double-escrow to which the City is a party, and
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby authorizes the City Manager, or his designee, to execute future
purchase/sale agreements, NSP loan documents and all related documents for NSP
funded transactions approved by a subcommittee of the Citizen’s Housing & Community
Development Committee based on previously approved criteria and guidelines.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 24th day of November, 2009, by Councilmember Lopez,
who moved its adoption, which motion being duly seconded by Councilmember Hawn,
was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-553

A RESOLUTION APPROVING AN AGREEMENT WITH BAY AREA ECONOMICS FOR PREPARATION OF THE CITY OF MODESTO’S FIVE YEAR CONSOLIDATED PLAN (2010-2015), ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING UPDATE, AND ANNUAL ACTION PLAN FOR FISCAL YEAR 2010-2011; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE AGREEMENT AND ANY RELATED DOCUMENTS

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) requires a comprehensive, long-term plan for the use of HUD funds, and

WHEREAS, the City of Modesto meets this requirement through the preparation of a Five-Year Consolidated Plan which analyzes the City’s housing and community development needs, with a priority focus on low- and moderate-income individuals, households and neighborhoods, and describes long-term strategies for meeting those needs, and

WHEREAS, in addition to the development of policies, the Consolidated Plan also addresses how the City utilizes funding from three different entitlement grants: the Community Development Block Grant (CDBG), the HOME Investment Partnership Grant (HOME) and the Emergency Shelter Grant (ESG), and

WHEREAS, HUD is also committed to eliminating racial and ethnic segregation, illegal physical and other barriers to persons with disabilities and other discriminatory practices in housing, through the implementation of fair housing actions, and

WHEREAS, the City’s current Consolidated Plan and Analysis of Impediments to Fair Housing were adopted in 2005 and are due for update prior to June 30, 2010, and

WHEREAS, a Request for Proposals was prepared and Bay Area Economics (BAE) was selected to prepare the City’s Five-Year Consolidated Plan, Analysis of
Impediments to Fair Housing Choice, and the Annual Action Plan for Fiscal Year 2010-2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Bay Area Economics for preparation of the City’s Five-Year Consolidated Plan (2010-2015), Analysis of Impediments to Fair Housing Choice, and Annual Action Plan for Fiscal Year 2010-2011.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of November, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-554

A RESOLUTION APPROVING AN AGREEMENT WITH BROWN AND CALDWELL FOR DESIGN SERVICE FOR THE WELL REMEDIATION AT WELL 226 PROJECT IN AN AMOUNT NOT TO EXCEED $95,000 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $9,500 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $104,500, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Water Well #226, located at the northwest corner of Conant and Brenner Avenues, was drilled in 1954, and

WHEREAS, Water Well #226 has been placed off-line due to exceeding the maximum contaminant level for arsenic, and

WHEREAS, in addition, this well is approaching the state maximum contaminant level for nitrates, and

WHEREAS, water pressures and fire flows have decreased to near minimum levels while the well is off-line, and

WHEREAS, blending and filtration of the water is too expensive at the present time, and

WHEREAS, a new, deeper well is proposed to be drilled on the existing site, and

WHEREAS, Brown and Caldwell has a state certified hydrogeologist and an experienced well driller on staff to write the project specifications ensuring the well is drilled to implement the advanced sampling techniques, design the underground well casing that will isolate the contaminant layer(s), and oversee the low-bidding water well drilling contractors (future contract) method and materials, and

WHEREAS, on April 7, 2009, by Resolution 2009-149, the City Council approved a short-list of hydrogeologists to be used on a rotating, as-needed basis,
consisting of the following firms: Brown & Caldwell, URS, and West Yost Associates, Inc., and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, three Request For Proposals (RFP) were sent to the consultants on the short-list, and

WHEREAS, three proposals were received, and subsequently reviewed by the Selection Committee which consisted of Public Works Engineering and Water Operations staff, and

WHEREAS, the Selection Committee determined that Brown and Caldwell is the most qualified to prepare the design of the Well Remediation at Well 226, and

WHEREAS, therefore, City staff recommends approving an agreement with Brown and Caldwell for the project, and

WHEREAS, City staff recommends approving an Agreement with Brown and Caldwell as the City does not have the staffing level or subject matter expertise to provide design services for the Well Remediation at Well 226 project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Brown and Caldwell for design services for the Well Remediation at Well 226 project in an amount not to exceed $95,000 for the identified scope of services, plus $9,500 for additional services (if needed), for a maximum total amount of $104,500.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-555

A RESOLUTION APPROVING AN AMENDMENT TO THE DEPARTMENT OF HOUSING & URBAN DEVELOPMENT ANNUAL ACTION PLAN FOR FISCAL YEAR 2009-2010, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE RELATED DOCUMENTS

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

WHEREAS, the City Council, on May 12, 2009, by Resolution No. 2009-212, approved the Fiscal Year 2009-2010 HUD Annual Action Plan, and

WHEREAS, staff has proposed an amendment to the Annual Action Plan as set forth in Exhibit “1”, attached hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of a proposed amendment to the Annual Action Plan, and to provide a 30-day comment period, which began October 24, 2009, and ended on November 24, 2009, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed amendment to the HUD Annual Action Plan at its June 18, 2008, meeting, and the Committee recommended that the City Council approve the amendment to the HUD Annual Action Plan as proposed by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on November 24, 2009, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the proposed amendment to the Fiscal Year 2009-2010 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves an Amendment to the Fiscal Year 2009-2010 HUD Annual Action Plan, a copy which is attached hereto as Exhibit "1", and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of November, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ________________________

SEAL

APPROVED AS TO FORM:

By: ____________________________

SUSANA ALCALA WOOD, City Attorney
### FY 2009-2010 CDBG
#### Annual Action Plan Amendment

**CDBG Funding**

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<tr>
<th>Intitlement (decreased by $141 from amount submitted)</th>
<th>FY 09/10</th>
<th>Total Amendment</th>
<th>Grand Total</th>
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**CDBG Funding Total**

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<th>FY 09/10</th>
<th>Total Amendment</th>
<th>Grand Total</th>
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**CDBG Budget**

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<tr>
<th>Housing Development, Preservation &amp; Home Ownership</th>
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<th>Total Amendment</th>
<th>Grand Total</th>
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<td>Down Payment Assistance Program (DPAP)</td>
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<td>240,000</td>
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<tr>
<td>Emergency Home Repair Program (EHRP) / Rehabilitation Accessibility Program (RAP) - single-unit</td>
<td>165,000</td>
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<td>Emergency Home Repair Program (EHRP) / Rehabilitation Accessibility Program (RAP) - multi-unit</td>
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<td>Minor Home Repair Grant Program (MHRGP)</td>
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<td>Bailey</td>
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<td>Rehabilitation Property Improvement Programs - single-unit</td>
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<td>Rehabilitation Property Improvement Programs - multi-unit</td>
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<td>Lead-Based Paint Services</td>
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<td>Housing Demolition</td>
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<td>Temporary Relocation</td>
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<td>Neighborhood Revitalization Strategy - Service Credits</td>
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<td>Neighborhood Revitalization Strategy</td>
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<td>Housing Rehabilitation Administration Total</td>
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<td>- Loan Application &amp; Portfolio Processing</td>
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<tr>
<td>- Rehabilitation Technical Assistance Inspections &amp; Services</td>
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<td>- Environmental Review Services</td>
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<td>- Housing Rehabilitation Administration</td>
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<tr>
<td>- Indirect Administration</td>
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**Public Facility & Improvement**

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<td>226,555</td>
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| ADA Accessibility Features - Park sites | 0 | 300,000 | 300,000 |
| ADA Curb Cuts                        | 0 | 250,000 | 250,000 |
| Public Facilities & Improvement      | 26,555 | 100,000 | 126,555 |
| Accessibility Features - Dryden Pathway | | | |
| Accessibility Features - Senior Center Restroom | 60,000 | -30,000 | 30,000 |
| Public Facilities & Improvement - Accessibility Features - KKMC Pathway | 40,000 | 0 | 40,000 |
| Blight/Health & Safety - Water tower Removal | 100,000 | 35,000 | 135,000 |

**Neighborhood Preservation & Stabilization**

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**Code Enforcement - Building Codes**

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**Interfund**

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**Code Enforcement - Neighborhoods**

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**Neighborhood Cleanup**

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Exhibit 1
City Council 11/04/09
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<th>Program Administration &amp; Planning</th>
<th>Total Amendment</th>
<th>Grand Total</th>
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<td>General Administration</td>
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<td>General Administration</td>
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<tr>
<td>Indirect Administration</td>
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<tr>
<td>Project Sentinel (Fair Housing)</td>
<td>40,000</td>
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<td>Section 108 Loan Repayments (Principal/Interest)</td>
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<td>Public Services</td>
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<td>American Red Cross (ARC)</td>
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<td>&quot;Emergency Shelter Services&quot;</td>
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<td>Center for Human Services (CHS)</td>
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<tr>
<td>&quot;Hutton House - Runaway &amp; Homeless Youth&quot;</td>
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<td>Center for Human Services (CHS)</td>
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<td>&quot;Pathways - Transitional Living Program&quot;</td>
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<td>Children's Crisis Center (CCC)</td>
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<td>&quot;Marsh's N.E.A.T. Program&quot;</td>
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<td>Children's Crisis Center (CCC)</td>
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<td>&quot;Cricket's N.E.A.T. Program&quot;</td>
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<td>Children's Crisis Center (CCC)</td>
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<td>Sawyer's N.E.A.T. Program&quot;</td>
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<td>Disability Resource Agency for Independent Living (DRAIL)</td>
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<td>&quot;Senior Meals Program&quot;</td>
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<td>&quot;ABC's of Childcare&quot;</td>
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<td>Project Sentinel (PS)</td>
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<td>&quot;Tenant-Landlord&quot;</td>
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<td>SCAP &quot;Nutritional Supplement and Education&quot;</td>
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<td>Second Harvest Food Bank (SHFB)</td>
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<td>&quot;Food Assistance Program&quot;</td>
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<td>The Salvation Army (TSA)</td>
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<td>&quot;Berberian Winter Shelter&quot;</td>
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<td>United Samaritians Foundation</td>
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<td>&quot;Lunch Program&quot;</td>
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<tr>
<td>Recreation Programs for Low Income Persons</td>
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<tr>
<td>Recreation Programs for Low Income Persons</td>
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<tr>
<td>CDBG Grand Total</td>
<td>2646026</td>
<td>2761828</td>
</tr>
</tbody>
</table>

"Exhibit 1"

City Council 11/04/09
MODESTO CITY COUNCIL  
RESOLUTION NO. 2009-556

RESOLUTION AMENDING THE FY 2009-2010 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO REFLECT APPROVED CHANGES AND CARRYOVER FUNDS TO THE HUD ANNUAL ACTION PLAN; AND AUTHORIZING THE FINANCE DIRECTOR, OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

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

WHEREAS, on May 12, 2009, by Resolution No. 2009-212, the Modesto City Council approved the Fiscal Year 2009-2010 HUD Annual Action Plan, and

WHEREAS, staff has proposed an amendment to the Annual Action Plan as set forth in Exhibit “1”, attached hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of the proposed amendment to the Annual Action Plan, and to provide a 30-day comment period, which began October 24, 2009, and ended on November 24, 2009, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed amendment to the HUD Annual Action Plan at its June 18, 2009, meeting, and the Committee recommended that the Council approve the amendment to the HUD Annual Action Plan as proposed by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on November 24, 2009, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the proposed amendment to the Fiscal Year 2009-2010 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves an Amendment to the Fiscal Year 2009-2010 HUD Annual
Action Plan, a copy which is attached hereto as Exhibit “1”, and incorporated herein by
reference.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 24th day of November, 2009, by Councilmember
Keating, who moved its adoption, which motion being duly seconded by Councilmember
Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
# FY 2009-2010 CDBG Annual Action Plan Amendment

## CDBG Funding

<table>
<thead>
<tr>
<th></th>
<th>FY 09/10</th>
<th>Total Amendment</th>
<th>Grand Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>entitlement (decreased by $141 from amount submitted)</td>
<td>2,396,167</td>
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<td>2,396,167</td>
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<td>evolving Loan Fund (RLF)</td>
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## CDBG Budget

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<th>Housing Development, Preservation &amp; Home Ownership</th>
<th>FY 09/10</th>
<th>Total Amendment</th>
<th>Grand Total</th>
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<tr>
<td>Housing Development Preservation &amp; Home Ownership</td>
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<td>Emergency Home Repair Program (EHRP) / Rehabilitation Accessibility Program (RAP) - single-unit</td>
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<td>Emergency Home Repair Program (EHRP) / Rehabilitation Accessibility Program (RAP) - multi-unit</td>
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<td>Bailey</td>
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<td>Rehabilitation Property Improvement Programs</td>
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<td>Rehabilitation Property Improvement Programs</td>
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<td>Lead-Based Paint Services</td>
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<td>Housing Demolition</td>
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<td>Temporary Relocation</td>
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<td>Neighborhood Revitalization Strategy - Service Credits</td>
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<td>Neighborhood Revitalization Strategy</td>
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<td>Housing Rehabilitation Administration Total</td>
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<td>- Loan Application &amp; Portfolio Processing</td>
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<td>- Rehabilitation Technical Assistance Inspections &amp; Services</td>
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<td>- Environmental Review Services</td>
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<td>- Housing Rehabilitation Admin</td>
<td>63,879</td>
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<td>- Indirect Admin</td>
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<td><strong>Public Facility &amp; Improvement</strong></td>
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<td>ADA Accessibility Features - Park sites</td>
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<td>ADA Curb Cuts</td>
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<td>Accessibility Features - Dryden Pathway</td>
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<td>Public Facilities &amp; Improvement - Accessibility Features - KKMC Pathway</td>
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<td>Blight/Health &amp; Safety - Water tower Removal</td>
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<td>Neighborhood Preservation &amp; Stabilization</td>
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<td>Code Enforcement - Building Codes</td>
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<td>Interfund</td>
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<td>Code Enforcement - Neighborhoods</td>
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<td>Neighborhood Cleanup</td>
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"Exhibit 1"

City Council 11/04/09
**FY 2009-2010 CDBG**

**Annual Action Plan Amendment**

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<tr>
<th>CDBG Budget</th>
<th>FY 09/10</th>
<th>Total Amendment</th>
<th>Grand Total</th>
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</thead>
<tbody>
<tr>
<td>Program Administration &amp; Planning</td>
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<td>General Administration</td>
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<td>Indirect Administration</td>
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<td>Project Sentinel (Fair Housing)</td>
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<td>Section 108 Loan Repayments (Principal/Interest)</td>
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<td>Public Services</td>
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<td>American Red Cross (ARC)</td>
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<tr>
<td>&quot;Emergency Shelter Services&quot;</td>
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<tr>
<td>Center for Human Services (CHS)</td>
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<td>&quot;Hutton House - Runaway &amp; Homeless Youth&quot;</td>
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<td>Center for Human Services (CHS)</td>
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<td>&quot;Pathways - Transitional Living Program&quot;</td>
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<td>&quot;Marsha's N.E.A.T. Program&quot;</td>
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<td>&quot;Cricket's N.E.A.T. Program&quot;</td>
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<tr>
<td>Children's Crisis Center (CCC)</td>
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<td>Sawyer's N.E.A.T. Program</td>
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<td>&quot;Laura's House Families in Recovery&quot;</td>
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<td>Disability Resource Agency for Independent Living (DRAIL)</td>
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<td>&quot;Assistive Technology Program&quot;</td>
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<td>Howard Training Center (HTC)</td>
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<td>&quot;Senior Meals Program&quot;</td>
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<td>Parent Resource Center (PRC)</td>
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<td>&quot;ABC's of Childcare&quot;</td>
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<td>SCAP &quot;Nutritional Supplement and Education&quot;</td>
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<td>Second Harvest Food Bank (SHFB)</td>
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<td>&quot;Food Assistance Program&quot;</td>
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<td>The Salvation Army (TSA)</td>
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<td>&quot;Berberian Winter Shelter&quot;</td>
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<td>United Samaritians Foundation</td>
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<tr>
<td>&quot;Lunch Program&quot;</td>
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<tr>
<td>Recreation Programs for Low Income Persons</td>
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<tr>
<td>Recreation Programs for Low Income Persons</td>
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<tr>
<td>CDBG Grand Total</td>
<td>2646026</td>
<td>-2,761,828</td>
<td>-3,011,687</td>
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</tbody>
</table>

*"Exhibit 1"*

City Council 11/04/09
A RESOLUTION APPROVING THE EXPENDITURE OF $100,000 FROM THE CITY OF MODESTO’S FISCAL YEAR 2009/2010 ALLOCATION FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND FOR POLICE OVERTIME; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, in 1996, the State Legislature passed, and the Governor signed, Assembly Bill 3229, the Supplemental Law Enforcement Services Act, and

WHEREAS, the purpose of the law is to provide additional resources for local law enforcement, and

WHEREAS, Supplemental Law Enforcement Services Fund (SLESF) monies cannot be transferred to, or intermingled with, the monies in any other fund except that monies may be transferred from the SLESF to the City’s General Fund to the extent necessary to facilitate the appropriation and expenditure of funds, and

WHEREAS, SLESF monies cannot be used to supplant existing budgeted funds, and

WHEREAS, a SLESF has been established in each county, and

WHEREAS, the funding for each county and city is based upon proportionate population, and

WHEREAS, the allocation to the City of Modesto for Fiscal Year (FY) 2009/2010 is $100,000, to be made in four installments of $25,000 each, and

WHEREAS, the City Council is required to hold a public hearing to consider and approve the SLESF Expenditure Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that after holding a public hearing, it hereby accepts the Chief of Police’s Expenditure
Plan for the FY 2009/2010 State Supplemental Law Enforcement Services Fund allocation of $100,000 for police overtime.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-558

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 MULTI-YEAR BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES FOR THE CITY OF MODESTO’S ALLOCATION FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND; AND AUTHORIZING THE FINANCE DIRECTOR, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, in 1996, the State Legislature passed, and the Governor signed, Assembly Bill 3229, the Supplemental Law Enforcement Services Act, and

WHEREAS, the purpose of the law is to provide additional resources for local law enforcement, and

WHEREAS, Supplemental Law Enforcement Services Fund (SLESF) monies cannot be transferred to, or intermingled with, monies in any other fund except that monies may be transferred from the SLESF to the City’s General Fund to the extent necessary to facilitate the appropriation and expenditure of funds, and

WHEREAS, SLESF monies cannot be used to supplant existing budgeted funds, and

WHEREAS, a SLESF has been established in each county, and

WHEREAS, the funding for each county and city is based upon proportionate population, and

WHEREAS, the allocation to the City of Modesto for Fiscal Year (FY) 2009/2010 is $100,000, to be made in four installments of $25,000 each, and

WHEREAS, the City Council is required to hold a public hearing to consider and approve the SLESF Expenditure Plan, and
WHEREAS, the adopted FY 2009/2010 Police SLESF allocation in the amount of $100,000 will be applied to account number 0400-190-2925-3188,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby amends the FY 2009/2010 multi-year budget to appropriate revenues and expenditures in the amount of $100,000 0400-190-2925-3188 for police overtime, as listed in Exhibit A.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  
STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA WOOD, City Attorney
Exhibit A

The SLESF allocation for 2009/2010 will be applied to:

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<th>Revenue</th>
<th>Increase/(Decrease)</th>
<th>Description</th>
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<td>To: MY-0400-190-2103-3188</td>
<td>$100,000</td>
<td>2009/10 SLESF</td>
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<td>Grant</td>
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<table>
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<tr>
<th>Expense</th>
<th>Increase/(Decrease)</th>
<th>Description</th>
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<td>To: MY-0400-190-2103-0130</td>
<td>$100,000</td>
<td>Overtime</td>
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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-559

RESOLUTION REAPPOINTING DAVID TANNER TO THE CITY OF MODESTO 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, David Tanner was originally appointed to the Golf Courses
Advisory Committee on September 6, 2006, and

WHEREAS, David Tanner has expressed interest in continuing to serve as a
member of the Golf Courses Advisory Committee.

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

SECTION 1. David Tanner is hereby reappointed to the Golf Courses Advisory
Committee with a term expiration of January 1, 2014.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this
resolution to the appointed member 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 1st day of December, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION REAPPOINTING JOEL MENSONIDES TO THE CITY OF MODESTO 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, JOEL MENSONIDES was originally appointed to the Golf Courses Advisory Committee on August 5, 2009, and

WHEREAS, Joel Mensonides has expressed interest in continuing to serve as a member of the Golf Courses Advisory Committee.

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

SECTION 1. Joel Mensonides is hereby reappointed to the Golf Courses Advisory Committee with a term expiration of January 1, 2014.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member 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 1st day of December, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION REAPPOINTING ALEXANDRA HOFFMAN TO THE CITY OF 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, Alexandra Hoffman was originally appointed to the Housing Rehabilitation Loan Committee on November 7, 2007, and

WHEREAS, Alexandra Hoffman has expressed interest in continuing to serve as a member of the Housing Rehabilitation Loan Committee.

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

SECTION 1. Alexandra Hoffman is hereby reappointed to the Housing Rehabilitation Loan Committee with a term expiration of January 1, 2014.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed 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 1st day of December, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for Fiscal Fiscal Year 2009-2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2009-2010 budget have been adjusted as shown in Exhibit A, which is incorporated by reference herein.

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 1st day of December, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

PARKS, RECREATION AND NEIGHBORHOODS
This budget adjustment recognizes new revenue from Stanislaus County and allocates these funds to the Leisure Bucks program for qualified youth, seniors and disabled citizens within Stanislaus County, but outside the Modesto City limits.

REVENUES

TO:
Miscellaneous Revenue
0100-350-3801-8155

APPROPRIATIONS

FROM:
General Fund Reserves
0100-800-8000-8003

TO:
Youth SC
0100-350-3801-1061

POLICE DEPARTMENT
The air conditioner compressor in the Police Department administrative building has failed. Equipment failure is not funded in the Building Services Internal Service Fund, and the Police Department has no available funding to replace the failed compressor. This adjustment transfers funds from General Fund Reserves to the Police Department for the cost of the air conditioning compressor unit.

APPROPRIATIONS

FROM:
General Fund Reserves
0100-800-8000-8003

TO:
Services, Professional & Other
0100-190-1921-0235

PUBLIC WORKS
This budget adjustment recognizes unbudgeted revenue in Capital Improvement Project B812, Primary Outfall Rehabilitation, 6180-430-B812-8122, for the reimbursement of escrow fees from the sale of the property located at 2501 W. Hackett Rd, and appropriates these revenues for Land/ROW Acquisition, 6180-430-B812-6030.
**REVENUES**

 TO:  
 Refund  
 6180-430-B812-8122  

**APPROPRIATIONS**

 TO:  
 Land/ROW Acquisition  
 6180-430-B812-6030  

**VARIOUS FUNDS**

In anticipation of General Fund furlough and retirement savings, assumptions were made while preparing the Fiscal Year 2009-2010 Operating Budget. Further information has become available since the adoption of the budget on June 23, 2009. The original estimated savings of $4.5 million is $3.9 million, thus requiring a transfer of $560,441 from reserves to the affected organizations salary and benefit budget lines within the general fund. The following budget adjustments are necessary to true up the identified budgets.

**APPROPRIATIONS**

<table>
<thead>
<tr>
<th>FROM:</th>
<th>General Fund Reserves</th>
</tr>
</thead>
<tbody>
<tr>
<td>0100-800-8000-8003</td>
<td>(560,441)</td>
</tr>
</tbody>
</table>

<table>
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<tr>
<th>TO:</th>
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<tbody>
<tr>
<td>0100 020 0201 0184</td>
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<tr>
<td>0100 020 0201 0194</td>
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<td>0100 030 0301 0184</td>
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</tbody>
</table>
As a result of the reorganizations that were a part of the Fiscal Year 2009-2010 adopted Operating Budget, service credit revenues and expenses need to be adjusted. The reorganizations include the movement of the Parking Fund from Parks, Recreation and Neighborhoods to Public Works, Community Forestry moved from Public Works to Parks, Recreation and Neighborhoods, Neighborhood Preservation Unit (NPU) moved from Parks, Recreation and Neighborhoods to Community and Economic Development and Building Services moved to a new division within the Parks, Recreation and Neighborhoods Department. The following budget adjustments are necessary to redirect service credit revenue and expense as a result of the above mentioned reorganizations.

TO:
0100-350-4712-0255 (9,205)
0360-355-4403-0255 794
0370-355-4444-0255 21,102
0700-480-4724-0255 (21,940)
6000-480-3581-0255 2,609
6280-480-5312-0255 (26)
6280-480-5315-0255 2,443
6700-340-3412-0255 (111)
7800-350-3512-0255 (21,360)
0100-300-3001-4909 (15,121)
0100-350-3522-4909 16,294
0100-350-4712-4909 (121)
0700-480-4724-4909 (28,601)
6000-480-3581-4909 (21,360)
6100-480-5009-4909 (3,884)
7200-480-5801-4909 (49,890)
7800-350-3512-4909 48,660
7800-350-3513-4909 28,329

This budget adjustment is being made to true up actual savings verses what was listed on the 5-7-10% reductions which were adopted on June 23, 2009. A reduction amount of $20,000 was listed, but was reduced due to an additional expense. This adjustment returns the additional expense that was taken.

**APPROPRIATIONS**

FROM:
General Fund Reserves
0100-800-8000-8003 ( 302)

TO:
Services, Professional & Other
0100-140-1430-0235 302
This budget adjustment is being made to correct a typographical error made on the 5-7-10% reduction sheets adopted on June 23, 2009. The intended Salary and Benefit reduction total was $49,680, not the $46,980 which was entered.

**APPROPRIATIONS**

**FROM:**
Buckle-Up Stanislaus - Salary Reduction  
0100-190-1953-0184  (1,350)
Buckle-Up Stanislaus - Benefit Reduction  
0100-190-1953-0194  (1,350)

**TO:**
General Fund Reserves  
0100-800-8000-8003  2,700
MODESTO CITY COUNCIL  
RESOLUTION NO. 2009-563  

RESOLVING ADJUSTMENTS TO THE MAXIMUM RATE SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SOLID WASTE COLLECTION SERVICES, TO BECOME EFFECTIVE JANUARY 1, 2010, INCLUDING FUEL COST; AND RESCINDING RESOLUTION NO. 2009-445

WHEREAS, with the adoption of Ordinance No. 3068-C.S. in November of 1997, the City no longer sets rates for the collection of garbage in Modesto, and instead performs a comprehensive review of cost information submitted by the contract garbage haulers, and

WHEREAS, the City sets a maximum rate that the haulers may charge for the various types of services provided under the contracts based on cost data provided by the lowest cost hauler, and

WHEREAS, Section f(2) of the City’s Service Agreements with its solid waste collectors requires that when the City makes adjustments to the collection services provided under the Agreements, any additional costs should be covered by adjustments to the maximum rates, and

WHEREAS, in addition, maximum rates for solid waste collection services are reviewed annually as requested by the City’s garbage collection companies, and

WHEREAS, the City conducted an analysis using the audited financial statements provided by the garbage haulers, supplemental data provided by the garbage haulers, and fuel price information and forecast prices developed by the United States Department of Energy, and

RESCINDED

Rescinded on March 23, 2010

This Resolution was rescinded by Modesto City Council Resolution By Reso No. 2010-110
WHEREAS, new maximum rates were calculated, and a recommendation for a new maximum rate schedule was developed, which included a recommendation that quarterly adjustments to the fuel component of the maximum rates be made, and

WHEREAS, a report dated December 1, 2009, from the Parks, Recreation and Neighborhoods Department, a copy of which is on file in the office of the City Clerk, sets forth said recommendations, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the existing schedules of rates and charges for garbage service in the City of Modesto should be revised as recommended, and that quarterly adjustments to the fuel component of the maximum rates should be made, and

WHEREAS, staff has adjusted the fuel component of the maximum rates and has incorporated the fuel component adjustment into the schedule of Maximum Charges for Garbage Service attached hereto, marked Exhibit “1” and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the adjustments to the Maximum Charges for Garbage Service as attached hereto, marked Exhibit “1” and incorporated herein by reference. Said Maximum Charges for Garbage Service includes twice-a-year bulky item pickup for residential customers and all other residential services as stipulated in the Service Agreements and shall become effective January 1, 2010, and shall remain in effect until revised by Council.
BE IT FURTHER RESOLVED that any person who has prepaid garbage service charges for residential garbage service shall be entitled to receive garbage service for the balance of said prepaid period at the prepaid rates.

BE IT FURTHER RESOLVED that Resolution No. 2009-445 is hereby rescinded, effective January 1, 2010.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of December, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’ Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MAXIMUM CHARGES FOR GARBAGE SERVICE

STANDARD CONTAINERS
Maximum Monthly Rates
(Once a Week Pickup Service)

Standard container service shall include the following:
- One, 96-gallon container for garbage
- One, 96-gallon container for green waste, food, paper, and other organics
- Countertop container for kitchen scraps
- Drop-off of old TV and computer tubes
- Two bulky item collections per year by appointment
- Pruned Refuse Collection

Standard container service customers may opt for smaller containers; however, maximum rates apply. Containers must be placed in a location set forth in Section 5-5.111 of the Municipal Code.

1. **Standard container service** –
   a. The maximum rate for new sign ups for service or changes in service that occur after July 1, 1996, shall be $22.56 per month regardless of size of container. A fuel component of $0.90 per month is included in the maximum rate for the quarter beginning July 1, 2009 and ending September 30, 2009. The fuel component may be adjusted quarterly.
   b. The maximum rate for each additional garbage container shall be $16.81 per month, and $9.50 per month for each additional green waste container.

2. **60-gallon container service (grandfathered customers)** –
   a. The maximum rate for customers with 60-gallon containers who subscribed to service at an address prior to July 1, 1996 and who have not changed their service address shall be $18.94 per month. A fuel component of $0.90 per month is included in the maximum rate for the quarter beginning July 1, 2009 and ending September 30, 2009. The fuel component may be adjusted quarterly.
   b. The maximum rate for each additional 60-gallon garbage container shall be $16.38 per month.

3. **Fuel Component adjustments** - The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October 1/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy, Energy Information Agency.
**DETACHABLE CONTAINERS**

**Maximum Monthly Rates**

<table>
<thead>
<tr>
<th>Container Size</th>
<th>Regular Container Maximum Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>NUMBER OF COLLECTIONS PER WEEK</td>
</tr>
<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td>1 CY</td>
<td>$41.45</td>
</tr>
<tr>
<td>2 CY</td>
<td>$72.41</td>
</tr>
<tr>
<td>3 CY</td>
<td>$103.34</td>
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<tr>
<td>4 CY</td>
<td>$134.28</td>
</tr>
<tr>
<td>5 CY</td>
<td>$165.23</td>
</tr>
<tr>
<td>6 CY</td>
<td>$196.18</td>
</tr>
</tbody>
</table>

**FORK Participants Container Maximum Rates**

<table>
<thead>
<tr>
<th>Container Size</th>
<th>NUMBER OF COLLECTIONS PER WEEK</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td>2 CY</td>
<td>$54.31</td>
</tr>
<tr>
<td>3 CY</td>
<td>$77.51</td>
</tr>
<tr>
<td>4 CY</td>
<td>$100.71</td>
</tr>
<tr>
<td>5 CY</td>
<td>$123.92</td>
</tr>
<tr>
<td>6 CY</td>
<td>$147.14</td>
</tr>
<tr>
<td>90-gallon</td>
<td>$22.56</td>
</tr>
</tbody>
</table>

* A detachable container rental rate of $10.00 per month is included in the above schedules.

1. **Weekly rental/Detachable Containers** - Shall not exceed the rate for 1 pickup per week for each size container.

2. **Fuel Component** - A fuel component of $0.78 per cubic yard per month ($0.18 per cubic yard) for a 1 cubic yard container collected once a week is included in the maximum rate for the quarter beginning July 1, 2009 and ending September 30, 2009. The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy.

**DROP BOX CONTAINERS**

1. **Pick up charge** - $210.95 per pick up
2. **Rental** - $0.85 per day up to 7 day maximum rental
   - $3.00 per day for boxes kept 7 or more days without servicing
   - $10.00 per day for boxes kept 21 or more days without servicing
3. **Disposal charge** - Actual charge to be paid by customer. Garbage company will provide up to 40 CY Drop Box containers for above stated charges subject only to load limit of transfer vehicle. An AB 939 Green Waste Diversion Fee of $8.40 per ton will be added to the disposal charges.
COMPACTORS

Front Loader Type:

<table>
<thead>
<tr>
<th>Container Size</th>
<th>NUMBER OF COLLECTIONS PER WEEK</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 CY</td>
<td>$310.02</td>
<td>$588.54</td>
<td>$867.03</td>
<td>$1,145.49</td>
<td>$1,424.04</td>
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<tr>
<td>4 CY</td>
<td>$402.84</td>
<td>$774.21</td>
<td>$1,145.49</td>
<td>$1,516.86</td>
<td>$1,888.17</td>
<td>$2,259.51</td>
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</tr>
<tr>
<td>6 CY</td>
<td>$588.54</td>
<td>$1,145.49</td>
<td>$1,702.50</td>
<td>$2,259.51</td>
<td>$2,816.52</td>
<td>$3,373.53</td>
<td></td>
</tr>
</tbody>
</table>

Roll-Off Type:
1. 6 CY to 40 CY $210.95 per pickup
2. Medical waste compactors $265.00 per pickup
3. Washing compactor $30.00
4. Disposal Charge: Actual charge to be paid by customer
5. AB 939 Green Waste Diversion Fee $8.40 per ton

EXTRA PICKUPS
1. Standard containers or equivalent $3.50 plus $1.38/container
2. Detachable containers $12.00 plus $2.75/cubic yard

SPECIAL SERVICE CONDITIONS

In situations where none of the above maximum rates reasonably apply, the cost of service is to be negotiated between the garbage company and the customer.

DETACHABLE CONTAINER ONLY
REPLACEMENT AND CLEANING SERVICE

<table>
<thead>
<tr>
<th>Container Size</th>
<th>1 CY</th>
<th>1½ CY</th>
<th>2 CY</th>
<th>3 CY</th>
<th>4 CY</th>
<th>5 CY</th>
<th>6 CY</th>
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<tbody>
<tr>
<td></td>
<td>$10.12</td>
<td>$11.00</td>
<td>$12.10</td>
<td>$15.40</td>
<td>$20.24</td>
<td>$25.08</td>
<td>$29.92</td>
</tr>
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</table>

NOTATIONS
1. The above maximum rates include a $0.25 per month residential recycling fee; a $0.05 per cubic yard ($0.22/cubic yard/month) commercial recycling fee; and a $5.00 per pull ($0.25 per ton) industrial recycling fee, a $0.15 per month residential litter abatement fee, and a $0.05 per cubic yard ($0.22/cubic yard/month) commercial litter abatement fee.
2. The above residential maximum rates include a $1.33 per month per household AB 939 Green Waste Diversion Fee.
3. The above commercial bin and front-loader compactor maximum rates include an AB 939 Green Waste Diversion Fee of $2.36 per yard/month.
4. Pursuant to Section 11-6.16(c)(2) of the Modesto Municipal Code, the garbage company may require a deposit equivalent to two (2) months service charge from customers prior to beginning service. The deposit will be credited back to the customer after 18 months under specified conditions.
RESOLUTION APPROVING AN AGREEMENT WITH HOLMES INTERNATIONAL FOR DEVELOPMENT AND IMPLEMENTATION OF A FATS, OILS, AND GREASE CONTROL AND PREVENTION PROGRAM IN AN AMOUNT NOT TO EXCEED $50,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on May 2, 2006, the State Water Resources Control Board (Board), adopted Statewide General Waste Discharge Requirements (WDR) for wastewater collection systems, Order No. 2006-0003-DWQ, and

WHEREAS, Sections of the WDR state the following:

• Section D.3 requires the City to take all feasible steps to eliminate Sanitary Sewer Overflows (SSOs)

• Section D.13.iv requires the City to identify SSO reduction strategies

• Section D.13.vii requires the City to prepare and implement a Fats, Oils, and Grease (FOG) source control program when FOG is found to be a problem, to reduce the amount of substances discharged to the sanitary sewer system of the WDR states that “The City shall take all feasible steps to eliminate Sanitary Sewer Overflows (SSOs),” and

WHEREAS, the Board developed this requirement because FOG is a major cause of sanitary sewer blockages and SSOs, and the reduction of FOG is an effective means for preventing SSOs, and

WHEREAS, FOG is a problem for all municipal sanitary sewer systems, including the City of Modesto’s sanitary sewer system, and

WHEREAS, the WDR stipulates that the plan shall include the following:

1) Implementation plan and schedule for a public education outreach program,
2) Plan and schedule for the disposal of FOG generated within the sanitary sewer system service area,
3) Legal authority to prohibit discharges to the system and identify measures to prevent SSOs and blockages caused by FOG,
4) Requirements to install grease removal devices, design standards for the removal devices, maintenance requirements, BMP requirements, record keeping, and reporting requirements,
5) Authority to inspect grease-producing facilities, enforcement authorities and whether the City has sufficient staff to inspect and enforce the FOG ordinance,
6) Identification of sanitary sewer system sections subject to FOG blockages, and establishment of a cleaning maintenance schedule for each section, and
7) Development and implementation of source control measures for all sources of FOG discharged to the sanitary sewer system for each section identified, and

WHEREAS, in accordance with Administrative Director 3.1, on August 20, 2009, staff issued an RFP for the development and implementation of a FOG Control and Prevention Program, and

WHEREAS, five proposals were received and evaluated by staff, and after reviewing the proposals, Holmes International was selected as the most qualified and cost effective consultant for the project, and

WHEREAS, funds are available in the amount of $25,000 in Account 6210-480-5217-0235 and $25,000 in Account 6210-480-B130-6080,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Holmes International for development and implementation of a Fats, Oils, and Grease Control and Prevention Program in an amount not to exceed $50,000.

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 1st day of December, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: [Signature]
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-565

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH STANTEC CONSULTING INC. FOR DESIGN SERVICES OF SCENIC LIFT STATION PROJECT IN THE AMOUNT OF $29,857 FOR ADDITIONAL SERVICES NOT INCLUDED IN THE ORIGINAL AGREEMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, the Scenic Lift Station, located at 2812 Scenic Bend, pumps wastewater under Dry Creek to the gravity pipeline near Lincoln Avenue, and

WHEREAS, the lift station was last upgraded in 1986, and

WHEREAS, the tributary area of the station includes Village I and the proposed Tivoli development, and

WHEREAS, as these developments build-out, the increased sewage flow will make the need for this lift station more critical, while it becomes less reliable with age, and

WHEREAS, on September 3, 2003, by Resolution No. 2003-521, the City Council approved an Agreement for Consultant Services with Stantec Consulting Inc. (Stantec) to design the rehabilitation of the Scenic Lift Station in the amount of $64,170, and

WHEREAS, on July 24, 2007, by Resolution No. 2007-456, the City Council approved the Preliminary Design Report dated June 2007 as complete, and

WHEREAS, on February 26, 2008, by Resolution No. 2008-137, the City Council approved an agreement with Stantec to prepare a final project design for the Scenic Lift Station project in the amount of $143,387, and
WHEREAS, the agreement with Stantec needs to be amended to provide additional mechanical, electrical, and civil engineering, architectural design, and construction support for the completion of the plans and specifications, and

WHEREAS, City staff recommends approving an amendment to agreement with Stantec as the City does not have the staffing level or subject matter expertise to provide final design services for the Scenic Lift Station project, and current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, City staff recommends approving an amendment to agreement with Stantec Consulting Inc. to complete the final design for the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to agreement with Stantec Consulting Inc. for design services of Scenic Lift Station project in the amount of $29,857 for additional services not included in the original agreement.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment to agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of December, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

(Seal)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-566

A RESOLUTION ACCEPTING THE WORK BY PRESTON PIPELINES, INC. FOR THE “ROSE/CELESTE LIFT STATION PROJECT” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $1,648,345.56

WHEREAS, a report has been filed by the Director of Public Works that the Rose/Celeste Lift Station Project has been completed by Preston Pipelines, Inc. in accordance with the contract agreement dated March 14, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “Rose/Celeste Lift Station Project” is hereby accepted as complete from said contractor Preston Pipelines, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory periods, and that payment of amounts totaling $1,648,345.56 is authorized as provided in the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of December, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:       Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES:       Councilmembers: None

ABSENT:     Councilmembers: Mayor Ridenour

ATTEST:     STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, INC. (WEST YOST) FOR DESIGN SERVICES FOR WELL REMEDIATION AT WELL 21 PROJECT IN AN AMOUNT NOT TO EXCEED $146,387 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $14,639 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $161,026, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Water Well 21 is located within McHenry Village near the Briggsmore/McHenry intersection, and

WHEREAS, Well 21 was drilled in 1959 and produces 1,500 gallons per minute, and

WHEREAS, Perchloroethylene (PCE) contamination from dry cleaning solvents was discovered within the well and it was placed offline in April 2005 due to exceeding the State of California maximum contaminant level (MCL) for uranium, and

WHEREAS, a PCE filtration system was installed along with a block wall to screen the pipe and tanks, and

WHEREAS, upon completion, the filtration system successfully removed PCE from the well; however, during the time the well was offline, uranium concentrations in the well increased and now exceed the MCL, and

WHEREAS, a study is needed to identify the underground water layer that is contributing the contamination, and

WHEREAS, on April 7, 2009, by Resolution No. 2009-149, the City Council approved a short-list of hydrogeologists to be used on a rotating, as-needed basis, consisting of the following firms: Brown & Caldwell, URS, and West Yost Associates, Inc., and
WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, three Request For Proposals (RFP) were sent to the consultants on the short-list, and

WHEREAS, three proposals were received, and subsequently reviewed by the Selection Committee which consisted of Public Works Engineering and Water Operations staff, and

WHEREAS, the Selection Committee determined that West Yost Associates, Inc. is the most qualified to prepare the design of the Well Remediation at Well 21, and

WHEREAS, City staff recommends approving an Agreement with West Yost Associates, Inc. as the City does not have the staffing level or subject matter expertise to provide design services for the Well Remediation at Well 21 project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with West Yost Associates, Inc. for design services for the Well Remediation at Well 21 project in an amount not to exceed $146,387 for the identified scope of services, plus $14,639 for additional services (if needed), for a maximum total amount of $161,026.

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 1st day of December, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-568

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(590) (PAUL B. DRAPER)

WHEREAS, a verified application for an amendment to Section 32-3-9 of the Zoning Map was filed by Paul B. Draper on December 19, 2008, to reclassify from General Commercial Zone, C-2, to Planned Development Zone, P-D(590), a seven-story mixed use development that includes commercial space, professional office space, residential units and parking, property located on the southwest side of 10th Street between G and H Streets described as follows:

C-2 to P-D(590)

All that portion of Block 54, City of Modesto, County of Stanislaus, State of California located in the Northeast one-quarter of Section 32, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, described as follows:

All of Lots 1 through 16 in Block 54, City of Modesto, according to the Map thereof, filed in Volume 15 of Maps, Stanislaus County Records;

Also including the Southeasterly one-half of H Street, the Southwesterly one-half of 10th Street, the Northwesterly one-half of G Street, and the Northeasterly one-half of the alley in Block 54; all being immediately adjacent to the above described property.

WHEREAS, at a public hearing held on October 19, 2009, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2009-27, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed rezone is consistent with the City’s Redevelopment Master Plan, which encourages higher density, vertical mixed-use development in the downtown area; and
2. The recommended conditions of approval will further insure that the proposed project will be compatible with surrounding development.

WHEREAS, said matter was set for a public hearing of the City Council to be held on December 1, 2009, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Paul B. Draper for a Planned Development Zone should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2009-27 and quoted above, and

WHEREAS, the Council has introduced Ordinance No.3521-C.S. on the 1st day of December, 2009, reclassifying the above-described property from General Commercial Zone, C-2, to Planned Development Zone, P-D(590),

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

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development, P-D(590), is hereby approved subject to the following conditions:

GENERAL CONDITIONS

1. All development shall conform to the Planned Development drawings titled "Mixed-Use Building, 10th & H Streets" as amended in red, stamped approved by the City Council.

2. All development shall comply with the mitigation measures as identified in the attached Exhibit A: Mitigation Monitoring and Reporting Program for Environmental Assessment/ C&ED No. 2009-03.

3. Prior to sale of a condominium unit, a subdivision map shall be recorded.
4. Prior to the issuance of a building permit, annexation to the appropriate schools community facilities district will be required to the extent allowed by State law. If this requirement cannot be enforced due to the status of State law, then prior to issuance of a building permit, the developer shall provide written verification from the affected school districts that a determination has been made as to whether the developer will pay the school fees in effect or annex to the appropriate community facilities district.

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

6. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this parcel map shall be based on the rates in effect at time of issuance of the building permit.

7. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris, and all exposed wall surfaces shall be kept free of graffiti.

PLANNING

8. Prior to the issuance of a building permit, final design of the southwest elevation of the building (alley-facing) as to architectural treatments which will provide decorative lighting along the alley and improved articulation on that side of the building, shall be to the satisfaction of the Community & Economic Development (C&ED) Director.

9. All building drainage gutters, down spouts, vents, etc. located on exterior walls, shall be completely concealed from public view or shall be architecturally compatible (decorative) with the exterior building design and color to the satisfaction of the Director of Community and Economic Development.

10. Prior to issuance of a building permit, the applicant shall submit a cross-section drawing for approval, showing how all rooftop equipment is to be screened from view (including dimensions, materials, colors, etc.) to the satisfaction of the Director of Community and Economic Development or designee. Roof-mounted equipment, including but not limited to air conditioners, fans, vents, antennas, and dishes should be set back from the
roof edge and placed behind a parapet wall or in an enclosure, so they are not visible to motorists or pedestrians. Screening for equipment should be integrated into the building and roof design by the use of compatible materials, colors and forms. Wood lattice and fence-like coverings are not allowed for screening.

11. Prior to Certificate of Occupancy of any structure, all ground mounted utility structures such as transformers and HVAC equipment shall be located out of view from a public street to the satisfaction of the Director of Community and Economic Development or designee. Equipment shall be placed underground or adequately screened.

12. Prior to issuance of a building permit, trash enclosures shall be designed using building materials, colors and finishes which are consistent or compatible with those used in the major buildings of the development, as approved by the Community and Economic Development Director or designee.

13. Outdoor storage shall only be permitted within those areas shown on the approved site plan. Areas designated for off-street parking, loading, circulation and maneuvering shall not be used for the outdoor storage of materials or equipment.

14. Prior to occupancy, exterior building walls shall be provided with a graffiti-resistant coating or paint, to a height of 12-feet along the alley-facing (southwest) building elevation.

15. Prior to issuance of a sign permit for any signage, the applicant shall submit a sign program for review and approval, to the satisfaction of the Director of Community and Economic Development or designee.

16. Prior to issuance of a building permit, the applicant shall submit a parking plan which demonstrates sufficient parking for the retail and offices uses is available to meet the parking requirements of the Modesto Municipal Code.

FIRE PREVENTION

17. Prior to occupancy, the project will need to meet the construction requirements of a high rise building as stated in the 2007 California Building Code Chapter 4 and the appropriate chapters of the 2007 California Fire Code related to alarm notification, fire department access and fire protection to the satisfaction of the Fire Chief of designee.

18. Prior to the issuance of a building permit, all on-site and off-site improvements shall be approved by the Fire Prevention Bureau as they relate to Fire Department access, fire flow requirements, and the location and type of fire appliances, including hydrants and other connections.
PARKS

19. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhoods Department Director or designee. The landscaping and irrigation system shall be installed and maintained in accordance with the approved plan.

LAND DEVELOPMENT ENGINEERING

20. Prior to the issuance of a building permit, improvement plans for any required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.

21. Prior to the issuance of a building permit, the development shall include improvements to the surrounding streetscape, including but not limited to sidewalks, street trees, and lighting, in accordance with the Downtown Improvement District and City Standards to the satisfaction of the City Engineer or designee.

22. All public improvements shall be designed and constructed according to City of Modesto Standard Specifications or as required for the public health and safety by the City Engineer or designee.

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

24. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the respective utility company, Modesto Irrigation District, and/or City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be dedicated as required.

25. Prior to certificate of occupancy, all damaged or deteriorated curb, gutter, sidewalk, and other existing public improvements at the project site shall be repaired or replaced as required for the public health and safety as determined by the City Engineer or designee in accordance with City of Modesto Standard Specifications.

26. Prior to the issuance of a building permit, developer should provide for separate plumbing to the sanitary sewer to accommodate any grease generating uses (such as restaurants), medical procedure waste, or similar establishments identified as having wastewater pretreatment requirements to provide suitable monitoring and capture of potential wastewater discharges that impact the system.
27. Prior to issuance of a building permit, the applicant shall demonstrate sufficient water pressure to meet fire and building codes for a 7-story building, to the satisfaction of the City Engineer or designee. A booster pump may be required to meet these standards.

28. Prior to issuance of a grading or building permit, the developer shall provide storm drainage calculations, plans and/or reports as required per City of Modesto Standard Specifications. The onsite and offsite storm drain system shall be designed and improved per City of Modesto Standard Specifications and approved by City Engineer or designee.

STORMWATER QUALITY

29. Development Standards listed in the City’s current NPDES Permit shall be applied to project at the time of Improvement Plan submittal.

SOLID WASTE

30. Prior to issuance of a building permit, the developer shall provide a comprehensive solid waste plan that demonstrates how solid waste will be disposal will function for tenants, the projected amount of garbage generated, storage capacity, size and location of trash bins, recycling bins and enclosures. The plan shall be reviewed and approved by Parks, Recreation and Neighborhoods Director or designee.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(590):

The entire construction program shall be accomplished in one phase, construction to begin on or before January 1, 2014 and completion to be not later than January 1, 2016.

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

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.
SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(590), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of December, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: ________________________

SEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: __________________________

SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION:

By: __________________________

Patrick Kelly
Community & Economic Development Department
Planning Division
Notice of Intent to Adopt a Mitigated Negative Declaration and Draft Initial Study for the 10th and H Project

Prepared for:

City of Modesto Redevelopment Agency

Prepared by:

Adrienne Graham and Associates

May 2009
Notice of Intent to Adopt a Mitigated Declaration and Draft Initial
for the
10th and H Project

Prepared for:
City of Modesto Redevelopment Agency

Prepared by:

Adrienne Graham and Associates

May 2009
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ENVIRONMENTAL CHECKLIST

I. BACKGROUND

1. Project Title: Modesto 10th & H Streets Project

2. Lead Agency Name and Address: City of Modesto Redevelopment Agency

3. Contact Person and Phone Number: Linda Boston
   Business Development Manager
   1010 Tenth Street
   Suite 3300
   Modesto, CA 95354

4. Project Location: Bounded by 9th and 10th Streets and G and H Streets

5. Project Sponsor’s Name and Address: Centerra Capitol
   1020 Tenth Street, Suite 300
   Modesto, CA 95354

6. General Plan Designation: Redevelopment Planning District
7. Zoning: Commercial (C-2)

8. Description of Project: See below

9. Surrounding Land Uses and Setting (Briefly describe the project’s surroundings):
   • North: Commercial
   • South: Commercial and Industrial
   • East: Mixed land uses comprised of industrial, commercial, and vacant lots
   • West: Highway 99, with mixed land uses to the west of the highway

10. Other Public Agencies Whose Approval is Required (e.g., permits, financing approval, or participation agreement):
Introduction

This Initial Study Checklist and Notice of Intent to Adopt a Mitigated Negative Declaration provides the California Environmental Quality Act (CEQA) environmental analysis for the Modesto 10th and H Streets Mixed Use Project (Proposed Project). The Modesto Redevelopment Agency is the Lead Agency for the Proposed Project. The Proposed Project is an urban infill project located within the City of Modesto. The Proposed Project includes construction and use of residential, office, and retail uses. The Proposed Project is described in more detail below.

Background

The project site is located in the City of Modesto’s Redevelopment Plan Project Area. In November 1991, the Modesto Redevelopment Agency (RDA) adopted the Redevelopment Plan for an Amended Project Area of approximately 2,000 acres. As part of the project area adoption, an Environmental Impact Report was also approved. The Redevelopment Plan is a very general document providing the agency with maximum flexibility for public and private development. The Redevelopment Plan is a fundamental document governing a redevelopment agency’s activities. It serves as the agency’s charter. Adopted by the City of Modesto Redevelopment Agency, the Plan establishes long-term planning goals as well as implementation policies and procedures for the redevelopment of a designated project area. It also serves as the financial plan for the Agency.

In 1994, a RDA Master Plan was adopted to implement the goals and objectives of the Redevelopment Plan. The purpose of a Master Plan is to provide a policy guideline document to identify specific types of land uses that the Agency should encourage and promote within the entire Project Area.

On July 6, 2004, the RDA set out to revise both the RDA EIR and Master Plan to reflect the current conditions and to ensure legal compliance. A Draft EIR was released in June 2007 for the Modesto Redevelopment Master Plan (RMP). The RMP was adopted and its EIR was certified in October 2007.

The 2007 RMP retained the land use and designation for the project site. While the Proposed Project is consistent with the RMP, the RMP EIR did not specifically address development of the project site. Therefore, this Initial Study is not tiered from the RMP EIR, and provides the project-specific and cumulative analyses for the Proposed Project.

Project Location

The project site is located in the City of Modesto, Stanislaus County (See Figure 1). The project site, is situated in downtown Modesto, bound by H Street to the north, 10th Street to east, G Street to the south, and an alley to the west (see Figure 2).
Figure 1
Regional Location
Figure 2
Project Location

SOURCE: City of Modesto, 2008.
**Existing Conditions**

The project site is located within a developed urban area within the City of Modesto Redevelopment Master Plan area. The project site is composed of a surface parking lot and several buildings. The project site is surrounded by two- to three-lane city streets (G, H, 9th and 10th Streets) with stop lights and crosswalks at the intersections. An alleyway through the block provides access to the west side of the site and to a small parking area behind the existing restaurant and shops on 9th Street.

Railroad tracks are located approximately one block away from the project site, southwest across 9th Street behind the buildings fronting 9th Street.

The project site is surrounded by existing urban uses in downtown Modesto. There are similar business uses to the north, east, and west of the project site along G, H, and 10th Streets. Business uses are located predominately in one- and two-story buildings and include existing restaurants, attorneys' offices, Napa Auto and Truck Parts, a chiropractor, a bank, and bail bonds business. The seven-story City Tower building is located on the corner of H Street and 10th Street. This building includes three stories of parking with offices above the parking levels, and contains the offices of Merrill Lynch and other small offices. The building across the alley to the southwest (the Turner Building), which fronts H Street, is a renovated hardware store dating back to 1906. At present, a CPA firm, attorney offices and StanCOG (Stanislaus Council of Governments) occupy the building.

Existing uses to the southwest of the site across 9th Street include one-story buildings, including a Smart and Final store and the Crosswalk Community Church. The rest of the City block southwest of 9th Street contains the JS West Feed Store. This site includes the feed store and associated buildings, including a silo. The area at the opposite corner of 9th Street and G Street consists of an empty lot that is for sale and listed as “Office/Retail” space. At present, it is the temporary location of a truck driving school.

The closest residential neighborhood is located approximately one-fifth mile northwest of the project site, across 12th Street. The Modesto Police Department is located one block from the project site at 600 10th Street, and a Modesto Fire Department Station is located approximately two blocks from the project site at 600 11th Street.

The project site is designated commercial (C-2) in the City’s zoning code. The parcels adjoining the project site are zoned commercial (C-2) to the north and northeast, commercial industrial zone (C-M) to the southeast, and light industrial (M-1) to the southwest. The project site and surrounding area are designated Redevelopment Planning District (RPD) in the General Plan.

**Project Description**

The Proposed Project is a seven-story building with residential, retail, office uses, parking and storage (see Figure 3 and Table 1). The project would construct up to 66 one- and two-bedroom residential units on the third through seventh levels, including two-story townhomes on the sixth and seventh floors. The ground floor would include 30,000 square feet of retail uses and parking for 20 cars. The second level would include 19,000 square feet of office uses and parking for 47 cars (see Modesto 10th & H Streets Project Initial Study/MND 5
Figure 3
Ground Floor Plan

TABLE 1
PROJECT LAND USES

<table>
<thead>
<tr>
<th></th>
<th>Number/Gross Square Feet (sf)</th>
<th>Levels</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling Units</td>
<td>66 units</td>
<td>3 through 7</td>
</tr>
<tr>
<td>Retail</td>
<td>30,000 sf</td>
<td>1</td>
</tr>
<tr>
<td>Office</td>
<td>19,000 sf</td>
<td>2</td>
</tr>
<tr>
<td>Parking Spaces</td>
<td>346 spaces</td>
<td>1 through 6</td>
</tr>
</tbody>
</table>

Figure 4). Parking for 346 cars would be provided on the basement level and levels 1 through 6. The basement would also include 16,000 square feet of storage space.

The height of the project building to the top of the parapet would be from 91 to 94 feet. The southern elevation of the building would be stepped back, and the portion adjacent to the alley would be two stories tall with a residential courtyard on the roof, adjacent to the seven-story residential portion of the building. The portion of the project adjacent to H Street would consist of a seven-story mixed-use building. The facade of the northeast elevation (adjacent to 10th Street) would vary with ground-level retail storefronts.

Public Services and Utility Providers

The project is proposed to be served by the following public service and utility providers:

- Water, Wastewater, Storm Drainage: City of Modesto
- Police and Fire Protection: City of Modesto
- Solid Waste Disposal: Bertolotti
- Electricity: Modesto Irrigation District (MID)
- Gas: Pacific Gas and Electric (PG&E)
- Telephone: AT&T

Project Phasing and Schedule

Construction of the project site would occur during an approximate 12-month timeframe. Construction could begin in 2010, depending on market conditions.

Lead Agency

The City of Modesto Redevelopment Agency is the lead agency, pursuant to the State Guidelines for the California Environmental Quality Act (CEQA Guidelines Section 15050). In conformance with Sections 15050 and 15367 of the CEQA Guidelines, the Agency has been designated the “lead
Figure 4
Second Level Plan


Not To Scale
agency”, which is defined as the “public agency which has the principal responsibility for carrying out or disapproving a project.”

**Approvals**

Prior to approving the Proposed Project, the City would have to approve this Initial Study/Mitigated Negative Declaration (MND) and adopt a Mitigation Monitoring Plan to reflect the measures required to mitigate significant impacts of the project (CEQA Guidelines, Section 15097).

Project approvals that would be required before construction of the Proposed Project consist of the following:

- Rezone to Planned Development (PD) zone,
- Disposition and Development Agreement between the RDA and the developer,
- Improvement plans (off-site and on-site),
- Demolition permit,
- Grading permit, and
- Building permit.

**Public and Agency Review**

This document will be circulated for public review and agency review from May 1, 2009, to June 1, 2009. Comments on this document should be submitted by 5:00 p.m. on June 1, 2009, to:

Linda Boston  
Business Development Manager  
1010 Tenth Street  
Suite 3300  
Modesto, CA 95354
ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” as indicated by the checklist on the following pages.

- Aesthetics
- Biological Resources
- Hazards & Hazardous Materials
- Mineral Resources
- Public Services
- Utilities/Service Systems
- Agriculture Resources
- Cultural Resources
- Hydrology/Water Quality
- Noise
- Recreation
- Mandatory Findings of Significance
- Air Quality
- Geology/Soils
- Land Use/Planning
- Population/Housing
- Transportation/Traffic
III. DETERMINATION (To be completed by the Lead Agency)

On the basis of this initial evaluation:

☐ I find that the Proposed Project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☐ I find that although the Proposed Project could have a potential significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the applicant. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the Proposed Project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the Proposed Project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the Proposed Project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR OR NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the Proposed Project, nothing further is required.

Signature: [Signature]
Printed Name: [Linda C. Boston]
Date: [April 28, 2009]
For: [Modesto Redevelopment]
IV. ENVIRONMENTAL CHECKLIST

Introduction

The following Checklist contains the environmental checklist form presented in Appendix G of the CEQA Guidelines. The checklist form is used to describe the impacts of the Proposed Project. A discussion follows each environmental issue identified in the checklist. Included in each discussion are project-specific mitigation measures recommended as appropriate as part of the Proposed Project.

For this checklist, the following designations are used:

Potentially Significant Impact: An impact that could be significant, and for which no mitigation has been identified. If any potentially significant impacts are identified, an EIR must be prepared.

Less than Significant With Mitigation Incorporated: An impact that requires mitigation to reduce the impact to a less-than significant level.

Less-Than-Significant Impact: Any impact that would not be considered significant under CEQA relative to existing standards.

No Impact: The project would not have any impact.
<table>
<thead>
<tr>
<th>Issues</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. AESTHETICS.</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Would the project:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Have a substantial adverse effect on a scenic vista?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>c. Substantially degrade the existing visual character or quality of the site and its surroundings?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

**Discussion**

a) **Have a substantial adverse effect on a scenic vista?**

b) **Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?**

The project site is located in a developed area in downtown Modesto. There are no scenic resources or vistas, or designated scenic resources, within or surrounding the project site. The project is not located near a scenic highway. Therefore, no impact would occur.

c) **Substantially degrade the existing visual character or quality of the site and its surroundings?**

The visual character of the project area is typical of downtown Modesto. The area contains primarily business and retail uses. Older retail and office buildings are located adjacent to newer office complexes, renovated restaurants, and the Gallo Center for the Arts. The Doubletree Hotel and Gallo Center for the Arts are the predominant visual features in the downtown Modesto area.

Office buildings in the downtown area range in height from one to eight stories or more. Residential development in the downtown area is varied, with a greater concentration of residential uses northeast of 12th Street. Single- and two-story, single-family homes and two-story townhomes are also located throughout the downtown area. The overall visual quality of the downtown Modesto area is of facades, setbacks, mass and height that changes from block to block and even within blocks. The street trees that line most blocks also contribute to the visual character of the downtown Modesto 10th & H Streets Project Initial Study/MND
area and tend to soften the mass and hard surfaces of streets and taller buildings.

Building footprints in the project vicinity range from small, one-parcel buildings to the multi-story City Tower building located on approximately half a block across from the project site.

Figure 5 includes the Viewpoint Map and shows the location and direction of the viewpoints.

**Views onto the Project Site**

The City block containing the project site also contains retail and office buildings, including a pawnshop, restaurant, and the Turner building. These uses would remain in their current locations. At present, these buildings are visible looking through the project site from some vantage points. From the northwest corner of 10th and H Streets, looking onto the project site, views include the existing surface parking lot and the back portion of the Turner building (see Figure 6, Viewpoint 1). From the approximate middle of the block on 10th Street, looking across the street, views towards the southwest onto the project site include the surface parking lot and the Taco Bell corporate offices and Merrill Lynch, and the City Tower office building across from the project site (See Figure 6, Viewpoint 2). Views directly across 10th Street looking southwest include the furniture store located on the project site, the existing pawnshop across the alley, and the silos located at the JS West Feed Store, south of 9th Street (see Figure 7, Viewpoint 3). Views onto the project site from the corner of 10th and G Streets include the police department administrative building, street trees and the Napa Auto Parts Store (see Figure 9, Viewpoint 8). Views onto the project site from 9th Street include the existing surface parking areas adjacent to the Turner building and the Pawn Shop building (see Figure 8, Viewpoint 5). Views onto the project site from the corner of 9th and H Streets include the Turner building and the surface parking lot (see Figure 8, Viewpoint 6).

**Views from the Project Site**

Views from the project site include existing business and retail uses that are typical of downtown Modesto. The most striking nearby visual feature is the multi-story office building located across from the project site at the corner of 10th and H Streets (see Figure 9, Viewpoint 7). In the background, the Doubletree Hotel is visible from the north side of 10th Street.

Views from the project site to the southeast across 10th and G Streets include existing one- and two-story office uses, and one-story retail uses, such as the Napa Auto Parts store (see Figure 9, Viewpoint 8 and Figure 10, Viewpoint 9).

Views from the project site to the south across 9th Street are dominated by the JS West Feed Store (see Figure 10, Viewpoint 10). The Feed Store includes the office building and several silos that are located adjacent to the railroad tracks. The Feed Store is bordered by an empty lot to the southeast across G Street and the Community Church building. Views from the project site to the west include the Community Church building and one-story retail stores, such as the Smart and Final store.
Figure 5
Viewpoint Map

Figure 6

Viewpoint 1: Looking Onto Project Site From the Intersection of 10th and H Streets

Viewpoint 2: Looking Onto Project Site And Adjacent City Tower Building from 10th Street
Figure 7
Viewpoint 3: Looking Onto Project Site and Adjacent JS West Feed Store (Background) from 10th Street
Viewpoint 4: Looking Onto Project Site from Intersection of 10th and G Streets

Figure 8

Viewpoint 5: View Onto Project Site towards 10th Street and Across Project Site from 9th Street (mid-block)

Viewpoint 6: View Onto Project Site from Corner of 9th and H Streets
Figure 10

Viewpoint 9: Looking from 9th and G Street Intersection Across G Street

Viewpoint 10: Looking from 9th and H Street Intersection Across 9th Street to JS West Feed Store
Proposed Project Effects

The Proposed Project would alter the visual character of the project site by constructing a seven-story building on a site currently occupied by a surface parking lot and one- and two-story buildings. The proposed building would contain basement parking, one floor of retail uses on the ground level, one floor of offices on the second floor, and five floors of residential uses on the 3rd through 7th floors. The southern elevation of the building would be stepped back, and the portion adjacent to 10th and G Streets would be two stories tall with a residential courtyard on the roof, adjacent to the seven-story residential portion of the building.

Views from H Street would change from an existing surface parking lot to a seven-story mixed-use building. The facade of the north elevation would vary with ground-level retail storefronts. Views from 10th Street would change from an existing surface lot and one-story buildings to a large, half-block-long seven-story mixed-use building. The height at the tallest point of the building would be approximately 94 feet to screen the heating and air conditioning units located on the roof of the residential portion of the building. The retail floor would be approximately 14 feet high. The second story would start at 18 feet and be 10 feet high. The five residential stories would each be nine feet high.

The project would generally block views through the project site.

The proposed building would be consistent with the size and scale of mixed-use buildings in the downtown Modesto area. It would be located adjacent to larger buildings, such as the Gallo Center for the Arts and the City Tower building across H Street. The Proposed Project would have ground floor and design elements (e.g., awnings, windows at street level) that would be pedestrian friendly, and would locate residential and retail uses in an area that has existing retail, commercial and residential uses. In addition, the project would maintain the existing ornamental trees around the project site. Because the Proposed Project lies within an urban, developed area and the project is consistent with adjacent and nearby buildings, this would be a less-than-significant impact.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Glare is caused by light reflections from pavement, vehicles and building materials, such as reflective glass and polished surfaces. During daylight hours the amount of glare depends upon the intensity and direction of sunlight. At night, artificial lighting can cause glare. The project site is within a developed area. Approximately one-half of the site is developed with businesses that include paved areas and night lighting. Some of these businesses, and the associated lighting, would be removed as part of the Proposed Project and replaced with new development; therefore, the increase in the amount of light resulting from the Proposed Project would be less than if the site were undeveloped at present. The Proposed Project would not include large reflective surfaces and would not create new sources of glare.

The existing parking lot and buildings on the project site are presently lighted, and street lighting exists along the sidewalks. The Proposed Project would include residential units that would be
lighted at varying times during evening hours. Such lighting would be similar to that of surrounding office and retail uses. Therefore, project lighting would not substantially increase the amount of lighting in the downtown or reduce visibility of the night sky. There is no residential development adjacent to the project site, so no residents would be disturbed by project lighting. For these reasons impacts related to glare and lighting would be considered less than significant.
2. **AGRICULTURE RESOURCES:**

   *In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

   a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program in the California Resources Agency, to non-agricultural use?*

   *Discussion*

   a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program in the California Resources Agency, to non-agricultural use?

   The Proposed Project is located in an urban, developed area. The site is partially developed and no farming operations currently exist on the site. The site is classified by the Farmland Mapping and Monitoring Program as Urban and Built-Up Land. Therefore the Proposed Project would not convert farmland and there would be **no impact.**

   b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

The project site is not zoned for agricultural purposes or restricted by a Williamson Act Contract. The project site is zoned General Commercial Zone (C-2). The Proposed Project would not conflict with an agricultural zoning designation or a Williamson Act Contract; therefore, no impact would occur.

c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

The project site is surrounded by developed, urban uses. The development of the Proposed Project would not cause the conversion of farmland to non-agricultural use. No impact would occur.
3. AIR QUALITY.

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations:

Would the project:

a. Conflict with or obstruct implementation of the applicable air quality plan?

b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

d. Expose sensitive receptors to substantial pollutant concentrations?

e. Create objectionable odors affecting a substantial number of people?

Discussion

a) Conflict with or obstruct implementation of the applicable air quality plan?
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?
d) Expose sensitive receptors to substantial pollutant concentrations?

Air pollutant emissions associated with the Proposed Project would result from construction activities, increased residential population, and increased traffic volumes. The net increase in emissions generated by these activities and other secondary sources have been estimated and compared to thresholds of significance recommended by the San Joaquin Valley Air Pollution Control District (SJVAPCD).
The SJVAPCD is the primary local agency responsible for air quality in the San Joaquin Valley. The SJVAPCD Guide for Assessing and Mitigating Air Quality Impacts (GAMAQI) recommends standards for use by lead agencies when making a determination of significance for a project. The SJVAPCD standards of significance are based on science and have been promulgated to help protect public health. The SJVAPCD guidance establishes standards for three types of impacts – short-term impacts from construction, long-term impacts from project operation, and cumulative impacts.

Criteria air pollutants are a group of pollutants for which federal or State regulatory agencies have adopted ambient air quality standards. Criteria air pollutants include ozone (O₃), carbon monoxide (CO), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), particulate matter (PM₁₀ and PM₂.₅), and lead. Table 2 lists the health effects associated with these pollutants. Most of the criteria pollutants are directly emitted. Ozone, however, is a secondary pollutant that is formed in the atmosphere by chemical reactions between oxides of nitrogen (NOₓ) and reactive organic gases (ROG).

According to the most recent emissions inventory data for Stanislaus County, mobile sources are the largest contributors of both ROG and NOₓ.

Construction Impacts

The entire project site comprises approximately one acre, composed of an existing surface parking lot and several buildings. Some of the existing buildings would be demolished as part of the project. The Proposed Project, if adopted, is expected to be constructed within approximately 12 months.

Clearing, grading, and other construction activities would all generate criteria pollutants. When construction would occur in areas where there are existing structures, emissions from demolition of these structures could be of concern. To analyze impacts from construction, emissions were calculated by estimating the equipment that would be used during the most intensive periods of clearing and grading of the project site, excavating, and constructing proposed structures and their associated support facilities. Project emissions were modeled using the URBEMIS 2007 software, version 9.2.4.

Particulate matter is the primary pollutant of concern during construction activities. This is especially important in light of the Air Basin’s nonattainment status for PM₁₀. Another pollutant of concern for construction activity is the NOₓ that is generated by heavy-duty construction equipment.

The SJVAPCD GAMAQI states that to reduce PM₁₀ levels during construction, projects must comply with SJVAPCD’s “Fugitive Dust” rules (SJVAPCD Regulation VIII), and implement other appropriate enhanced PM₁₀ mitigation measures in Table 6-3 of the GAMAQI. The GAMAQI also states that for very large projects, the District’s 10-ton/year long-term NOₓ and ROG thresholds could apply to the construction phase.

Preparation of the project site would include the demolition of existing buildings. Construction of the Proposed Project could result in the temporary generation of ROG, NOₓ, and PM₁₀ emissions from demolition of existing structures, site preparation, (e.g., excavation, grading, and clearing), off-

---

### TABLE 2

**HEALTH EFFECTS OF MAIN CRITERIA AIR POLLUTANTS**

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Adverse Effects</th>
</tr>
</thead>
</table>
| Ozone              | - Ozone can irritate lung airways and cause inflammation much like a sunburn. Other symptoms include wheezing, coughing, pain when taking a deep breath, and breathing difficulties during exercise or outdoor activities. People with respiratory problems are most vulnerable, but even healthy people that are active outdoors can be affected when ozone levels are high.  
- Permanent lung damage to those with repeated exposure to ozone pollution.  
- Even at very low levels, ground-level ozone triggers a variety of health problems including aggravated asthma, reduced lung capacity, and increased susceptibility to respiratory illnesses like pneumonia and bronchitis.  
- Ground-level ozone interferes with the ability of plants to produce and store food, which makes them more susceptible to disease, insects, other pollutants, and harsh weather.  
- Ozone damages the leaves of trees and other plants, negatively impacting the appearance of urban vegetation, national parks, and recreation areas.  
- Ozone reduces crop yields and forest growth, potentially impacting species diversity in ecosystems.                                                                                                                                                                                                                                             |
| Carbon Monoxide    | - The health threat from lower levels of CO is most serious for those who suffer from heart disease. For a person with heart disease, a single exposure to CO at low levels may cause chest pain and reduce that person's ability to exercise; repeated exposures may contribute to other cardiovascular effects.  
- Healthy people can be affected by high levels of CO as well. People who breathe high levels of CO can develop vision problems, reduced ability to work or learn, reduced manual dexterity, and difficulty performing complex tasks. At extremely high levels, CO is poisonous and can cause death.  
- CO contributes to the formation of smog ground-level ozone, which can trigger serious respiratory problems.                                                                                                                                                                                                                                                                                  |
| Particulate Matter | - Particle pollution, especially fine particles, contains microscopic solids or liquid droplets that are so small that they can get deep into the lungs and cause serious health problems. Numerous scientific studies have linked particle pollution exposure to a variety of problems, including:  
  - increased respiratory symptoms, such as irritation of the airways, coughing, or difficulty breathing;  
  - decreased lung function, aggravated asthma, development of chronic bronchitis;  
  - irregular heartbeat, nonfatal heart attacks; and  
  - premature death in people with heart or lung disease.  
- Particles can be carried over long distances by wind and then settle on ground or water. The effects of this settling include: making lakes and streams acidic; changing the nutrient balance in coastal waters and large river basins; depleting the nutrients in soil; damaging sensitive forests and farm crops; and affecting the diversity of ecosystems.                                                                                                                                                                                                 |
road equipment, material delivery, and worker commute trips, and other activities (asphalt paving and the application of architectural coatings). Existing buildings that are renovated, partially demolished, or removed are subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).

Construction of the Proposed Project would require the use of heavy-duty construction equipment. Operation of this equipment would generate emissions of particulate matter, nitrous oxides, sulfur oxides, carbon monoxide, and reactive organic gases.

Construction emissions were modeled for the 12-month construction period. Projected construction emissions for the years 2010 and 2011 are shown in Table 3. Based on the time of construction activity that would occur (demolition, grading, paving, construction, architectural coatings), the SJVAPCD thresholds of 10 tons/year of ROG and NOx would not be violated during project construction. PM10 emissions would be generated during site demolition and grading. As shown in Table 3, modeling indicates that NOx emissions during construction could reach a maximum of 1.59 tons per year for construction during the 2010 construction year, while ROG emissions could reach a maximum of 0.98 tons per year during the 2011 construction year.

Compliance with SJVAPCD Rule 9510 and Regulation VIII, as required by law would result in a reduction in NOx emissions and visible emissions from heavy-duty diesel equipment, and would reduce fugitive dust emissions. Rule 9510, the Indirect Source Review, would require the project applicant to submit an Air Impact Assessment to provide information that enables the District to quantify construction, area, and operational PM10 and NOx emissions. This Assessment would be due to the District no later than seeking final discretionary approval, and payment of any applicable off-site mitigation fees would be required prior to issuance of the first building permit.

As shown in Table 3, PM10 construction emissions would total 0.19 tpy for 2010 and 0.01 tpy for 2011. Because of the project’s size and estimated emissions, short-term construction-generated PM10 emissions would not result in or substantially contribute to emissions concentrations that exceed the CAAQS. In addition, the project would be required to comply with SJVAPCD Regulation VIII-Fugitive Dust Prohibitions, Rule 4601, and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). Regulation VIII measures include pre-watering construction sites, limiting the speed of vehicles, and covering bulk materials and haul trucks. Rule 4601 (Architectural Coatings) would limit volatile organic compounds from architectural coatings. This rule specifies architectural coatings storage, clean-up, and labeling requirements. Rule 4641 would restrict the use of cutback, slow-cure, and emulsified asphalt paving materials.

Because the construction ROG and NOx emissions would not exceed SJVAPCD thresholds, and emissions of PM10 would not contribute to emissions concentrations that exceed the CAAQS, the construction impact would be considered a less-than-significant impact.

Operational Emissions

Operational emissions refer to the emissions that are generated from daily activity once the project is
<table>
<thead>
<tr>
<th>POLLUTANT</th>
<th>ROG</th>
<th>NOx</th>
<th>CO</th>
<th>SO₂</th>
<th>PM₁₀</th>
<th>PM₂.₅</th>
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<td>0.02</td>
<td>--</td>
<td>0.00</td>
</tr>
<tr>
<td><strong>Total Grading Phase Emissions</strong></td>
<td>0.05</td>
<td>--</td>
<td>0.55</td>
<td>--</td>
<td>0.25</td>
<td>--</td>
<td>0.12</td>
</tr>
<tr>
<td><strong>CONSTRUCTION PHASE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building Construction Off-Road Diesel</td>
<td>0.11</td>
<td></td>
<td>0.84</td>
<td></td>
<td>0.09</td>
<td></td>
<td>0.44</td>
</tr>
<tr>
<td>Building Construction Worker and Vendor Trips</td>
<td>0.04</td>
<td></td>
<td>0.00</td>
<td></td>
<td>0.20</td>
<td></td>
<td>0.02</td>
</tr>
<tr>
<td>Architectural Coating Worker Trips</td>
<td>--</td>
<td></td>
<td>0.97</td>
<td></td>
<td>0.00</td>
<td></td>
<td>0.00</td>
</tr>
<tr>
<td>Coating Worker Trips</td>
<td>--</td>
<td></td>
<td>0.00</td>
<td></td>
<td>0.00</td>
<td></td>
<td>0.02</td>
</tr>
<tr>
<td><strong>Total Construction Phase Emissions</strong></td>
<td>0.15</td>
<td></td>
<td>0.96</td>
<td></td>
<td>1.04</td>
<td></td>
<td>0.11</td>
</tr>
<tr>
<td><strong>TOTAL (All Phases)</strong></td>
<td>0.20</td>
<td></td>
<td>0.98</td>
<td></td>
<td>1.59</td>
<td></td>
<td>0.11</td>
</tr>
<tr>
<td><strong>Exceeds SJVAPCD Threshold?</strong></td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes:
- 0.00 means that emissions are below 0.00 tons.
- URBEMIS modeling data can be found in Appendix A.
completely built out. Operational activity would include motor vehicle use, operation of residential water heaters, and the use of consumer products by people living in the new homes.

Ozone precursor emissions are of primary concern during the operational phase of a project. The SJVAPCD GAMAQI specifies thresholds of significance of 10 tons/year for both ROG and NOx.

Wood-burning fireplaces and wood stoves can potentially contribute large amounts of PM10 and ROG. However, wood-burning fireplaces and wood stoves are limited in the SJVAB through the provisions of SJVAPCD Rule 4901 – WOOD BURNING FIREPLACES AND WOOD BURNING HEATERS. These limitations on wood-burning stoves and fireplaces are accounted for in assumptions made for the URBEMIS 2007 model.

As the Proposed Project is constructed and occupied, activities associated with the varying uses would generate ozone precursors and other criteria pollutants. The largest source of these emissions would be the vehicle trips generated by people living and working in the project area. Smaller sources of precursors would be created by fuel-burning equipment such as that used for the heating and cooling of the buildings, and by various consumer products used by building occupants.

The operational emissions of the Proposed Project were modeled using URBEMIS 2007, version 9.2.4. Regional area and mobile source emissions were based on proposed land use types and sizes. The results of this modeling are shown in Table 4. As shown in the table, ROG and NOx emissions would not exceed the SJVAPCD annual threshold of 10 tons per year. ROG emissions would be 3.89 tons per year, and NOx emissions would be 6.32 tons per year. The Proposed Project would include stationary sources of pollutants that would be required to obtain permits to operate under SJVAPCD Rule 2201-New and Modified Stationary Sources. These sources could include, but not be limited to, diesel-engine or gas turbine generators for emergency power generation, central heating boilers, and kitchen equipment for restaurants. The permit process would ensure that these sources would be equipped with the required emission controls and that, individually, these sources would not cause a significant environmental impact. The Proposed Project would also be subject to SJVAPCD Rule 4102 (Nuisance), which prohibits the discharge from any source of such quantities of air contaminants or other materials which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public. Therefore, this would be considered a less-than-significant impact.

CO Emissions

The SJVUAPCD has established preliminary screening criteria to determine if project-generated long-term operational local mobile-source emissions of CO would result in, or substantially contribute to, emissions concentrations that exceed the 1-hour ambient air quality standard of 20 ppm or the 8-hour standard of 9 ppm, respectively. SJVAPCD's preliminary screening criteria include the following:


### TABLE 4

**PROPOSED PROJECT ESTIMATED YEARLY OPERATIONAL EMISSIONS (tons per year)**

<table>
<thead>
<tr>
<th>Emissions Source</th>
<th>ROG</th>
<th>NOx</th>
<th>CO</th>
<th>SO₂</th>
<th>PM₁₀</th>
<th>PM₂·₅</th>
<th>CO₂</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural Gas</td>
<td>0.01</td>
<td>0.15</td>
<td>0.09</td>
<td>0.00</td>
<td>0.00</td>
<td>192.80</td>
<td></td>
</tr>
<tr>
<td>Hearth</td>
<td>0.02</td>
<td>0.00</td>
<td>0.15</td>
<td>0.00</td>
<td>0.02</td>
<td>4.31</td>
<td></td>
</tr>
<tr>
<td>Landscape Maintenance</td>
<td>0.07</td>
<td>0.01</td>
<td>0.87</td>
<td>0.00</td>
<td>0.00</td>
<td>1.48</td>
<td></td>
</tr>
<tr>
<td>Consumer Products</td>
<td>0.43</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Architectural Coatings</td>
<td>0.10</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Motor Vehicles</td>
<td>3.26</td>
<td>6.16</td>
<td>37.47</td>
<td>0.02</td>
<td>2.56</td>
<td>0.62</td>
<td>2,996.88</td>
</tr>
<tr>
<td>Total Emissions (Unmitigated)</td>
<td>3.89</td>
<td>6.32</td>
<td>38.58</td>
<td>0.02</td>
<td>2.58</td>
<td>0.64</td>
<td>3,195.47</td>
</tr>
<tr>
<td>Exceeds SJVAPCD Threshold?</td>
<td>No</td>
<td>No</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**
- 0.00 means that emissions are below 0.00 tons.
- URBEMIS modeling data can be found in Appendix A.

**Source:** URBEMIS 2007, Version 9.2.4.

- A traffic study for the project indicates that the Level of Service (LOS) on one or more streets or at one or more intersections in the project vicinity would be reduced to LOS E or F; or
- A traffic study for the project indicates that implementation would substantially worsen an already existing LOS F on one or more streets or at more or more intersections in the project vicinity.

According to the traffic analysis prepared for the Proposed Project, the Proposed Project would not cause any intersections to deteriorate from acceptable LOS (D or better) to unacceptable (LOS E or F) under existing plus project and cumulative plus project (2025) conditions in either the AM or PM peak hour (see Item 15 below). Nor would the Proposed Project contribute substantial traffic to intersections that predicted to operate at LOS E or F without the project. Thus, based on the screening criteria above, project-generated long-term operational local mobile-source emissions of CO would not result in or substantially contribute to emissions concentrations that exceed the 1-hour ambient air quality standard of 20 ppm or the 8-hour standard of 9 ppm, respectively. As a result, this impact would be less than significant.

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

As discussed above, construction and operation of the Proposed Project would not emit emissions ozone precursors at levels that would exceed the SJVAPCD's thresholds. While these emissions would be temporary during the construction period, they would nevertheless be a part of overall ozone precursor emissions in the region. The San Joaquin Valley Air Basin is currently designated as nonattainment for State and federal ozone standards. During high ozone periods, such as the summer months the Proposed Project's construction emissions would add to the total amount of ozone precursors available for ozone production.

Modesto 10th & H Streets Project

Initial Study/MND
Environmental Checklist

On any given day in Stanislaus County and the greater San Joaquin region, ozone precursors are generated by a large number of different sources. These sources include fuel combustion, waste disposal, architectural coatings, solvent evaporation, industrial processes, and natural sources. Ozone precursors from construction of the Proposed Project would combine with these other sources in the region to create a cumulative effect. As stated above, the construction emissions of ROG and NO\textsubscript{x} associated with the Proposed Project would not exceed SJVAPCD thresholds of significance for construction. Operation of the Proposed Project would not exceed SJVAPCD thresholds of significance for ozone precursors. In addition, compliance with requirements of SJVAPCD Rule 9510 would result in reductions of NO\textsubscript{x} and PM\textsubscript{10} emissions. The thresholds of significance have been set at a level that will help ensure that construction emissions do not hinder the region’s ability to meet attainment goals for ozone. Furthermore, the Proposed Project contains elements such as high density and a mix of retail and residential uses near the downtown core that should reduce reliance on vehicles, which would further reduce emissions.

Because Section 4.3 of Rule 4901 could allow up to two wood burning stoves in the development, the following mitigation measure is recommended to further reduce project emissions.

**Mitigation Measure 1**

*Wood stoves shall be prohibited within the Proposed Project.*

Because the thresholds would not be exceeded, construction impacts would be temporary, and the project would comply with the Indirect Source Review rule and Mitigation Measure 1, the Proposed Project’s contribution to this cumulative impact would not be considerable. Consequently, the Proposed Project would have a *less-than-significant cumulative impact.*

**Climate Change**

Climate change due to the increased production of greenhouse gasses (GHG) has become a State, national and global concern. Various gases in the Earth’s atmosphere, classified as atmospheric greenhouse gases (GHGs), play a critical role in determining the Earth’s surface temperature.

The Greenhouse Effect can be intensified by increases in GHGs. Among the prominent GHGs contributing to the Greenhouse Effect are carbon dioxide (CO\textsubscript{2}), methane (CH\textsubscript{4}), ozone (O\textsubscript{3}), water vapor, nitrous oxide (N\textsubscript{2}O), and chlorofluorocarbons (CFCs). Activities that emit these gasses, such as fossil fuel combustion, which emits CO\textsubscript{2} and certain landfilling and agricultural practices, which emit methane, are thought to create a trend toward unnatural warming of the Earth’s climate, known as global warming or global climate change.\(^3\) Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the industrial/manufacturing, utility, transportation, residential, and agricultural sectors.\(^4\) In California, the transportation sector is the largest emitter of GHGs, followed by electricity generation.\(^5\)

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California Global Warming Solutions Act

The California Global Warming Solutions Act of 2006 requires the California Air Resources Board to develop regulations and market mechanisms that will ultimately reduce California's greenhouse gas (GHG) emissions to 1990 levels by 2020, an estimated 25 percent reduction. Mandatory caps will begin in 2012 for significant GHG sources—such as utilities, industries, and large businesses—and ratchet down to meet the 2020 goals.

CARB was required to establish the statewide GHG emissions cap by January 1st, 2008; adopt mandatory reporting rules for significant GHG sources and adopt a plan for achieving GHG emissions reductions by January 1, 2009; and adopt its final GHG emission regulations by January 1, 2011. On June 26, 2008, CARB presented the initial draft of the AB 32 Scoping Plan for Board review. The AB 32 Scoping Plan contains the main strategies California will use to reduce GHGs. On June 30, 2007, CARB adopted a list of early action measures to be adopted by January 1, 2010 that can reduce emissions in the short term. In December, 2008, CARB adopted a scoping plan that outlined actions to reduce GHG enough to meet the 2020 cap, including a "cap and trade" system, in which carbon emissions credits or "allowances" in the amount of the cap are distributed and carbon emitters may buy and sell these credits.

The City of Modesto General Plan Master EIR addressed potential climate change impacts due to development and other activities associated with the Urban Area General Plan (UAGP). The Master EIR determined that new development in the Baseline Developed Area and Redevelopment Area of the City would not have a substantial direct impact on global climate change, but that future development under the UAGP would make a cumulatively considerable contribution to global climate change. The UAGP nonetheless authorizes development that will contribute to global climate change by virtue of the production of greenhouse gases. The Master EIR states that, in particular, the projected rate of growth of vehicle miles traveled (VMT) will increase the City's contribution to global climate change as the City develops. Development under the UAGP is expected to generate approximately 2,539,560 tons of CO₂ from vehicular traffic. This would be an increase of approximately 1,096,226.4 metric tons per year above 2005 emissions.

The UAGP Master EIR identifies City policies CL-3 through CL-26 as policies in effect that have been determined to reduce, avoid, or mitigate air quality environmental impacts within the existing City limits and within the Planned Urbanizing Areas as they annex and develop.

General Plan Policies CL-3 through CL-26 provide measures to further reduce GHG from new development by, among other things, the use of shade trees to reduce the need for air conditioning and the heat island effect of pavement; somewhat reduced residential and business emissions as a result of the most current energy-efficient building standards; and voluntary incentive-based program for energy providers and developers. The Proposed Project would result in CO₂ emissions that

represent less than one-percent of the total future emissions increases from the UAGP buildout.

The City Council adopted a Statement of Overriding Considerations in 2008, finding that the benefits of the UAGP outweighed the City’s increased contribution to global climate change.

While mobile sources associated with the operation of the proposed development would contribute minimally to the overarching global climate change problem, it is not possible to quantify the project’s exact contribution. As previously mentioned, the recently enacted California Global Warming Solutions Act of 2006 (AB 32) requires the California Air Resources Board to develop regulations and market mechanisms that will ultimately reduce California’s greenhouse gas emissions to 1990 levels by 2020, an estimated 25 percent reduction. Early action measures developed by the CARB are expected to take effect in January 2010. Until such time that thresholds are established, the responsibility to minimize pollutant emissions remains squarely in the realm of local governmental regulators charged with the protection of public health.6,7

Climate change is an inherently cumulative impact because no single project can produce enough greenhouse gasses to substantially alter the global climate. No thresholds have been set for individual or cumulative greenhouse gas emissions. Nonetheless, the Proposed Project would result in GHG emissions due primarily to automobile travel and energy use for lighting, heating, cooling and other activities.

It is not possible to calculate all possible amounts of CO2 emissions. As stated above, in California, transportation is the largest emitter of GHGs, followed by electricity generation. CO2 emissions from these, and other sources, can be estimated. Potential CO2 emissions from construction and operation of the Proposed Project can be determined using the URBEMIS air emission model. The URBEMIS model calculated future CO2 emissions from area sources and operation, based on the proposed amount of residential, office, and retail uses. Area sources include natural gas heaters, landscape equipment, and consumer products. URBEMIS also estimates future operational emissions from vehicle trips generated by the Proposed Project. As shown in Table 3, project construction would result in approximately 250 tons per year of CO2 in 2010 and approximately 24 tons in 2011. Total operational emissions of CO2 from area sources and mobile sources would be approximately 3,200 tons per year (see Table 4).

Operational emissions of CO2 can also be estimated from electricity and natural gas use. The generation of electricity through the combustion of fossil fuels typically yields CO2 and, to a much smaller extent, CH4 and N2O. Using the estimated annual electricity and natural gas usage, the CO2 emission factors for electricity use and natural gas combustion were obtained from the California Climate Action Registry (CCAR). The CCAR produced the California Climate Action Registry General Reporting Protocol (Protocol), which includes a five-step process to calculate indirect emissions from electricity use.

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7 Intergovernmental Panel on Climate Change, Summary for Policymakers, January, 2001.
The Proposed Project would generate a demand for approximately 0.45 megawatts of electricity annually (based on generation rates of 4.22 kilowatt (kW) per dwelling unit, 0.00046 kW per square foot of office use, and 0.0056 kW per square foot of retail use\(^8\)). This would result in an energy use of 3,942 MWh per year (0.45 x 8,760). Based on the Protocol (see Table 5), the Proposed Project would generate approximately 1,910 metric tons of CO\(_2\) from electricity use.

For natural gas use, the Proposed Project would generate a demand for approximately 166,583 therms annually (based on generation rates of 1.440 therms per dwelling unit, and 63,600 therms per acre of retail and office use\(^9\)), resulting in approximately 2,180 metric tons of CO\(_2\), as shown in Table 6. Total operational CO\(_2\) emissions from electricity and natural gas use, mobile vehicles, landscaping, and hearth use would be approximately 7,300 metric tons of CO\(_2\) equivalent per year.

At buildout, the Proposed Project is projected to have a total of approximately 66 dwelling units, 132 new residents, and up to 97 jobs. A portion of the project residents could be employed in downtown Modesto, which is within walking distance, but a portion would also be expected to commute by car to work. Those residents would generate CO\(_2\) and other GHG during their commute. Project residences and businesses would also generate GHG by using energy for heating, cooling and other activities.

The Proposed Project provides an opportunity for employees in downtown Modesto to live within walking distance of their jobs, thus potentially reducing commute distances. Most project residents could rely less on vehicles, due to the proximity of retail and other services in the vicinity of the project site, and the extensive pedestrian networks (e.g., sidewalks, crosswalks, a grid street pattern). For these reasons, the Proposed Project would likely generate less GHG then a similar project located at a greater distance from employment and commercial centers. In addition, the Proposed Project would replace existing uses, including a furniture store and surface parking lot. These uses are generating vehicle trips from customers and would be replaced by new residents and users of the Proposed Project retail and office uses.

As development increases, the change in climate will be exacerbated by increased GHG. The continued change in climate throughout the world is expected to have an adverse effect on a number of environmental conditions. Therefore, as recognized by the City Council when the UAGP was adopted, global climate change is considered a significant cumulative impact. Although the amount of GHG generated by the Proposed Project cannot be completely calculated at this time, the activities associated with the Proposed Project are not expected to generate substantial GHG (approximately 7,300 metric tons of CO\(_2\) equivalent per year).

In addition, the Proposed Project by location and design would reduce GHG emissions by providing high density development within close proximity to a range of services, and by providing


TABLE 5
PROJECT OPERATIONAL GREENHOUSE GAS EMISSIONS FROM ELECTRICITY USE

<table>
<thead>
<tr>
<th>Emissions Source</th>
<th>Energy Use MWh/Year</th>
<th>N2O (metric tons)</th>
<th>N2O CO2e (metric tons)</th>
<th>CO2 (metric tons)</th>
<th>CH4 M (metric tons)</th>
<th>CH4 CO2e (metric tons)</th>
<th>Total CO2e (Tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Project</td>
<td>3,942</td>
<td>0.007</td>
<td>2.17</td>
<td>1,906.8</td>
<td>0.012</td>
<td>0.252</td>
<td>1,909.22</td>
</tr>
</tbody>
</table>

Notes:
1. Emissions Factor of 0.0037 was used for N2O (see Protocol, Table C.3).
2. Metric ton = 2,204.62 pounds
3. A Global Warming Potential (GWP) of 310 is used for N2O (see Protocol, Table C.1)
4. Emissions Factor of 878.71 was used for CO2 (see Protocol, Table C.2)
5. Emissions Factor of 0.0067 was used for CH4.
6. A GWP of 21 is used for CH4 (see Protocol, Table C.1)
7. Total of N2O CO2e, CO2, and CH4 CO2e
8. MWh/Year = MW of use annually x 8760

TABLE 6
PROJECT OPERATIONAL GREENHOUSE GAS EMISSIONS FROM NATURAL GAS USE

<table>
<thead>
<tr>
<th>Energy Use Therms/Year</th>
<th>MWh/Year (29.3 KWh/Therm)</th>
<th>N2O (metric tons)</th>
<th>N2O CO2e (metric tons)</th>
<th>CO2 (metric tons)</th>
<th>CH4 M (metric tons)</th>
<th>CH4 CO2e (metric tons)</th>
<th>Total CO2e (Tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>166,583</td>
<td>4,880</td>
<td>0.008</td>
<td>2.48</td>
<td>2,179.2</td>
<td>0.015</td>
<td>0.315</td>
<td>2,182.0</td>
</tr>
</tbody>
</table>

Notes:
1. Emissions Factor of 0.0037 was used for N2O (see Protocol, Table C.3).
2. Metric ton = 2,204.62 pounds
3. A Global Warming Potential (GWP) of 310 is used for N2O (see Protocol, Table C.1)
4. Emissions Factor of 878.71 was used for CO2 (see Protocol, Table C.2)
5. Emissions Factor of 0.0067 was used for CH4.
6. A GWP of 21 is used for CH4 (see Protocol, Table C.1)
7. Total of N2O CO2e, CO2, and CH4 CO2e
8. MWh/Year = MW of use annually x 8760

employment, as well as residential opportunities on the same site. The UAGP Master EIR recognizes that the Redevelopment Area of the City is already largely developed and that this area is the most walkable and bikeable area in Modesto, as well as having the best transit service in the City. For these reasons, although the Proposed Project would generate GHG, this contribution would not be considered considerable, and this is a less-than-significant cumulative impact.

e) Create objectionable odors affecting a substantial number of people?

The perception of odors is subjective and not easily quantifiable. Atmospheric conditions including wind speed, wind direction and air temperature, in combination with local surface topography, determine odor impacts on sensitive receptors. During high winds, odors are usually diluted. However, during light or calm wind conditions, potential odor impacts are high because dilution is
minimized. In addition, odor becomes stronger during warmer weather due to the higher temperatures.

Employees working in close proximity to the project area could be exposed to odors from future land uses on the project site. Development of the Proposed Project could introduce odors typically associated with urban areas. However, odors that would be associated with the Proposed Project would not be significant since they are commonly found in all urban environments and generally do not elicit complaints from the public. Therefore, the project would not create objectionable odors affecting a substantial number of people, resulting in a less-than-significant impact.
<table>
<thead>
<tr>
<th>Issues</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
<th>Less-Than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. BIOLOGICAL RESOURCES.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Would the project:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of wildlife nursery sites?</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, or other approved local, regional, or state habitat conservation plan?</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
<td>☐</td>
</tr>
</tbody>
</table>
Discussion

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

The project site is composed of developed parcels with an existing surface parking lot, retail buildings, and street trees. The entire site has been disturbed. As a developed area, the project site does not provide wildlife habitat for any special-status species, but street trees in the project area could provide nesting habitat for migratory birds. No other natural communities exist on the project site. There are no significant native resident or migratory fish or wildlife species that use the project site for any portion of their lifecycle or for migration. The site is surrounded by developed land in downtown Modesto, which would limit migration of terrestrial wildlife.

City of Modesto General Plan Policy V.II-E.2(a), (shown below) states no further biological studies are warranted for proposed developments that are consistent with the adopted Urban Area General Plan on lands within the Redevelopment Area unless specific information concerning the known or potential presence of significant biological resources is identified in future updates of the California Natural Diversity Database (CNDDB).

Policy V.II-E.2(a): For proposed development consistent with the adopted Urban Area General Plan on lands within the Baseline Developed Area and Redevelopment Plan Area, exclusive of lands within the Dry Creek and Tuolumne River Comprehensive Planning Districts, no further biological study is warranted unless specific information concerning the known or potential presence of significant biological resources is identified in future updates of the California Natural Diversity Database, or through formal or informal input received from resource agencies or other qualified sources.

There is no riparian habitat on the project site. The Modesto Redevelopment Master Plan EIR concluded that Swainson’s hawk is the only special-status species with potentially suitable habitat that could be adversely affect by development in the Plan area. However, the project site does not provide sufficient nesting or foraging habitat for the Swainson’s hawk. There are no recorded occurrences of special status species on the project site, and the Proposed Project is consistent with the City’s Urban Area General Plan Policy V.II-E.2(a).

For the above reasons, this would be a less-than-significant impact.

c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

The project site is developed with existing uses, including a surface parking lot. Because the site is paved and developed, there are no wetlands on the project site. Therefore, the project would have no impact.

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of wildlife nursery sites?

The project site is developed with existing buildings and a parking lot, and there are no significant native resident or migratory fish or wildlife species that use the project site for any portion of their lifecycle or for migration. In the Modesto Redevelopment Plan area, sensitive habitats are limited to the Tuolumne River and Dry Creek corridors, which support sensitive aquatic and riparian habitats. These habitats are not located in the Proposed Project area. The site is bordered by existing urban uses, which would limit migration of terrestrial wildlife. Therefore, this impact is less than significant.

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, or other approved local, regional, or state habitat conservation plan?

The City of Modesto does not have specific ordinances protecting biological resources, including trees. There are no adopted habitat conservation plans or natural community conservation plans in the City of Modesto or Stanislaus County. Therefore no impact would occur.

5. CULTURAL RESOURCES.  
Would the project:

a. Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5? □ □ ■ ○

b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? □ ■ ○ ○

c. Directly or indirectly destroy a unique paleontological resource or unique geologic feature? □ ■ ○ ○

d. Disturb any human remains, including those interred outside of formal cemeteries. □ ■ ○ ○

Discussion

A records search was conducted with the Central California Information Center (CCIC) at the California State University, Stanislaus. The records search was made for the project area, located on the Riverbank USGS 7.5-minute quadrangle map in Stanislaus County. The search included review of the CCIC’s maps for the specific project area and the immediate vicinity of the project area, review of the National Register of Historic Places (NRHP), the California Register of Historical Resources (CRHR), the California Inventory of Historic Resources (1976), the California Historical Landmarks, the California Points of Historical Interest listing, the Directory of Properties in the Historic Property Data File, the Caltrans State and Local Bridge Survey, the Survey of Surveys (1989), GLO Plats, and other pertinent historic data available at the CCIC. No historic properties or historic districts have been reported to the CCIC.12

Archaeological Resources

The records search indicated there are no recorded archeological resources within the project site.13 The report concluded that there is a moderate sensitivity for historical archaeological resources that might be found under the surface during excavation for the project (e.g. foundations and historic debris and historic artifacts over 45 years old associated with buildings and structures that were

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12 Robin Hards, Assistant Research Technician, Central California Information Center, California Historical Resources Information System, written correspondence to Adrienne L. Graham, October 4, 2007.
13 Robin Hards, Assistant Research Technician, Central California Information Center, California Historical Resources Information System, written correspondence to Adrienne L. Graham, October 4, 2007.
The project site is not within a City-identified archeological resources study area.\textsuperscript{14} Therefore, no further research for prehistoric deposits is warranted without specific information indicating the need for further investigation.

**Historic Buildings**

Based on the data in the CCIC files, it was concluded that the project area has moderate sensitivity for standing buildings and structures on the block that are over 45 years old and not yet evaluated or documented by a cultural resources professional. The records search also stated that, although it is not listed in the Historic Property Data File, the sandstone building at 726 10\textsuperscript{th} Street (across the street from the project area) was built in 1894 for the Modesto News Herald, and is a City of Modesto Landmarks Preservation Site. Other nearby buildings that are potentially significant include the former Modesto Arena and Ballroom building at 708 10\textsuperscript{th} Street, and the building at 724 10\textsuperscript{th} Street (now over 60 years old). Neither of these buildings has been formally evaluated for the NRHP or the CRHR or local designation.

None of the buildings on the project site are on the City's list of designated landmark preservation sites. However, the building at 701 10\textsuperscript{th} Street, a former greyhound bus station, was identified as a property that might be eligible for listing on the National Register of Historic Places.\textsuperscript{15} Therefore, a historic resource evaluation report (HRER) was conducted by Carey & Co. for the property located at 701 10th Street (February 2008). The HRER is available for review at the City of Modesto Redevelopment Agency, 1010 Tenth Street, Suite 3300, Modesto, CA 95354. The evaluation was prepared by reviewing documents and other information related to the property and conducting a reconnaissance-level survey of the site on January 28, 2008. During the site visit, Carey & Co. evaluated the existing conditions, historic features, and architectural significance of the property. Carey & Co. then undertook archival research at local and regional repositories to develop a historic context statement for the property and the neighborhood. The following sources were consulted: building permit records at the City of Modesto Community and Economic Development Department of Building Inspection, assessor parcel maps and deed records at the County of Stanislaus Assessor Office and Clerk-Recorder Office, Sanborn Fire Insurance Maps, newspaper articles, city directories, the United States Census, and archival materials at the Modesto Public Library's California History Center.

**Greyhound Bus Station**

According to the HRER, Pacific Greyhound began running lines from 701 10th Street in 1933. In 1941, the bus station at 701 10th Street was expanded to include the adjacent lot (703), which served

\textsuperscript{14} City of Modesto Community and Economic Development Department, \textit{Master Environmental Impact Report for the City of Modesto Urban Area General Plan and Related Amendments to the Urban Area General Plan}, prepared by Jones & Stokes, February 2003, Figure V-8-2, Archaeological Resources Zones.

as a restaurant for the bus station for over fifty years. The architect and construction date of the existing building is unclear. This bus station was apparently one of several located in Modesto at the time. In the early 1940s, Pacific Greyhound Lines was the largest division of the nationwide Greyhound system, serving 18 million passengers in 1941, over 29 million passengers in 1942, and about 40 million passengers by 1943. The design of the former bus station reflects a commercial vernacular style common to the twentieth century. Like many bus depots constructed in the twentieth century, the Greyhound station was located within a central core of the City and near the train station. Its layout followed a standard "island" form with open-air loading at the rear of the building and a streamlined façade emphasizing that it was a public facility. The Greyhound Station at 701 10th Street remained active until 1993. In 1996 the structure was sold and has since been used only for storage and parking.

According to the HRER, while the building at 701 10th Street may have been an important hub of transportation in early Modesto and during World War II, it was not the first, the only, or the most important Greyhound station in Modesto, and does not meet the significance criteria for the National or California Register of Historical Resources. Even were it to possess historic significance, the structure's lack of integrity would leave it ineligible for listing on the either Register. For these reasons, the property is not considered a significant historic resource.

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?

Construction of the Proposed Project would include the demolition of the buildings on the project site adjacent to 10th Street. As discussed above, none of the buildings on the project site are considered historically significant.

The Proposed Project would construct a seven-story building in proximity to several buildings that are historic, including the Modesto News Herald, a City of Modesto Landmarks Preservation Site. These historic buildings are typical of relatively low-scale (one- to two-story buildings on streets with multiple store fronts), downtown commercial development. The Proposed Project would be larger than these buildings. However, because it would be separated by 10th Street, it would not substantially alter the context of the existing buildings. Furthermore, the first two floors of the Proposed Project would be occupied by small retail and office uses, similar to the businesses across 10th Street. For these reasons, the Proposed Project would not create an adverse change in the significance of identified and/or potentially historically significant resources.

For the above reasons, this would be a less-than-significant impact.

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

c) Directly or indirectly destroy a unique paleontological resource or unique geologic feature?

General Plan Policies VII-F.2(b) and (e), shown below, are designed to protect archeological resources within the City. The Modesto General Plan Master EIR Update states that archeological resources include material remains indicating the presence of Native Americans. Material remains include artifacts that were made, used, or altered by people, such as lithic material, groundstone,
discarded artifacts, and human remains. City of Modesto Policy VII-F.2(b) requires consultation by an archeologist if previously unknown archeological resources are discovered during construction of a project.

Policies

VII-F.2 (b): For proposed development outside an identified archaeological resource study area (as depicted on Figure V-8-2 in the 2003 Master EIR), no further research for prehistoric deposits is warranted unless specific information concerning the known or potential presence of significant cultural resources is identified in future updates at the applicable cultural resource information repository or through formal or informal input received from a qualified source. If previously unknown subsurface cultural resources are discovered during excavation activities, excavation would be temporarily halted and an archaeologist consulted as to the importance of the resources. Should the archaeologist determine that the resources are important; the project sponsor would follow the procedure described in Policy 2(a), above.

VII-F.2 (e): If archaeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archaeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K of the State CEQA Guidelines.

VII-F.2(g) The unearthing of prehistoric items during construction can be mitigated by halting the construction activities and by applying mitigation measures developed by a qualified archaeologist.

Mitigation a: Whenever possible, the City should seek to avoid disturbing or damaging archaeological resources. Preservation is the preferred manner of mitigating impacts to archaeological sites. Preservation may be accomplished by:
1. Planning construction to avoid archaeological sites;
2. Incorporating sites within parks, greenspace, or other open space;
3. Covering the sites with a layer of chemically stable soil;
4. Deeding the site into a permanent conservation easement.

Mitigation b: When in-place mitigation is not feasible, data recovery through excavation may be necessary. A data recovery plan, which makes provisions for adequately recovering scientifically consequential information about the site, shall be prepared and adopted prior to any excavation being undertaken. Such studies must be deposited with the Central California Information Center in Turlock, California. Special rules apply to any archaeological sites known to contain human remains (Health and Safety Code sec 7050.5; Guidelines sec 15126.4[b]).

Data recovery shall not be required if the lead agency determines that testing or studies already completed have adequately recovered the necessary data, provided that the data have already been documented in another EIR and are available for review at the California Historical Resource Regional Information Center (Guidelines sec. 15126.4[b]).

Paleontological resources include fossil remains, as well as fossil localities and rock or soil

16 City of Modesto Community and Economic Development Department, Master Environmental Impact Report for the City of Modesto Urban Area General Plan and Related Amendments to the Urban Area General Plan, prepared by Jones & Stokes, February 2003, page V-8-4.
formations that have produced fossil material. Fossils are the remains or traces of prehistoric animals and plants. Fossils are important scientific and educational resources because of their use in (1) documenting the presence and evolutionary history of particular groups of now extinct organisms, (2) reconstructing the environments in which these organisms lived, and (3) determining the relative ages of the strata in which they occur and of the geologic events that resulted in the deposition of the sediments that formed these strata and in their subsequent deformation.

Paleontological resources are classified as non-renewable scientific resources and are protected by federal and State statutes, most notably by the 1906 Federal Antiquities Act. Professional standards for assessment and mitigation of adverse impacts on paleontological resources have been established by the Society of Vertebrate Paleontology (SVP) (1995, 1996).17

There are no known archaeological or paleontological resources or unique geologic features on the project site; however, the records search concluded there is a moderate sensitivity for historical archaeological resources, and previously undiscovered resources could be found and damaged or destroyed during the required earth moving activities resulting in a potentially significant impact. Implementation of the following mitigation measure would reduce this impact to a less-than-significant level by ensuring that previously unidentified archeological and paleontological resources are handled in a manner consistent with current professional standards.

Mitigation Measure 2

(a) In the event that any prehistoric or historic subsurface archeological features or deposits, including locally darkened soil ("midden"), that could conceal cultural deposits, animal bone, obsidian, and/or mortar, are discovered during construction-related earth-moving activities, all work within 50 feet of the resource shall be halted and the City shall consult with a qualified archeologist or paleontologist to assess the significance of the find. If the find is determined to be significant by the qualified archaeologist/paleontologist, then representatives of the City and the qualified archaeologist/ paleontologist shall meet to determine the appropriate course of action, consistent with General Plan Policy VII-F.2(g).

(b) Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, fossils or other cultural materials from the project area.

(c) If paleontological resources are discovered, a qualified paleontologist shall evaluate the resource and prepare a mitigation plan in accordance with Society of Vertebrate Paleontology’s standard guidelines.

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17 The SVP has established standard guidelines (SVP 1995, 1996) that outline acceptable professional practices in the conduct of paleontological resource assessments and surveys, monitoring and mitigation, data and fossil recovery, sampling procedures, and specimen preparation, identification, analysis, and curation. Most practicing professional paleontologists in the nation adhere closely to the SVP’s assessment, mitigation, and monitoring requirements as specifically provided in its standard guidelines. Most California state regulatory agencies accept the SVP standard guidelines as a measure of professional practice.
Paleontology guidelines. The mitigation plan may include a field survey of additional construction areas, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations determined by the City to be necessary and feasible shall be implemented before construction activities can resume.

d) Disturb any human remains, including those interred outside of formal cemeteries.

There are no known prehistoric or historic human burials on the project site; therefore, it is not anticipated that human remains would be discovered during construction. If human remains are found, Section 7050.0(b) of the California Health and Safety Code specifies the protocol to be followed. Because it is not anticipated that human remains will be encountered on the project site and, if such resources are uncovered State law describes the appropriate steps, the impact is less than significant with the implementation of the following mitigation measure.

Mitigation Measure 3

(a) During all phases of project construction, and prior to any ground disturbance, the project applicant or developer shall notify contractors that they are required to watch for human remains.

(b) In the event of the discovery of a burial, human bone, or suspected human bone, all excavation or grading in the vicinity of the find shall halt immediately and the area of the find shall be protected and the contractor shall immediately notify the County Coroner of the find and comply with the provisions of Cal. Health and Safety Code Section 7050.5, and Cal. Public Resources Code Section 5097.98, if applicable. If human remains are identified, the project sponsor shall also retain a Native American monitor from the appropriate Native American Tribe(s) as determined by the Native American Heritage Commission. No further disturbance of the site may be made except as authorized by the County Coroner. The Coroner shall make the determination within two working days from the time the person responsible for the excavation, or authorized representative, notifies the Coroner of the discovery or recognition of the human remains.
6. **GEOLOGY AND SOILS.**

*Would the project:*

<table>
<thead>
<tr>
<th>Issues</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant Impact With Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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<tbody>
<tr>
<td>a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:</td>
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<tr>
<td>i. Rupture of a known earthquake fault, as delineated on the most recent Alquist - Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.</td>
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<td>ii. Strong seismic ground shaking?</td>
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<td>iii. Seismic-related ground failure, including liquefaction?</td>
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<td>iv. Landslides?</td>
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<td>b. Result in substantial soil erosion, or the loss of topsoil?</td>
<td>◯</td>
<td>◯</td>
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<tr>
<td>c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on-or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?</td>
<td>◯</td>
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<tr>
<td>d. Be located on expansive soils, as defined in Table 18-1-13 of the Uniform Building Code (1994), creating substantial risks to life or property?</td>
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<td>e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?</td>
<td>◯</td>
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Discussion

a) **Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:**
   i. Rupture of a known earthquake fault, as delineated on the most recent Alquist - Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.
   ii. Strong seismic ground shaking?
   iii. Seismic-related ground failure, including liquefaction?
   iv. Landslides?

There are no known active faults in the Modesto Area. The Uniform Building Code (UBC) assigned Modesto to Zone 3, the lower risk zone for seismic activity; however, earthquakes in other areas can lead to groundshaking within the City. General Plan Policies VI-B.2(a) through (c) require compliance with building codes, including the UBC, as the primary tool for reducing seismic risk in structures and seismic-related ground failure. The policies are intended to ensure that new buildings in the City resist major earthquakes of the intensity or severity of the strongest experienced in California, without collapse. In most structures it is expected that structural damage could be limited to repairable damage, even in a major earthquake.

Policy VI-B.2 states that the City may require a geotechnical analysis prior to approval of the tentative map. If such a report were deemed necessary, the analysis would address the seismic safety of new structures and make a determination of the potential of the on-site soils being subject to liquefaction during seismic events. The Proposed Project would be required to comply with the findings in the report related to construction or installation of project improvements.

There is minimal potential for slope failure due to seismic activity because the City is generally level, with a regional slope of 0.001 vertical foot of change per foot of horizontal distance. Because a geotechnical analysis would be prepared for the project site, and all recommendations from that analysis would be complied with, and because the Proposed Project would be required to comply with General Plan policy VI-B.2(a) through (c), the Proposed Project would have a less-than-significant impact with regard to seismic activity.

b) **Result in substantial soil erosion, or the loss of topsoil?**

The project site is not subject to landslides and seismic activity that could threaten public health and safety. Wind or rain can cause erosion when soils are exposed during construction activities; however, because the Modesto Urban Area is generally flat, erosion caused by rain is minimal.

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The Proposed Project would disturb an area greater than one acre and would, therefore, be required to obtain a National Pollutant Discharge Elimination System (NPDES) permit from the California Water Resources Control Board (CWRCB). This permit requires the preparation of a plan to address the potential for soil erosion during construction and the implementation of Best Management Practices (BMPs) to control soil erosion. In addition, City of Modesto Policies VI-E2(a) and (b) require an erosion control program, including BMPs, that specifically addresses the conditions of the project site and include a construction erosion control program. Policy LSA-14 requires sediment control basins to capture eroded sediments and contain them on the project site. Implementation of these policies and plans would result in a less-than-significant impact by minimizing soil erosion.

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on-or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

d) Be located on expansive soils, as defined in Table 18-1-13 of the Uniform Building Code (1994), creating substantial risks to life or property?

See Item 6(a), above, regarding lateral spreading and liquefaction. Urban land consists of areas covered by roads, driveways, sidewalks, parking lots, buildings, and other structures. The sediments comprising the San Joaquin Valley originated predominately from the Sierra Nevada and were transported and deposited by the streams draining that range of mountains. Modesto predominately lies on young alluvial fans and, to a much lesser extent, on the recent alluvial flood plains of the Tuolumne River and Dry Creek. The alluvial fan soils of Modesto are highly fertile. The soils are composed of material derived from Sierran granitic terraces. Two soil associations on the recent alluvial fans have been mapped in Modesto. The Hanford-Tujunga Association is a sandy loam that is well drained. The Modesto-Chular Association is less extensive, being located in the inter-fan areas between the Stanislaus and Tuolumne Rivers, and consists of soils varying from sandy to clay loams less well drained than Hanford-Tujunga Association soils inundation.

Certain clay minerals within some soils will swell when they become wet and shrink when they dry; this swelling and shrinking are expansive soil properties. Expansive soils can affect the integrity of structures and cause downslope creep. The Modesto Urban Area is not reported to have soils with a great potential for expansion.

Because soils in the vicinity of the project site have a low to moderate shrink-swell potential, the Proposed Project is not likely to be subject to unstable soil conditions such as settlement or expansion. To meet the City's design standards for grading and comply with the California Building Code (Title 24 of the California Code of Regulations), a site-specific evaluation of soil conditions would be required by the City (see Item 6(a), above) and would contain recommendations for ground preparation and earthwork specific to the project site. These recommendations would become an

23 City of Modesto, Final Master Environmental Impact Report for the Urban Area General Plan and Related Amendments to the Urban Area General Plan, March 2003, pages V-17-3.
integral part the project design and engineering. Because the Proposed Project would not involve
groundwater withdrawal, land subsidence is not expected to occur as a result of the Proposed Project.
For these reasons, the Proposed Project’s impacts or risk to life and property associated with
subsidence or soil collapse would be less than significant.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal
systems where sewers are not available for the disposal of wastewater?

Wastewater flows generated by the Proposed Project would be conveyed to the municipal wastewater
treatment plant for treatment. No septic tanks would be used. Therefore, no impact would occur.
7. HAZARDS AND HAZARDOUS MATERIALS.

Would the project:

a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

- Potentially Significant Impact
- Less Than Significant Impact
- Less Than Significant Mitigation
- No Impact

b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

- Potentially Significant Impact
- Less Than Significant Impact
- Less Than Significant Mitigation
- No Impact

c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

- Potentially Significant Impact
- Less Than Significant Impact
- Less Than Significant Mitigation
- No Impact

d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

- Potentially Significant Impact
- Less Than Significant Impact
- Less Than Significant Mitigation
- No Impact

e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

- Potentially Significant Impact
- Less Than Significant Impact
- Less Than Significant Mitigation
- No Impact

f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

- Potentially Significant Impact
- Less Than Significant Impact
- Less Than Significant Mitigation
- No Impact

g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

- Potentially Significant Impact
- Less Than Significant Impact
- Less Than Significant Mitigation
- No Impact
h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

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Discussion

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Construction of the Proposed Project would involve site preparation activities, such as excavation and grading at the project site. During construction of the Proposed Project, oil, diesel fuel, gasoline, hydraulic fluid, and other liquid hazardous materials would be used at the project site and, if spilled, these substances could pose a risk to the environment or human health. Project operations would include residential, office and retail uses, which would not require the use of hazardous substances that could result in a risk of an accidental explosion. The design and construction of the project would comply with the California Uniform Building Code (CUBC) and the Uniform Fire Code (UFC). Laws and regulations that govern the use and storage of hazardous materials include, but are not limited to, Chapter 6.95 of the California Health and Safety Code (inventory and emergency response), Title 8 of the Code of California Regulations (CCR) (workplace safety), and Titles 22 and 26 of the CCR (hazardous waste). Delivery of hazardous materials to the site and along public roadways would be required to comply with Title 49 of the Federal Code of Federal Regulations (CFR), as monitored and enforced by the California Highway Patrol (CHP) and California Department of Transportation (Caltrans). In addition, storage of all flammable materials at the project site would be subject to the regulations of Title 19 of the CCR and the Uniform Fire Code. General Plan Policy VM-2(b) also requires that each project that would generate hazardous waste prepare a hazardous material transportation program to be approved by the City’s Fire Department. The transportation of hazardous materials is controlled by State, county, and city policies and regulations, which are designed to minimize the risk of exposure. For these reasons, the impacts due to the transport of hazardous materials would be less than significant.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

The Proposed Project would result in the construction and use of a seven-story building in downtown Modesto for retail, office, and residential uses. Project construction would include in ground disturbance, excavation, building removal, and building of new structures. The project site, along with adjacent parcels in the project area, has a history of urban uses, including uses that use, handle,
and/or store hazardous materials. A material is considered hazardous if it appears on a list of hazardous materials prepared by a federal, state, or local agency, or if it has characteristics defined as hazardous by such an agency. Federal and state laws require detailed planning to ensure that hazardous materials are properly handled, used, stored, and disposed of, and in the event that such materials are accidentally released, to prevent or to mitigate injury to the public and the environment. Because land uses proposed under the project (including commercial) would potentially store or involve the handling of hazardous materials, there would be the potential for upset and/or accident conditions resulting in the release of hazardous materials into the environment.

General Plan Policy HM-3 discusses the State Hazardous Materials Release Response Plan and Inventory Act of 1985. This Act requires businesses using hazardous materials to prepare a plan that describes their emergency response plans. The State Unified Program Agency (UPA) program regulates a number of State programs at the local level. Stanislaus County is the local Certified UPA, and regulates hazardous materials within the incorporated (inside the City limits) and unincorporated borders. Included in this role are the implementation of risk management and prevention laws to minimize chemical releases into the community, maintain a hazardous materials response team to assist agencies during chemical spills, and preparation of the Area Plan for emergency response to chemical spills. Because the release of hazardous materials is controlled through adherence to State, County, and City policies and regulations, this would be a less-than-significant impact.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

The project site is not within one-quarter mile of an existing or proposed elementary, middle, or high school. The site is located approximately one mile from Pearson Elementary School and Modesto High School. It is not anticipated that construction and occupancy of the Proposed Project would involve the types of activities that would result in hazardous air emissions or the handling of hazardous materials, substances, or waste in sufficient amounts that could adversely affect human populations. As stated above, hazardous materials use would be limited and would be subject to federal, State, and County regulations. Therefore, this would be a less-than-significant impact.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

Project Vicinity

There are no properties in the vicinity of the project site that are on the Cortese List.\(^{24}\) A search of the project zip code brought up a list of three properties, including the Modesto Convention Center, a groundwater investigation around 10th and L Streets, and Modesto Steam Laundry and Cleaners. The Department of Toxic Substances Control database also stated that a former Pacific Gas and Electric (PG&E) gas plant was located on the block bounded by F and G Streets and 10th Street and the

alleyway northeast of 10th Street, on a site currently occupied by the City of Modesto Police Department. According to the site report, PG&E completed a “Historical Overview of the Former Manufactured Gas Plants in Northern and Central California”, dated 1987, which stated that gas manufacturing first began at this location in 1876 and continued until 1911 when a new plant was opened at a different location. The facility used coal until 1902, when it began using oil to manufacture the gas. Other uses for the site have included an auto dealership and an auto repair facility. Site screening completed in 1991 stated that the site was never used for gas plant activities. Previous site uses include brewery, printing shop, and various retail stores.

In addition, groundwater monitoring has been conducted around the area of the police headquarters at the corner of 10th and G Streets. During the Phase 1 and demolition work at the site, various underground tanks/vaults were discovered that contained oil, diesel, and/or residue from the coal gas manufacturing operation. Contaminated soil was excavated in April 1999, and samples were collected at excavation bottom and side walls. After the new police facility was built, three groundwater monitoring wells were installed in the fall of 2002, which have been routinely monitored since that time. Laboratory analyses of the groundwater samples collected during the June 2006 monitoring event indicate that all monitoring wells sampled were non-detect for all analyzed constituents, except for trace levels of chloroform two wells. Chloroform is a common by-product of chlorinating drinking water supplies.

There are several sites in the project vicinity that are on the list of Leaking Underground Storage Tanks (UST), which is kept by the Central Valley Regional Water Quality Control Board. Approximately 36 sites are located within one-half mile of the project site. Of those 36, 31 sites are closed (remediation complete), one is completing post-remediation monitoring, three are undergoing remediation, and one has an approved Final Remediation Plan completed. There are no landfills located in the project area.

Project Site

Portions of the project site have been subject to Phase 1 Environmental Site Assessments. In 2000, a Phase 1 ESA was prepared for the northern portion of the project site (APNs 106-42-01, 02, 03 and 04). The Phase 1 ESA found that the site had been used commercially since 1888, and that a two-story building (the Union Block-Odd Fellows Building) had been located on the northwest border of the site from 1888 to 1957. The building contained retail stores, such a photo shop, meat shop, grocery store and furniture store. Lodging was provided on the second floor. City Hall and a fire station had also been located within the site. A PG&E Manufacturing Gas Plant had been listed on the site, but according to DTSC, no gas works were located on the subject site, and the Phase 1 concluded that additional evaluation of the PG&E facility was not warranted. Because it had not been used agriculturally for over 100 years, the Phase 1 ESA concluded that no investigation related

25 Raymond Kabanow II, PhD., Geological Technics Inc., written communication to Mr. Kris Ohlson, City of Modesto Public Works Department, November 19, 2007.
to agricultural practices was necessary. At the time of the Phase 1 ESA, the site was entirely paved and did not contain any structures. Motor oil stains were identified on the site. The Phase 1 ESA concluded that the oil stains did not warrant further evaluation because they appeared to meet the definition of a “de minimus” condition.28

The Phase 1 ESA did recommend additional evaluation in the following areas:

- **Automobile repair facility:** According to Sanborn Maps, an automobile repair facility was located at 719 10th Street. It was not known whether the facility had underground storage structures. Therefore, the Phase 1 recommended additional evaluation.

- **Underground Storage Tank:** The 1919 Sanborn Map indicated that an underground storage tank was located approximately 15 feet east of the site. No records of this UST were found. Because of the age of the Sanborn Map, the Phase 1 concluded that the precise location is unknown, and recommended a geophysical investigation in the area.

- **Groundwater contamination:** Groundwater contamination had been identified in the project vicinity. While the Phase 1 concluded that the contaminated groundwater would be unlikely to pose a hazard, groundwater sampling was recommended prior to any excavation that would require dewatering. As discussed above, groundwater monitoring was conducted in 2006 for a nearby parcel, and the only constituent that exceeded thresholds was chloroform, which is a by-product of drinking water treatment.

In December 2003, a Phase 1 Environmental Site Assessment was prepared for APN 104-042-006 (711 10th Street), which is also within the project boundaries. This parcel contains a single building, currently occupied by a furniture store, and a small paved area in the rear. The Phase 1 concluded that the parcel did not contain asbestos, radon gas, underground storage tanks or transformers containing PCBs.

No Phase 1 ESAs or other site-specific hazards-related studies were available for two parcels within the project site: APNs 104-042-005 (713 10th Street) and 104-042-007 (701 10th Street, the former bus station). Although site-specific information is not available for these parcels, the assessments discussed above indicate that there is some potential for underground storage tanks and/or contaminated soil to be present. Contaminated soils, if present, would likely be limited to oil stains associated with the bus terminal, since it was not a maintenance facility.

The existing structures to be demolished were constructed prior to 1978, when laws were enacted restricting the use of asbestos in buildings. Asbestos was often used for insulation and other purposes in residential buildings. Left alone, it is not dangerous. However, when removed, asbestos dust and particles can settle in the lungs, causing lung disease. If asbestos are present in the buildings, construction workers could be exposed to asbestos during demolition. The SJVUAPCD has regulations that require compliance with asbestos demolition and renovation techniques developed by the U.S. EPA to ensure that asbestos-containing materials are identified prior to

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28 Kleinfelder, Inc., *Phase 1 Environmental Site Assessment, Proposed Office and Parking Tower, South Corner of 10th and H Streets, Modesto, California*, May 9, 2000, page 30.
demolition, and that they are removed and disposed of in a manner that minimizes potential exposure. Once the asbestos-containing materials are removed, there would be no threat of exposure within the project site.

If construction workers or occupants of nearby properties are exposed to hazardous materials, their health could be affected. The following measures would protect human health by ensuring that contaminated soils, if present, would be identified and remediated prior to or during construction, and that any potential contamination that is discovered during construction is handled properly. With mitigation, this impact would be less than significant.

**Mitigation Measure 4**

(a) *Prior to approval of Improvement Plans, a Phase 1 Environmental Site Assessment shall be prepared for parcels 104-042-005 (713 10th Street) and 104-042-007 (701 10th Street, the former bus station). The recommendations of the Phase 1 ESA will be fully implemented prior to construction of the project.*

(b) *Prior to approval of Improvement Plans, a geotechnical investigation for the entire project site will be undertaken to determine whether any underground storage tanks are present. If such tanks are present, they shall be removed, and any associated soil contamination shall be remediated prior to onset of project grading or excavation.*

(c) *Where any activity would be performed at a contaminated site or where hazardous materials are suspected, a project-specific Health and Safety Plan shall be prepared prior to any site work. The Health and Safety Plan shall be prepared by the contractor(s) and filed with the City and regulatory agencies, as required. The Plan shall include required worker health and safety provisions for all workers potentially exposed to contaminated materials at the site, identification of hazardous materials present, monitoring to be performed during site activities, required training for workers, identification of appropriate personal protective equipment and emergency response procedures, and designation of personnel responsible for Plan implementation.*

(d) *The contractor(s) shall prepare a Waste Disposal and Hazardous Materials Transportation Plan prior to construction activities where hazardous wastes or materials requiring off-site disposal would be generated. The Plan shall include a description of analytical methods for characterizing wastes and handling methods required to minimize the potential for exposure and shall establish procedures for the safe storage of contaminated materials and stockpiling of soils, as required. The required disposal method for contaminated materials (e.g., lead-based paint, asbestos, other hazardous materials requiring disposal) and the approved disposal site shall be indicated in the Plan. The Plan shall also identify specific routes to be*
Environmental Checklist

used for transport of hazardous materials and waste to and from the project site, or specific routes to be avoided during transport. Routes shall be selected to minimize proximity to sensitive receptors to the greatest practical degree. Elements of the Plan regarding transportation of hazardous materials and wastes shall be reviewed and approved by the City Fire Department.

(e) In the event that previously unidentified contamination is encountered (e.g., identified by odor or visual staining) during soil disturbing activities, or any underground storage tanks, abandoned drums, or other hazardous materials or wastes are encountered during construction, the contractor(s) shall immediately notify the City, and the City shall then notify the County. The contractor(s) shall have prepared a Contingency Plan for Sampling and Analysis of potentially hazardous substances and coordination with appropriate regulatory agencies. The Plan shall be submitted to the City prior to soil disturbing activities. Any site investigations or remedial activities shall be performed in accordance with applicable laws under the direction of a regulatory agency and the City, in accordance with Mitigation Measures 4(c) and 4(d).

(e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

The Modesto City-County Airport is located approximately two miles southeast of the project site. The project site is located in Zone 4 of the Airport Land Use Compatibility Listing: Other Lands Within Airport Planning Boundary. Residential, institutional, and commercial uses are considered compatible uses in this compatibility listing. The proposed building would be seven stories tall and from 91 to 94 feet, which is not tall enough to interfere with existing airport operations. The project would not result in a safety hazard for people residing or working in the area, and this would be a less-than-significant impact.

f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

The project site is not within the vicinity of a private airstrip; therefore, no impact would occur.

g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

The City of Modesto has an Emergency Operations Plan, which was approved by the U.S. Department of Homeland Security on January 12, 2006. The plan provides direction on how public officials and emergency responders should act and what steps should be taken in order to respond to and recover from a major emergency or disaster. It is an extension of the California and the Stanislaus County Emergency Plans. The project site is located in an urban area and is considered an infill project. The road system in the vicinity of the project site is established and the project does not propose to remove or close any streets. Street improvements that are part of the Proposed Project would be built in accordance with City requirements. The Proposed Project would therefore not
interfere with any adopted emergency response or evacuation plan. For these reasons, the impacts related to emergency response and evacuation plans would be *less than significant*.

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

The project site is within an urban area, and no wildlands are adjacent to, or near, the site. Therefore, *no impact* would occur.
## Environmental Checklist

### 8. HYDROLOGY AND WATER QUALITY

*Would the project:*

<table>
<thead>
<tr>
<th>Issues</th>
<th>Less Than Significant Impact</th>
<th>Potentially Significant With Mitigation Incorporated</th>
<th>Less-Than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Violate any water quality standards or waste discharge requirements?</td>
<td>□</td>
<td>□</td>
<td>■</td>
<td>□</td>
</tr>
<tr>
<td>b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (i.e., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?</td>
<td>□</td>
<td>□</td>
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<tr>
<td>c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?</td>
<td>□</td>
<td>□</td>
<td>■</td>
<td>□</td>
</tr>
<tr>
<td>d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?</td>
<td>□</td>
<td>□</td>
<td>■</td>
<td>□</td>
</tr>
<tr>
<td>e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?</td>
<td>□</td>
<td>□</td>
<td>■</td>
<td>□</td>
</tr>
<tr>
<td>f. Otherwise substantially degrade water quality?</td>
<td>□</td>
<td>□</td>
<td>■</td>
<td>□</td>
</tr>
<tr>
<td>g. Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?</td>
<td>□</td>
<td>□</td>
<td>■</td>
<td>□</td>
</tr>
</tbody>
</table>
h. Place within a 100-year floodplain structures which would impede or redirect flood flows?
   ──── ──── ──── ──── ────
   □     □     ●     ■

i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?
   ──── ──── ──── ──── ────
   □     □     ●     ■

j. Inundation by seiche, tsunami, or mudflow?
   ──── ──── ──── ──── ────
   □     □     □     ●

**Discussion**

a) Violate any water quality standards or waste discharge requirements?
f) Otherwise substantially degrade water quality?

The project site includes buildings and a surface parking lot with very little landscaping. The entire project site has been previously disturbed and is almost entirely covered with buildings, pavement and other impervious surfaces.

**Construction**

Construction activities (e.g., grading and trenching) could expose soil to increased rates of erosion, which could result in increased deposition of sediments, potentially degrading receiving water quality. Another potential source of water quality degradation during project construction is the inadvertent release of petroleum-based fluids and/or heavy metals used in heavy equipment.

Construction activities involving disturbance of more than one acre require a California General Construction Storm Water Permit issued by the Central Valley Regional Water Quality Control Board (RWQCB) for storm water discharges associated with construction. Permit applicants are required to prepare a Storm Water Pollution Prevention Plan (SWPPP) that describes the site, erosion and sediment controls, means of disposal of storm water, implementation of approved local plans, and control of post-construction water management controls. Dischargers are also required to inspect construction sites to identify and implement controls where necessary.

The City of Modesto is located within the jurisdiction of the Central Valley RWQCB. The State Water resources Control Board (SWRCB) adopted a statewide general NPDES permit in August 1999 for stormwater discharges associated with construction activity. Performance standards for obtaining and complying with the General Permit are described in NPDES General Permit No.
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CAS000002, Waste Discharge Requirements (WDRs), Order No.99-08-DWQ. The General Permit was modified in April 2001 (SWRCB Resolution No. 2001-046) to require permittees to implement specific sampling and analytical procedures to determine whether the best management practices (BMPs) used at the construction site are effective. Under the General Permit, the State requires that any construction activity affecting one acre or more obtain a General Construction Activity Stormwater Permit Waste Discharge Identification Number.

Substantial earth moving activities and soil erosion would not occur under project demolition or construction, and all activities would be contained within the paved areas of the project sites and/or adjacent staging areas. Given the temporary nature of demolition and construction activities, potential erosion impacts due to project construction would be short-lived. The project site would be covered under the State's General Permit for Stormwater Discharges. Preparation of a SWPPP and a monitoring plan for the Proposed Project under NPDES regulations would ensure that runoff during construction of the Proposed Project would be minimal. Therefore, this impact is considered less than significant.

Operation

The City obtained an NPDES stormwater permit in 2002 to comply with federal stormwater runoff quality regulations. The NPDES permit required the City to implement many new BMPs to control water runoff quality. Under this permit, the City was required to develop, administer, implement, and enforce a Comprehensive Stormwater Management Program (CSWMP) to reduce pollutants in urban runoff to the maximum extent practicable. The CSWMP implemented by the City is a multifaceted, dynamic program that emphasizes all aspects of pollution control, including public awareness and participation, source control, regulatory restrictions, water quality monitoring, and treatment control.

The City of Modesto submitted a Report of Waste Discharge on April 2, 2007, and requested reissuance of Waste Discharge Requirements under the NPDES area-wide municipal separate storm sewer system permit to discharge storm water runoff from storm drains and watercourses, and to implement a Storm Water Management Plan (SWMP) for the City. Order No. RS-2008-0092 was certified on June 12, 2008. The NPDES Order includes a Planning and Land Development Program to incorporate water quality and watershed protection principals into the City’s policies and planning procedures and to provide a comprehensive review of development plans to ensure that stormwater quality controls are properly selected to minimize stormwater quality impacts.

The Proposed Project would not increase impervious surfaces on the project site, because the site is currently paved and developed with existing buildings and a surface parking lot. Nonetheless, runoff from the project site could contain oil, grease, and heavy metals from vehicles and pesticides and herbicides from landscape maintenance activities. These constituents could adversely affect receiving water quality if not properly managed. Controlling urban runoff pollution from new development during and after construction is critical to the success of Modesto’s CSWMP. The New Development Management Program (NDMP) is an element of the CSWMP being implemented by

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the City to specifically control post construction urban runoff pollutants from new development and redeveloped areas. The goal of the NDMP is to minimize runoff pollution typically caused by land development and protect the beneficial uses of receiving waters by employing a sensible combination of pollutant source control and site-specific treatment control measures. The NDMP envisions reducing stormwater pollutants from new development by employing on-site control measures for commercial, industrial, multifamily, and single-family residential land uses.\(^{30}\)

The 2008 NPDES Order includes Water Quality Planning and Design Principals, which must be incorporated into new projects, as applicable, in order to reduce pollutants and runoff. Required measures include minimizing the amount of impervious surfaces and directly connected impervious surfaces, where feasible, to maximize on-site infiltration of runoff; implementing pollution prevention methods supplemented by pollutant source and treatment controls; coordinating with local traffic management programs to reduce pollutants associated with vehicles and increased traffic resulting from development; and implementing source and structural controls as necessary and appropriate to protect downstream receiving water quality from increased pollutant loads and flows. In addition, the City requires developers to implement the concepts of Low Impact Development (LID) for all new development and redevelopment projects, as established in the City’s Guidance Manual for New Development Stormwater Quality Control Measures. LID is a stormwater management strategy concerned with maintaining or restoring the natural hydrologic functions of a site to achieve natural resource protection objectives and fulfill environmental regulatory requirements. LID uses a variety of mechanisms to retain as much stormwater runoff on each individual site as possible. Runoff is infiltrated through the use of swales, vegetation, pervious pavement, French drains, rockwells, and other methods. The Guidance includes source control measures and treatment control measures, which are best management practices (BMPs) and features incorporated in the design of a land development or redevelopment project to prevent and/or reduce pollutants in stormwater runoff from the project. Source control measures include posting notices regarding discharge prohibitions at storm drain inlets, designing wash areas for restaurant equipment/accessories to prevent or reduce pollutants, and providing trash receptacles in common areas of multi-family developments for waste removal.

The reduction of stormwater discharge pollutants to the maximum extent practicable through the use of LID principals and BMPs required by the City would ensure that the Proposed Project would not substantially degrade water quality. Therefore, this would be a less-than-significant impact.

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (i.e., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

The project site is not located in an area that has been identified as having a moderate to high recharge potential, and the Proposed Project would not increase impervious surface cover.


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Therefore, project development would not be anticipated to result in a loss of groundwater recharge potential.

Under natural conditions, groundwater recharge results from precipitation and infiltration of excess irrigation water and other applications (i.e., car washing). However, the rate and quantity of water reaching the Modesto groundwater basin depends on factors that include the amount and duration of precipitation, soil time, moisture content of the soil, and vertical permeability of the unsaturated zone. The project site is already developed with urban uses and considerable impervious surfaces. Therefore, a less-than-significant impact would occur.

See Item 16d below for a discussion of water demand and use of groundwater.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?

d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?

There are no rivers or streams within the vicinity of the project site, which is already developed with impervious surfaces. The proposed changes in land uses for the project would not affect the amount of drainage flow contributed to the existing storm drainage system because the area is already developed and highly impervious. There would be no change in stormwater runoff from the Proposed Project. Furthermore, the project design must comply with the City’s Municipal NPDES Permit (No. R5-2008-0092), including BMPs that would minimize urban pollutants in storm water from reaching surface waters. For these reasons, the Proposed Project would not increase flood flows or elevations beyond existing levels, and the impacts related to flooding and storm water quality would be less than significant.

e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

The Proposed Project would not substantially affect the amount of drainage flow contributed to the existing storm drainage system because the project site is already developed and highly impervious.

The City’s Storm Drainage Master Plan (SDMP) includes plans for drainage infrastructure needed to effectively accommodate stormwater drainage under existing and developed conditions. Storm water in the City of Modesto discharges from the City drain to detention/retention basins (13 detention and 11 retention basins in the City), approximately 18 major outfalls to receiving waters (Tuolumne River or Dry Creek), Modesto Irrigation District laterals/drains, or rock wells.  

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31 Dennis E. Wilson, written communication to Linda Boston, City of Modesto, September 18, 2007.
32 California Regional Water Quality Control Board, Central Valley Region, Waste Discharge Requirements for City of Modesto, Storm Water Discharge from Municipal Separate Storm Sewer System, Stanislaus County, Order No. R5-2008-0092, June 12, 2008.
Storm water runoff originating from the project area discharges to the Tuolumne River, which is considered an impaired water body under Section 303(d) of the Clean Water Act. Impaired water bodies do not meet, or are not expected to meet, water quality standards. The affected waterbody, and associated pollutant or stressor, is then prioritized in the 303(d) list. The Clean Water Act further requires the development of a Total Maximum Daily Load for each listing. The 2008 NPDES Order states that additional control to reduce pollutants from new and existing development may be necessary for areas adjacent to or discharging to an environmentally sensitive area, such as a 303(d) impaired water body. The Order requires revisions to the City’s Guidance Manual for New Development Stormwater Quality Control Measures to ensure that stormwater quality and watershed principals in the Order are integrated, including the identification of pollutants and/or activities of concern for each new development or significant redevelopment project. The City will identify the pollutants of concern by considering, among other factors, the receiving water quality, including pollutants for which receiving waters are listed as impaired under Clean Water Act 303(d). In addition, the City’s SDMP includes plans for drainage infrastructure needed to effectively accommodate stormwater drainage under existing and developed conditions.

The Proposed Project would not contribute storm water runoff beyond existing conditions, because it would not substantially increase the amount of impervious surface. The Proposed Project would connect to the existing drainage system, and would implement LID measures and BMPs to minimize pollutants in runoff. In addition, the City will implement water quality planning and design principles included in the 2008 NPDES Order to reduce pollutants and runoff flows from redevelopment. Therefore, this would be a less-than-significant impact.

g) Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

h) Place within a 100-year floodplain structures which would impede or redirect flood flows?

Due to the level topography in the City, the floodplain generally occupies a confined area that follows the river channel. As shown on the Flood Potential Diagrams in the 2003 MEIR, the project site is outside of the flood potential study areas. Therefore, the potential impacts due to flooding would be less than significant.

i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

There are no federal flood control facilities in the City of Modesto area. The City of Modesto is downstream from the Don Pedro Dam on the upper Tuolumne River, the La Grange Dam on the Tuolumne River, and the New Melones Dam on the Stanislaus River. Much of the city, including the project site, is within a dam inundation zone. Dam failures can result from any one or a number of natural causes such as prolonged periods of rainfall, flooding, earthquake, inadequate spillway

34 City of Modesto, Final Master Environmental Impact Report for the Urban Area General Plan and Related Amendments to the Urban Area General Plan, March 2003, Figures V-10-1a through 1d.
capacity, or design or maintenance problems. Two factors that influence the potential severity of a full or partial dam failure are the amount of water impounded and the density, type, and value of development downstream in the inundation area. The possibility of a dam failure exists, but the likelihood as a result of natural hazards is low. Accordingly, this impact is considered less than significant.

j) **Inundation by seiche, tsunami, or mudflow?**

The project site is not located in close proximity to any large water bodies, such as lakes or oceans. Therefore, there would be no impact due to seiche, tsunami, or mudflow.
9. LAND USE AND PLANNING

Would the project:

a. Physically divide an established community?
   - Potential Impact
   - Less Than Significant Impact
   - Mitigation Incorporated
   - No Impact

b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating environmental effect?
   - Potential Impact
   - Less Than Significant Impact
   - Mitigation Incorporated
   - No Impact

c. Conflict with any applicable habitat conservation plan or natural community conservation plan?
   - Potential Impact
   - Less Than Significant Impact
   - Mitigation Incorporated
   - No Impact

Discussion

a) Physically divide an established community?

The Proposed Project would be compatible with the existing uses in the project area. The project site is located in downtown Modesto in a developed area. The project site is currently developed with a surface parking lot and buildings. Development of the project is considered infill. The site is bounded by existing urban uses, including commercial uses and institutional uses, such as City Police Department facilities. Business uses across 10th Street to the northeast and east are one- and two-story buildings. Existing uses to the northwest include the seven-story City Tower building and the multi-story Gallo Center for the Arts at 10th and I Streets (see Figure 11). These multi-story buildings have large footprints that cover half a City block.

The Proposed Project would replace existing one- and two-story retail and office uses with a seven-story mixed-use building containing retail, office, and residential uses, along with a parking garage. Ground-floor retail uses would be similar to existing uses on the project site. Office uses would be compatible with existing lawyers’ offices, and the City Tower building across H Street. The residential portion of the Proposed Project would include one- and two-bedroom units. The residences would be located on the third through seventh floors of the building. The introduction of additional residential uses into the downtown area would be compatible with the existing...
Figure 11
Surrounding Land Uses

neighborhood, because it provides for extensive pedestrian access and retail and office uses befitting a mixed-use downtown.

Because the project site and surrounding area are developed, and the proposed land use would be compatible with the surrounding land uses, the Proposed Project would not divide an established community and there would be no impact.

b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

The City's General Plan designates the site and surrounding area as a Redevelopment Planning District (RPD). The Proposed Project would maintain the current General Plan designation. The site is currently general commercial zone (C-2) (see Figure 12). The Proposed Project would rezone the site to Planned Development Zone. This zoning designation is used to encourage creative and effective land uses for mixed and multi-purpose development. Planned Development Zones are individually tailored to specific parcels. According to the Zoning Regulations, the following are permitted uses in the P-D Zone:

(a) Any use specified in the ordinance establishing a P-D zone;
(b) Condominiums, community apartment projects and stock cooperatives, whether residential or otherwise. These uses are permitted only in a P-D zone;
(c) Theater (indoor). Except as set forth in Section 10-2.1102.1, this use is permitted only in a P-D zone.

The proposed uses include retail, office, and residential and would be consistent with the Planned Development Zone.

The final determination of consistency with the City's General Plan can only be made by the City Council. The policies that would guide development of the Proposed Project are found in the Chapter 3 of the General Plan, which addresses land use patterns and types of development.

The purpose and intent of the Redevelopment Planning District is to provide economic development and community development to create the focal point of community life and the social, cultural, business, governmental, and entertainment center of the northern San Joaquin Valley. The Proposed Project would develop residential, office, and retail uses in downtown Modesto adjacent to existing business, retail, and cultural uses. The office and retail uses would integrate with the existing City Tower office uses to the northwest of the project site. Residential uses on the project site would contribute to the General Plan goal that housing will be an integral part of the Redevelopment Area.

In addition, the Proposed Project would be consistent with the Neotraditional Planning Principles listed in the Modesto General Plan. Principle A of the Neotraditional Planning Principles states that communities and neighborhoods should be designed so that housing, jobs, daily needs, and other activities are within easy walking distance of each other. The Proposed Project would contribute to this goal by providing a mix of housing, retail and office development in proximity to other commercial and residential areas.
**Figure 12**

Zoning

**SOURCE:** City of Modesto, 2008.
Conformance with the City’s Redevelopment Plan, Municipal Code, and Standard Specifications would be required. The project site would develop with land uses that are consistent with the City’s land use policies and regulations; therefore, the impact would be less than significant.

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

The City of Modesto has not adopted a habitat conservation plan or natural community conservation plan; therefore, no impact would occur.
10. **MINERAL RESOURCES.**

   *Would the project:*
   
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?

<table>
<thead>
<tr>
<th>Issues</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
<th>Less-Than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
</tbody>
</table>

   b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

<table>
<thead>
<tr>
<th>Issues</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
<th>Less-Than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>b.</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
</tbody>
</table>

**Discussion**

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?

b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

The Modesto Urban Area is not reported to have abundant mineral resources and there are no special minerals in the City.\(^{36}\) There are no mining or other mineral operations on, or adjacent to, the project site. Therefore, there would be **no impact.**

---

11. **NOISE**  
*Would the project result in:*

<table>
<thead>
<tr>
<th>Issues</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant Mitigation Incorporated</th>
<th>Less-Than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?</td>
<td>□</td>
<td>■</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?</td>
<td>□</td>
<td>■</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>□</td>
<td>■</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>□</td>
<td>■</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>■</td>
</tr>
<tr>
<td>f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>■</td>
</tr>
</tbody>
</table>

**Discussion**

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

The Proposed Project would result in the construction and occupation of new residential, office, and retail uses in the City of Modesto. All activities during construction and operation of the Proposed Project must, by law, conform to the requirements of the City’s Noise Ordinance. An Environmental Noise Assessment was conducted for the Proposed Project and is included as Appendix B. The following discussions are summarized from the May 2008 noise study. The Environmental Noise Assessment includes a discussion of the properties of noise and the terms of measurement (see Appendix B).

According to the State Land Use Compatibility Standards for Community Noise Environment (Figure VII-2 of the 2003 General Plan), a noise exposure of 65 dB Ldn is considered acceptable for multi-family residential development. An exposure of 70 dB Ldn is normally acceptable for office buildings and commercial uses, such as those proposed for the project. General Plan Policies VII-G.3(a), (b) and (e) through (h), shown below, and the City’s Noise Ordinance, require that noise attenuation measures be implemented for new projects to reduce, to acceptable levels, noise generated by each project.

VII-G.3(a): The City of Modesto shall require construction activities to comply with the City’s noise ordinance (Title 4, Chapter 9), and noise-reducing construction practices to be implemented as conditions of approval for development projects where substantial construction-related noise impacts would be likely to occur (e.g. where construction would include extended periods of pile driving, where construction would occur over an unusually long period, or where noise-sensitive uses like homes and schools would be in the immediate vicinity, etc.). The City should consider potential mitigation measures, including but not limited to, the following:
1. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers’ recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.
2. Equipment that is quieter than standard equipment should be utilized.
3. Haul routes that affect the fewest number of people should be selected.

VII-G.3(e): For proposed non-residential uses, where noise mitigation is deemed necessary for new developments to meet the exterior noise land use compatibility guidelines (Figure VII-2 [of the General Plan]), the City of Modesto shall require developers to demonstrate that the proposed development will incorporate measures to reduce noise impacts to a less-than-significant level, as follows:
1. Where feasible and consistent with General Plan policy, incorporate setbacks and/or locate less-sensitive uses between a noise source and noise-sensitive uses.
2. Provide (to the extent feasible and consistent with General Plan policy) berms, barriers, or other techniques to shield noise-sensitive uses from noise sources.
3. Incorporate construction techniques to achieve an interior noise limit. One source that can be used for such specifications is the Noise Control Manual for Residential Buildings (Builder’s Guide) by David A. Harris (1997).
VII-G.3(f): With road extension, widening and upgrade projects, the City of Modesto shall implement, as feasible, techniques to minimize noise impacts on adjacent uses. Potentially available techniques may include:
1. Widened right-of-way;
2. Depressed roadway alignments;
3. Earthen berms or earthen/wall combination;
4. Walls;
5. Acoustical retrofitting to affected parties.

VII-G.3(h): The City of Modesto shall limit trucking to specific routes, times and speeds that minimize adverse effects to sensitive land uses such as schools and residential areas.

Existing Noise Conditions

Noise at the project site, in downtown Modesto, is typical of an urban city environment. The primary noise sources are associated with traffic on surface streets. Temporary sources such as construction are also common, and can affect adjacent uses for extended periods. Key noise sources in the vicinity of the project site include vehicular noise along 9th and 10th Streets, a rail line 300 feet to the west of the project site, and the JS West Feed and Supply to the southwest across 9th Street. Traffic noise is the dominant noise source at the project site; however, during train passages ambient noise can be dominated by the train movement. Trains were noted to generate significant maximum noise levels during warning horn usage.

Existing Noise Receptors

Some land uses are considered more sensitive to ambient noise levels than others. Land uses often associated with sensitive receptors generally include residences, schools, libraries, hospitals, and passive recreational areas. Noise sensitive land uses are typically given special attention in order to achieve protection from excessive noise. Sensitivity is a function of noise exposure (in terms of both exposure duration and insulation from noise) and the types of activities involved. These land uses would potentially experience noise impacts associated with project construction and/or increased traffic from project operation.

Noise exposure levels in the City of Modesto varies dramatically depending on the level of noise buffering from adjacent buildings in addition to proximity of intersecting streets. There are no existing sensitive noise receptors in the immediate project vicinity. However, noise sensitive uses are located within approximately two to three blocks of the project site.

Existing Ambient Noise Levels

To generally quantify existing ambient noise levels in the project vicinity, a short-term ambient noise survey was conducted at four locations surrounding the project site on December 12, 2007. A continuous noise-monitoring site was also placed on the rooftop of the existing 2-story office building located at 900 H Street, at the northwest corner of the project site. The ambient noise measurement sites are shown on Figure 13.
Figure 13
Project Site and Noise Measurement Locations

- : Short Term Noise Measurement Location
- : Continuous Noise Measurement Location
The sound level meters were programmed to record the maximum, average, and median noise levels at each site during the survey. The maximum value, denoted $L_{\text{max}}$, represents the highest noise level measured. The average value, denoted $L_{\text{eq}}$, represents the energy average of all of the noise received by the sound level meter microphone during the monitoring period. The median value, denoted $L_{50}$, represents the noise level exceeded 50 percent of the time in an hour.

Table 7 summarizes the noise measurement data, which indicate that noise levels at or near the project site average 76 dB $L_{dn}$.

<table>
<thead>
<tr>
<th>Site</th>
<th>Notes</th>
<th>Date</th>
<th>Time</th>
<th>Average Measured Hourly Noise Levels (dBA)</th>
<th>Daytime (7:00 am - 10:00 pm)</th>
<th>Nighttime (10:00 pm - 7 am)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$L_{\text{eq}}$</td>
<td>$L_{50}$</td>
</tr>
<tr>
<td>A</td>
<td>Traffic on 9th St. was the primary noise source with noise from J.S. West Feed and Supply and railroad passages.</td>
<td>12/12/07 - 12/13/07</td>
<td>24-hr</td>
<td>76 dB</td>
<td>70 dB</td>
<td>67 dB</td>
</tr>
<tr>
<td></td>
<td>Short-Term Noise Measurements</td>
<td></td>
<td></td>
<td>$L_{\text{dn}}$</td>
<td>24-hr</td>
<td>Time</td>
</tr>
<tr>
<td>1</td>
<td>Traffic on G St. was the primary noise source with contributions from 9th St.</td>
<td>12/12/07</td>
<td>11:36 am</td>
<td>NA</td>
<td>69 dB</td>
<td>65 dB</td>
</tr>
<tr>
<td>2</td>
<td>Traffic on 10th was the primary noise source with contributions from G St.</td>
<td>12/12/07</td>
<td>11:59 am</td>
<td>NA</td>
<td>65 dB</td>
<td>60 dB</td>
</tr>
<tr>
<td>3</td>
<td>Traffic on H St. was the primary noise source.</td>
<td>12/12/07</td>
<td>12:14 pm</td>
<td>NA</td>
<td>66 dB</td>
<td>64 dB</td>
</tr>
<tr>
<td>4</td>
<td>Traffic on 9th St. was the primary noise source with occasional noise from J.S. West Feed and Supply.</td>
<td>12/12/07</td>
<td>12:31 am</td>
<td>NA</td>
<td>70 dB</td>
<td>68 dB</td>
</tr>
</tbody>
</table>


**Existing Roadway Noise Levels**

Table 8 shows the existing traffic noise levels in terms of $L_{dn}$ at a reference distance of 100 feet from the centerlines of the existing project-area roadways (please see Appendix B for noise calculation methodology). The table also shows the distances to existing traffic noise contours. Predicted noise levels and contours do not account for shielding that could occur at some location or elevated receiver locations which can experience higher noise levels. A complete list of the FHWA Model input data is contained in Appendix B.
### Existing Traffic Noise Levels

<table>
<thead>
<tr>
<th>Roadway</th>
<th>Segment</th>
<th>Traffic Noise Level, Ldn (dBA) @ 100'</th>
<th>Distance to Contours (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>9th Street (SR132)</td>
<td>L Street to K Street</td>
<td>66.1</td>
<td>55 119 255</td>
</tr>
<tr>
<td>9th Street (SR132)</td>
<td>K Street to J Street</td>
<td>65.8</td>
<td>53 113 244</td>
</tr>
<tr>
<td>9th Street (SR132)</td>
<td>J Street to I Street</td>
<td>66.5</td>
<td>58 126 271</td>
</tr>
<tr>
<td>9th Street (SR132)</td>
<td>I Street to H Street</td>
<td>65.9</td>
<td>53 114 245</td>
</tr>
<tr>
<td>9th Street (SR132)</td>
<td>H Street to G Street</td>
<td>66.2</td>
<td>56 120 259</td>
</tr>
<tr>
<td>9th Street (SR132)</td>
<td>G Street to F Street</td>
<td>66.4</td>
<td>57 124 267</td>
</tr>
<tr>
<td>H Street</td>
<td>11th Street to 10th Street</td>
<td>62.2</td>
<td>30 65 140</td>
</tr>
<tr>
<td>H Street</td>
<td>10th Street to 9th Street</td>
<td>61.9</td>
<td>29 62 134</td>
</tr>
<tr>
<td>H Street</td>
<td>9th Street to 8th Street</td>
<td>61.9</td>
<td>29 62 134</td>
</tr>
<tr>
<td>G Street</td>
<td>8th Street to 9th Street</td>
<td>60.2</td>
<td>22 48 102</td>
</tr>
<tr>
<td>G Street</td>
<td>9th Street to 10th Street</td>
<td>60.4</td>
<td>23 49 106</td>
</tr>
<tr>
<td>G Street</td>
<td>10th Street to 11th Street</td>
<td>60.2</td>
<td>22 48 103</td>
</tr>
<tr>
<td>10th Street</td>
<td>I Street to H Street</td>
<td>54.3</td>
<td>9 19 42</td>
</tr>
<tr>
<td>10th Street</td>
<td>H Street to G Street</td>
<td>54.9</td>
<td>10 21 45</td>
</tr>
<tr>
<td>10th Street</td>
<td>G Street to F Street</td>
<td>51.6</td>
<td>6 13 27</td>
</tr>
<tr>
<td>SR 99</td>
<td>L Street to I Street</td>
<td>79.3</td>
<td>418 900 1939</td>
</tr>
<tr>
<td>SR 99</td>
<td>I Street to H Street</td>
<td>79.0</td>
<td>401 864 1862</td>
</tr>
<tr>
<td>SR 99</td>
<td>H Street to F Street</td>
<td>79.1</td>
<td>403 869 1872</td>
</tr>
<tr>
<td>SR 99</td>
<td>F St to Tuolumne Blvd</td>
<td>79.6</td>
<td>440 947 2041</td>
</tr>
</tbody>
</table>

1. Traffic noise levels are predicted at a standard distance of 100 feet from the roadway centerline and do not account for shielding from existing noise barriers or intervening structures. Traffic noise levels may vary depending on actual setback distances and localized shielding effects.


### Existing Freight Train Noise Levels

Existing railroad noise levels were calculated using measured sound exposure (SEL) levels for trains collected at the project site. The results of the SEL measurements indicate that a typical freight train generated an SEL of 101 dB at a distance of approximately 300 feet (the approximate edge of the project site). Maximum noise levels were found to be 99 dB at a distance of approximately 300 feet.

Existing train noise contours were calculated. It was assumed that trains were evenly distributed between daytime and nighttime hours. The 65 dB Ldn railroad noise contour is calculated to be located at a distance of 334 feet from the centerline of the rail line, which would fall within the project site.

### Existing Industrial Noise Levels

Modesto 10th & H Streets Project

Initial Study/MND

77
The JS West Feed and Supply facility is located at 9th & G Street, immediately southwest of the project site. Based upon discussions with the retail supervisor, the facility operates during the hours of 7:00 a.m. to 3:30 p.m., and does not run equipment during nighttime hours. Based upon measurements conducted on the rooftop of 900 H Street, the facility was measured to generate noise levels of 64 dB $L_{eq}$ at a distance of approximately 240 feet from the primary noise-generating equipment. Based upon 8.5 hours of daytime operations, this would correspond to a day/night average ($L_{dn}$) noise exposure of 57 dB $L_{dn}$ at a distance of 240 feet.

**Proposed Project Impacts**

**Construction**

Noise from construction activities would add to the noise environment in the immediate project vicinity. Activities involved in typical construction would generate maximum noise levels, as indicated in Table 9, ranging from 80 to 90 dB at a distance of 50 feet. The applicant has not determined whether pile driving would be necessary at this time. Pile-driving activities would result in much higher noise levels, ranging from 96 to 101 dB.

<table>
<thead>
<tr>
<th>Type of Equipment</th>
<th>Maximum Level, dB at 50 feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air Compressor</td>
<td>81</td>
</tr>
<tr>
<td>Backhoe</td>
<td>80</td>
</tr>
<tr>
<td>Compactor</td>
<td>82</td>
</tr>
<tr>
<td>Concrete Pump, Mixer, Vibrator</td>
<td>82, 85, 76</td>
</tr>
<tr>
<td>Crane - Mobile, Derrick</td>
<td>83, 88</td>
</tr>
<tr>
<td>Dozer</td>
<td>85</td>
</tr>
<tr>
<td>Generator</td>
<td>81</td>
</tr>
<tr>
<td>Grader</td>
<td>85</td>
</tr>
<tr>
<td>Jack Hammer</td>
<td>88</td>
</tr>
<tr>
<td>Loader</td>
<td>85</td>
</tr>
<tr>
<td>Pile Driver – Impact, Sonic</td>
<td>101, 96</td>
</tr>
<tr>
<td>Rail Saw</td>
<td>90</td>
</tr>
<tr>
<td>Truck</td>
<td>88</td>
</tr>
</tbody>
</table>


Noise would also be generated during the construction phase by increased truck traffic on area roadways. This noise increase would be of short duration, and would likely occur primarily during daytime hours.

Because construction would occur during hours when buildings surrounding the project site are occupied, construction noise could affect these uses. This would be especially true during those periods where pile-driving would occur. As shown in Table 9, pile-driving could produce peak
levels of up to 101 dBA $L_{eq}$ at 50 feet. Because noise from a point source usually attenuates at approximately 6 dBA per doubling of distance, this would result in pile-driving noise of about 95 dBA $L_{eq}$ at 100 feet and 89 dBA $L_{eq}$ at 200 feet.

There are various retail, restaurant, office, and commercial buildings within 200 feet of the Proposed Project that could be affected during pile driving activities. If used, pile-driving noise at the nearby noise-sensitive uses would most likely be loud enough to cause annoyance to the occupants of these buildings, especially considering that pile-driving does not produce continuous noise, but sharp, intermittent noise peaks.

The City of Modesto noise ordinance exempts from noise standards construction during the hours of 7:00 a.m. to 9:00 p.m. Monday through Friday and from 9:00 a.m. to 9:00 p.m. on Saturday and Sunday. Generally, if a construction project adheres to the construction times identified in the noise ordinance, construction noise is exempted. Although the City of Modesto Municipal Code exempts construction activities from the City’s noise standards, pile driving activities would be severe enough to be considered a significant noise impact.

The following mitigation measures would reduce the magnitude and severity of construction noise impacts to a less-than-significant level by requiring noise attenuation measures during construction and, if undertaken, pile driving.

**Mitigation Measure 5**

The project contractor shall implement the following measures:

(a) Erect a solid 8-foot-tall plywood construction/noise barrier along the exposed project boundaries. The barrier shall not contain any significant gaps at its base or face, except for site access and surveying openings.

(b) Comply with the City of Modesto Noise Ordinance and General Plan Policy VII-G.3(a). Demolition and pile-driving activities shall be coordinated with adjacent land uses in order to minimize potential disturbance of planned activities.

(e) If pile driving occurs, pile holes shall be pre-drilled to the maximum feasible depth. This would reduce the number of blows required to seat the pile, and would concentrate the pile driving activity closer to the ground where noise can be attenuated more effectively by the construction/noise barrier.

(d) Locate fixed construction equipment such as compressors and generators as far as possible from sensitive receptors. Shroud or shield all impact tools, and muffle or shield all intake and exhaust ports on power construction equipment.

(e) Designate a disturbance coordinator and conspicuously post this person's number around the project site and in adjacent public spaces. The disturbance coordinator would receive all public complaints about construction noise disturbances and would
be responsible for determining the cause of the complaint, and implement any feasible measures to be taken to alleviate the problem.

Operational Noise Impacts

Traffic Noise

To assess noise impacts due to project-related traffic increases on the local roadway network, traffic noise levels are predicted at a representative distance for existing, baseline and future, project and no-project conditions. To describe existing and projected noise levels due to traffic, the Federal Highway Administration Highway Traffic Noise Prediction Model (FHWA RD-77-108) was used. The model is based upon the Calveno reference noise factors for automobiles, medium trucks and heavy trucks, with consideration given to vehicle volume, speed, roadway configuration, distance to the receiver, and the acoustical characteristics of the site. The FHWA model was developed to predict hourly $L_{eq}$ values for free-flowing traffic conditions. To predict traffic noise levels in terms of $L_{dn}$, it is necessary to adjust the input volume to account for the day/night distribution of traffic.

Traffic volumes for existing, baseline, and cumulative conditions and scenarios were based on an earlier version of the traffic study than the study shown in Appendix C. Since the noise study was completed, the project was revised to include fewer residential units. Therefore, the noise study is based on a higher level of traffic than would occur under the project as currently proposed. The differences in noise traffic noise levels under the previous project and the Proposed Project would not be substantial (since a doubling of traffic is typically needed to increase traffic noise by a noticeable amount). Nonetheless, the noise study represents a conservative analysis because it is based on a higher level of development.

A 3 dB increase in traffic noise levels at noise sensitive uses is typically considered to be the threshold of significance for increases in traffic noise levels, because smaller increases are not typically noticeable.

The a.m. peak hour traffic volumes were compiled into segment volumes and converted into daily traffic volumes using a factor of 10. Truck usage and vehicle speeds on the local area roadways were estimated from field observations and Caltrans, where available.

Table 10 shows the predicted increases in traffic noise levels on the local roadway network for existing, baseline and cumulative conditions that could result from the Proposed Project. The data are provided in terms of $L_{dn}$ at a standard distance of 100 feet from the centerlines of the project-area roadways. Appendix B provides the complete inputs and results of the FHWA traffic noise prediction model.

The Proposed Project would generate slight increases in traffic on the existing roadway network. The project is expected to result in traffic noise level increases over existing baseline levels of less than 1 dB on the existing project area roadways, as indicated in Table 10. Because the predicted increase in traffic noise levels that would result from the Proposed Project would not exceed the 3 dB
### TABLE 10
**EXISTING, BASELINE AND CUMULATIVE TRAFFIC NOISE LEVELS WITH AND WITHOUT PROJECT**

<table>
<thead>
<tr>
<th>Roadway</th>
<th>Segment</th>
<th>Noise Levels (Ldn) 100 Feet From Centerline[^1]</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Existing, dB</td>
</tr>
<tr>
<td>9th St. (SR132)</td>
<td>L St. to K St.</td>
<td>66.1</td>
</tr>
<tr>
<td>9th St. (SR132)</td>
<td>K St. to J St.</td>
<td>65.8</td>
</tr>
<tr>
<td>9th St. (SR132)</td>
<td>J St. to I St.</td>
<td>66.5</td>
</tr>
<tr>
<td>9th St. (SR132)</td>
<td>I St. to H St.</td>
<td>65.9</td>
</tr>
<tr>
<td>9th St. (SR132)</td>
<td>H St. to G St.</td>
<td>66.2</td>
</tr>
<tr>
<td>9th St. (SR132)</td>
<td>G St. to F St.</td>
<td>66.4</td>
</tr>
<tr>
<td>H Street</td>
<td>11th St. to 10th St.</td>
<td>62.2</td>
</tr>
<tr>
<td>H Street</td>
<td>10th St. to 9th St.</td>
<td>61.9</td>
</tr>
<tr>
<td>H Street</td>
<td>9th St. to 8th St.</td>
<td>61.9</td>
</tr>
<tr>
<td>G Street</td>
<td>8th St. to 9th St.</td>
<td>60.2</td>
</tr>
<tr>
<td>G Street</td>
<td>9th St. to 10th St.</td>
<td>60.4</td>
</tr>
<tr>
<td>G Street</td>
<td>10th St. to 11th St.</td>
<td>60.2</td>
</tr>
<tr>
<td>10th Street</td>
<td>I St. to H St.</td>
<td>54.3</td>
</tr>
<tr>
<td>10th Street</td>
<td>H St. to G St.</td>
<td>54.9</td>
</tr>
<tr>
<td>10th Street</td>
<td>G St. to F St.</td>
<td>51.6</td>
</tr>
<tr>
<td>SR 99</td>
<td>L St. to I St.</td>
<td>79.3</td>
</tr>
<tr>
<td>SR 99</td>
<td>I St. to H St.</td>
<td>79.0</td>
</tr>
<tr>
<td>SR 99</td>
<td>H St. to F St.</td>
<td>79.1</td>
</tr>
<tr>
<td>SR 99</td>
<td>F St to Tuolumne Blvd.</td>
<td>79.6</td>
</tr>
</tbody>
</table>

[^1]: Traffic noise levels are predicted at a standard distance of 100 feet from the roadway centerline and do not account for shielding from existing noise barriers or intervening structures. Traffic noise levels may vary depending on actual setback distances and localized shielding affects.

threshold of significance, the operational traffic noise impact is considered less than significant.

*Exposure of New Sensitive Receptors*

The Modesto General Plan specifies an acceptable exterior noise level of 65 dB L_{dn} for outdoor areas of multi-family uses. Outdoor areas for the residential portion of the Proposed Project would include the third floor residential courtyard area, which would include a swimming pool, spa and fitness area. This would be the primary area for outdoor recreation associated with the Proposed Project. Based upon the analysis contained in Table 11, the third floor residential courtyard is predicted to be exposed to traffic and railroad noise levels that exceed the City of Modesto normally acceptable 65 dB L_{dn} exterior noise level standard under the Proposed Project.

<table>
<thead>
<tr>
<th>Location(s)</th>
<th>Railroad</th>
<th>Traffic</th>
<th>Industrial</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>3rd Floor Residential Courtyard/Facades (Railroad, 9th Street Traffic, JS West Feed and Supply)</td>
<td>68 dB</td>
<td>69 dB</td>
<td>57 dB</td>
<td>72 dB</td>
</tr>
<tr>
<td>10th Street - 3rd Floor Facades</td>
<td>NA</td>
<td>62 dB</td>
<td>NA</td>
<td>62 dB</td>
</tr>
<tr>
<td>G Street - 3rd Floor Facades</td>
<td>NA</td>
<td>66 dB</td>
<td>NA</td>
<td>66 dB</td>
</tr>
<tr>
<td>H Street - 3rd Floor Facades</td>
<td>NA</td>
<td>73 dB</td>
<td>NA</td>
<td>73 dB</td>
</tr>
</tbody>
</table>

Notes: Noise propagation was considered to occur under acoustically "hard" site conditions. Railroad and industrial noise measurements were conducted at the second floor rooftop elevation to account for elevated receivers.

A complete listing of FHWA Model inputs and results is provided in Appendix B. Light Rail noise prediction methodology is provided in Appendix B.

To determine the future traffic noise levels on the project site, j.c. brennan & associates, Inc. used the predicted future traffic data for the year 2025 provided by KD Anderson Transportation Engineers in the previous traffic analysis. Appendix H in the Environmental Noise Assessment (Appendix B of this Checklist) provides the inputs and results of the traffic noise prediction model.

Railroad and industrial noise levels were predicted based upon field measurements conducted at the site by j.c. brennan & associates, Inc., as discussed earlier. The railroad noise prediction methodology is provided in Appendix I of the Environmental Noise Assessment. Table 11 shows the predicted future traffic, railroad, and industrial noise levels on the project site.

As shown in Table 11, exterior noise levels would be as high as 73 dB L_{dn} which would be in excess of the City of Modesto exterior noise level standards. Modern residential construction typically provides a 25 dB exterior-to-interior noise level reduction, which would bring interior levels to a
maximum of 48 dB $L_{dn}$, which also exceeds the City’s interior standard of 45 dB $L_{dn}$. This impact is considered potentially significant.

The following mitigation measures would reduce the impact on new residents to _less-than-significant levels_ by ensuring that interior and exterior noise levels in the courtyard do not exceed 65 dB $L_{dn}$.

**Mitigation Measure 6**

(a) Construct a solid roof line screen barrier 5 feet in height to shield the third floor courtyard area from traffic and railroad noise. The barrier shall be continuous along the roof line without significant gaps or openings that would compromise the acoustical performance of the barrier. The barrier shall be constructed of a solid material that blocks airflow to the full 5 foot height. Appropriate materials include concrete, masonry, various steel and glass panels (depending on stiffness and thickness). The acoustical screen shall be reviewed by an acoustical consultant prior to construction.

(b) All residential units facing 9th Street or H Street shall be constructed with materials that will achieve an interior noise level of 45 dB $L_{dn}$ or less.

Interior noise standards can be achieved by using construction materials that provide more sound attenuation than typical construction materials. For example, windows with an STC rating of 34 would ensure that interior noise levels were below 45 dB $L_{dn}$. The use of a screen wall barrier at the roof line of the third floor residential courtyard was analyzed as a form of exterior noise mitigation. In order to estimate the shielding provided by a solid screen wall barrier, j.c. brennan & associates, Inc. conducted a noise barrier analysis. A complete listing of the noise barrier effectiveness inputs and results is shown in Appendix J of the Environmental Noise Assessment (Appendix B of this report). The results of the barrier analysis are summarized in Table 12.

<table>
<thead>
<tr>
<th>Noise Source</th>
<th>Location</th>
<th>Noise Level with Varying Property Line Barrier Heights</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>4’</td>
<td>5’</td>
</tr>
<tr>
<td>Railroad</td>
<td>63 dB</td>
<td>63 dB</td>
</tr>
<tr>
<td>9th Street</td>
<td>62 dB</td>
<td>62 dB</td>
</tr>
<tr>
<td>Total</td>
<td>66 dB</td>
<td>65 dB</td>
</tr>
</tbody>
</table>

The results of the barrier analysis indicate that a roof line screen wall 5 feet in height would be adequate to reduce traffic and railroad noise levels to a state of compliance with the City of Modesto 65 dB $L_{dn}$ exterior noise level standard.

**b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?**
Vibration is like noise in that it involves a source, a transmission path, and a receiver. While vibration is related to noise, it differs in that noise is generally considered to be pressure waves transmitted through air, whereas vibration usually consists of the excitation of a structure or surface. As with noise, vibration consists of an amplitude and frequency. A person’s perception of the vibration would depend on his or her individual sensitivity to vibration, as well as the amplitude and frequency of the source and the response of the object that is vibrating. Vibration can be measured in terms of acceleration, velocity or displacement. A common practice is to monitor vibrations in terms of peak particle velocities using units of inches per second. Certain construction-related activities, such as pile driving, can generate substantial vibration levels. Human and structural response to different vibration levels is influenced by a number of factors, including ground type, distance between the source and receptor, duration, and the number of perceived vibration events.

**Existing Groundborne Vibration**

Generally, the most common existing source of groundborne vibration at a project site is roadway truck and bus traffic. Based upon Caltrans research, the maximum vibration levels from truck traffic would not be expected to exceed 0.08 in/sec Peak Particle Velocity (PPV) at a distance of 16 feet from the centerline of the nearest lane of travel. The Proposed Project property lines are located approximately 20 feet from the centerlines of the adjacent City streets. At this distance, the Caltrans research indicates that PPV vibrations from truck passages would not be expected to exceed 0.07 in/sec. This level is considered to be barely in the range of perceptibility, and is well below the levels required to cause architectural or structural damage to buildings.

Railroad lines also generate groundborne vibrations while passing through the project area. However, the rail line is located over 300 feet from the project site. At this distance groundborne vibrations are not expected to be in the range of perceptibility.

**Vibration Standards**

Certain construction-related activities, such as pile driving, can generate substantial vibration levels. Human and structural response to different vibration levels is influenced by a number of factors, including ground type, distance between source and receptor, duration, and the number of perceived vibration events. Table 13 indicates that the threshold for damage to structures ranges from 0.2 to 0.6 in/sec. The threshold for architectural damage to buildings is 0.2 in/sec. The threshold of human annoyance is considered to be 0.1 in/sec. However, depending on the activity (or inactivity) a person is engaged in, vibrations can be annoying at much lower levels those shown in Table 13. Elderly, retired, or ill people staying mostly at home, people reading in a quiet environment, people involved in vibration sensitive hobbies or other activities are but a few examples of people that are potentially annoyed by much lower vibration levels. To people in this category, even vibrations near the threshold of perception can be annoying. Therefore, one-half of the threshold of human annoyance, or .05 in/sec PPV, is considered a reasonable criterion that would protect against human annoyance in most cases.
Construction activities can generate ground-borne vibrations. These vibrations can pose a risk to nearby structures. Constant or transient vibrations can weaken structures, crack facades, and disturb occupants. Construction vibrations can either be transient, random, or continuous. Transient construction vibrations occur from blasting, impact pile driving, and wrecking balls. Continuous vibrations result from vibratory pile drivers, large pumps, and compressors. Random vibrations can result from jack hammers, pavement breakers, and heavy construction equipment.

### TABLE 13

<table>
<thead>
<tr>
<th>Peak Particle Velocity (p.p.v.) inches/sec</th>
<th>Peak Particle Velocity (p.p.v.) mm/second</th>
<th>Human Reaction</th>
<th>Effect on Buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td>.006-.019</td>
<td>0.15-0.30</td>
<td>Threshold of perception; possibility of intrusion</td>
<td>Vibrations unlikely to cause damage of any type</td>
</tr>
<tr>
<td>0.08</td>
<td>2.0</td>
<td>Vibrations readily perceptible</td>
<td>Recommended upper level of vibration to which ruins and ancient monuments should be subjected</td>
</tr>
<tr>
<td>0.10</td>
<td>2.5</td>
<td>Level at which continuous vibrations begin to annoy people</td>
<td>Virtually no risk of &quot;architectural&quot; damage to normal buildings</td>
</tr>
<tr>
<td>0.20</td>
<td>5.0</td>
<td>Vibrations annoying to people in buildings (this agrees with the levels established for people standing on bridges and subjected to relative short periods of vibrations)</td>
<td>Threshold at which there is a risk of &quot;architectural&quot; damage to normal dwellings — houses with plastered walls and ceilings.</td>
</tr>
<tr>
<td>0.4-0.6</td>
<td>10-15</td>
<td>Vibrations considered unpleasant by people subjected to continuous vibrations and unacceptable to some people walking on bridges.</td>
<td>Vibrations at a greater level than normally expected from traffic, but would cause &quot;architectural&quot; damage and possibly minor structural damage.</td>
</tr>
</tbody>
</table>

Source: *Transportation Related Earthborne Vibrations (Caltrans Experiences), Technical Advisory, Vibration TAV-02-01-R9601, Caltrans 2002.*

The most significant source of ground-borne vibrations would from pile-drivers during periods of construction on the project site. Based upon research published by the Federal Transit Administration, pile-driving can result in peak particle velocity (PPV) values up to 1.158 in/sec with more typical values around 0.644 in/sec at a distance of 25 feet. The closest listed buildings to the project site are located immediately adjacent to the project site adjacent to the proposed parking structure and approximately 25 feet from the proposed mixed-use tower. Table 13, above, indicates that pile driving could generate vibration levels exceeding safe levels (0.2 in/sec) at these distances.

The following mitigation measures would reduce the potential for vibration damage to adjacent structures to a less-than-significant level by requiring protective measures.
Mitigation Measure 7

(a) Implement Mitigation Measures 5(a) and 5(c) above.

(b) If pile driving occurs, provide protective coverings or temporary shoring of on-site or adjacent historic features as necessary, in consultation with the Preservation Director.

(c) If pile driving occurs, the pre-existing condition of all buildings within a 50-foot radius would be recorded in order to evaluate damage from construction activities. Fixtures and finishes within a 50-foot radius of construction activities susceptible to damage shall be documented (photographically and in writing) prior to construction. All damage shall be repaired back to its pre-existing condition.

(d) If pile driving occurs and fire sprinkler failure failures are reported in surrounding buildings to the disturbance coordinator, the contractor shall provide monitoring during construction and repairs to sprinkler systems shall be provided.

(e) If damage occurs despite the above mitigation measures, construction operations shall be halted and the problem activity shall be identified. A qualified engineer shall establish vibration limits based on soil conditions and the types of buildings in the immediate area. The contractor shall monitor the buildings throughout the remaining construction period and follow all recommendations of the qualified engineer to repair any damage that has occurred to the pre-existing state, and to avoid any further structural damage.

(e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

(f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

The project site is approximately two miles from the Modesto City-County Airport and is not located within the noise contours for the Airport.\(^{37}\) In addition, there are no private airstrips within the vicinity of the project site. Therefore, there would be **no impact** to people residing or working in the project area to excessive noise levels caused by aircraft.

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12. POPULATION AND HOUSING.

Would the project:

a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)? □ □ ■ □

b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? □ □ □ ■

c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? □ □ □ ■

Discussion

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?

The Proposed Project would result in the construction of up to 66 new residential units in a seven-story building in downtown Modesto. The project would also include up to 30,000 square feet of retail, and up to 19,000 square feet of office uses on one acre.

California Department of Finance data indicate that there are, on average, approximately 2.9 persons per household in the City of Modesto.38 The residential component of the Proposed Project consists only of multifamily units, which would have fewer persons per household than the city-wide average (which includes all types of homes, including single family). Therefore, this analysis assumes that the Proposed Project would have two persons per household. Using this rate, the Proposed Project would result in the generation of 132 new residents.

Using an employee generation rate of 502 square feet per employee for neighborhood retail and office uses,39 the Proposed Project would result in up to 97 new jobs.

Between 1990 and 2000, the population in the City of Modesto grew by 14.6 percent, from 164,730 to 188,856 persons, according to California Department of Finance (DOF) data. Total population in Modesto in January 2006 was estimated at 208,107 persons, which represents an estimated 10.2 percent increase over the population in 2000. Based on data presented in the City’s General Plan housing element, the population in the city is estimated to increase to 302,546 by 2010. By 2020, the population is estimated to reach 418,562. Based on current population, this level of growth by 2010 is not expected. The City bases the estimates contained in its housing element on Stanislaus County Council of Governments data. Additional population data in the housing element projects a holding capacity of 400,000 residents within the planned urbanizing area by 2025. This lower estimate for 2020 probably reflects a growth scenario anticipated by the City that considers the City’s infrastructure capacity, resource constraints, and the desire to maintain and enhance the quality of life in the community.

The Proposed Project is located within the Modesto Redevelopment Master Plan redevelopment area (RDA). A draft market evaluation was prepared for the Modesto Redevelopment Agency in support of the effort to identify development potential within the RDA. The market evaluation identified residential development as the most viable of all candidate uses within the RDA and as the use that would have the most dramatic impact on the downtown area. Based on anticipated growth in the city, the market evaluation estimated that approximately 21,700 units of new housing would be required by 2008, which represents an average of 4,300 units per year. The demand over the longer term, based on the anticipated population growth through 2015, would require approximately 4,600 units per year. A small portion of the growth anticipated in the city is planned to occur within the RDA. The draft market evaluation resulted in development of a working hypothesis that proposes a residential base of approximately 500-750 new dwelling units in the downtown area, including a mix of condominiums, townhomes, and lofts.

The increase of 66 dwelling units and 132 new residents would be consistent with the growth that is expected to occur in the RDA, which represents a portion of the growth that is planned to occur within developed areas of the City, as addressed in the City of Modesto Urban Area General Plan. The addition of retail and office uses on the project would replace existing business uses on the project site. Additional retail use would serve the existing and planned residential population in the downtown area and would not induce additional population growth. Because the Proposed Project would contribute to redevelopment of the downtown as envisioned by the Redevelopment Master Plan, this impact on population levels and growth would be less than significant.

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

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There is no housing on the project site, nor would the required off-site infrastructure for the Proposed Project require removal of existing housing. Therefore, there would be no impact due to the displacement of houses or people.
### 13. PUBLIC SERVICES.

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

<table>
<thead>
<tr>
<th></th>
<th>Potential Significant Impact</th>
<th>Less Than Significant Mitigation Incorporated</th>
<th>Less-Than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>Fire protection?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>b.</td>
<td>Police protection?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>c.</td>
<td>Schools?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>d.</td>
<td>Parks?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>e.</td>
<td>Other public facilities?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

### Discussion

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

(a) Fire Protection?

The Modesto Fire Department (MFD) provides fire and life safety services throughout the City of Modesto. These services include fire suppression, fire prevention, emergency medical services, emergency preparedness, and hazardous materials response and mitigation. The MFD operates 11 fire stations throughout the city with a minimum of 50 staff members on duty at all times. The goal of the Modesto Fire Department is to be on the scene of emergency incidents within six minutes or less more than 90 percent of the time. The current average response time is about 4.5 minutes. The area currently served by MFD has a population of approximately 215,000. The ISO rating for fire protection service within the city of Modesto is 2, with 1 being the best rating possible and 10 being the worst.

The project site is served by the Fire Department, and implementation of the project would not alter the existing boundaries or service area of the MFD. A MFD Fire Station is located approximately

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two blocks away at 600 11th Street. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. There is a fire station near the project site, and access to the project site would be available from the adjacent streets, as well as the alley. The Proposed Project would increase the amount of residents and commercial activity served by the Fire Department. However, the project would be required to pay its fair share of Public Facilities Impact Fees, which would offset this increased demand. For these reasons, there would be a less-than-significant impact on fire protection services.

(b) Police protection?

Police services for the project site would be provided by the City of Modesto. The Modesto Police Department (MPD), which provides police protection for the City of Modesto, operates from two main facilities: the department headquarters at 601 11th Street and leased office space at 12th and F Streets. The MPD is organized into three divisions: support, investigations, and operations. Services provided by the MPD includes emergency response to in progress calls, Crime Prevention, Youth Services, and Narcotic and Gang Enforcement. The MPD has 286 sworn personnel and 110 non-sworn personnel. The goal of the MPD is to respond to Priority 1 calls in less than 5 minutes. The MPD meets this goal each month. The area served by MPD has a population of approximately 215,000. There are currently 1.3 sworn officers per thousand capita. The target of MPD is 1.8 sworn officers per capita by 2010.

General Plan Policy PS-3 states that the City “should maintain an adequate personnel level, to organize patrol areas and provide investigative responses to achieve a comfortable and safe community climate conducive to a high quality of life and to maintain an active and growing commercial and business environment. To the maximum economic extent feasible, police operations should include proactive law enforcement and administrative efforts, all to be expanded as the City’s population grows.” The project site is currently served by the Police Department, and implementation of the project would not alter the existing boundaries or service area of the Modesto Police Department. The addition of residents to the downtown area would add “eyes on the street” in the City of Modesto, thereby potentially reducing certain crimes in redevelopment areas. The proposed commercial activity would replace existing commercial businesses on the project site. In addition, development fees are required for all subsequent developments that would alleviate potential police department impacts. For these reasons, this would be a less-than-significant impact.

(c) Schools?

The Proposed Project would result in the construction of up to 66 condominium units in a seven-story structure, along with retail and office space, and parking uses. New residential units could

generate additional children. New students from the project site would attend Wilson Elementary School, La Loma Junior High School, and Johansen High School. District-wide, the Modesto City Schools has a capacity of 30,424 students. Wilson Elementary has a capacity of 312 students, La Loma Junior High has a capacity of 840 students, and Johansen High School has a capacity of 2,760 students. During the 2006-2007 school year, Wilson Elementary had a student enrollment of 272 students and Johansen High School had an enrollment of 2,621 in grades 7 through 12. During the 2007-2008 school year, La Loma Junior High had an enrollment of 784 students.

As shown in Table 14, the Proposed Project would generate up to 13 elementary, one middle school, and six high school students.

<table>
<thead>
<tr>
<th>Type of School</th>
<th>Generation Rate</th>
<th>Number of DU</th>
<th>Number of Students Generated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elementary</td>
<td>0.199</td>
<td>66</td>
<td>13</td>
</tr>
<tr>
<td>Middle</td>
<td>0.021</td>
<td>66</td>
<td>1</td>
</tr>
<tr>
<td>High School</td>
<td>0.096</td>
<td>66</td>
<td>6</td>
</tr>
</tbody>
</table>

SOURCE: Dana McGarry, Director of Planning and Research, Modesto City Schools, personal communication, October 3, 2007.

Even with adequate school sites, funds would be needed for constructing and staffing new schools. School funding typically has a number of sources, such as property tax, State General Funds, special taxes and developer fees. The assessment of developer fees is regulated through the State Government Code. Proposition 1A/Senate Bill 50 (Chapter 407, Statutes of 1998) establishes the base amount that developers can be assessed per square foot of residential and non-residential development. If a district meets certain standards, the base adjustment can be adjusted upward a certain amount. Under SB 50, payment of the identified fees by a developer is deemed to be “full and complete mitigation” of impacts on schools resulting from new development. In addition, the number of students generated by the Proposed Project would be relatively small and would not require the construction of any new school facilities that would result in physical environmental impacts. Because the existing schools have capacity to serve the project and because the Proposed Project would pay school mitigation fees and would not result in the construction of new facilities that would themselves result in physical environmental impacts, potential impacts due to increased school enrollment would be less than significant.

47 Dana McGarry, Director of Planning and Research, Modesto City Schools, personal communication, October 3, 2007.
(d) Parks?

The City’s Park Maintenance Division maintains 70 city parks, Tuolumne River Regional Park (TRRP), Dry Creek Regional Park, Hetch Hetchy Trail, John Thurman Field, road median planters, transportation sites, and bus stops. Parks in the plan area are administered and maintained by Modesto’s Parks, Recreation and Neighborhoods Department. Parks in the RDA include McClatchy Square, Beard Brook Park, Pike Park, Graceada Park, Marshall Park, Cesar Chavez Park, and Moose Park, and Kewin Park. TRRP is also located at the southern end of the RDA. The Proposed Project site is located approximately one-half mile away from Beard Brook Park, located along Dry Creek. The park includes ball fields, a picnic area, and playground. Parks in the immediate area include 17th and G Street Park, Beard Brook Park, and Cesar Chavez Park.

The City of Modesto Urban Area General Plan requires that neighborhood parks be centrally located and serve an area of 0.5 to 0.75 miles around the park, with a minimum of two acres of community parkland to be provided for every 1,000 persons. 51

The Proposed Project, along with future development in the City, would require additional park facilities. Upon build out and occupation of the Proposed Project, there would be approximately 36 new employees and 132 residents on the project site. These new employees and residents could use area parks. The required minimum acreages of park required for development in the City of Modesto Planned Urbanizing Area can be met through the application of existing policies and regulations, including Government Code Section 66474, which requires developers to pay parks capital facilities fees to fund acquisition of appropriate parkland acreage. 52 Therefore, would be a less-than-significant impact.

(e) Other public facilities?

The Proposed Project would result in a minor increase in demand for public facilities and services, which would be funded through taxes and fees. The project demand would not be great enough to result in the need for new, unanticipated facilities. For these reasons, the impact on public facilities and services would be less than significant.

14. RECREATION.

a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
   - [ ] Potentially Significant Impact
   - [ ] Less Than Significant Impact with Mitigation Incorporated
   - [ ] Less Than Significant Impact
   - [ ] No Impact

b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?
   - [ ] Potentially Significant Impact
   - [ ] Less Than Significant Impact with Mitigation Incorporated
   - [ ] Less Than Significant Impact
   - [ ] No Impact

Discussion

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

See Item 13d.
15. TRANSPORTATION/TRAFFIC

Would the project:

a. Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?

b. Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?

c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

e. Result in inadequate emergency access?

f. Result in inadequate parking capacity?

g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

Discussion

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?

b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?

A traffic study was prepared for the Proposed Project by KD Anderson Transportation Engineers. The traffic study is provided in Appendix C. The traffic study evaluates the impacts of the project under the following conditions:
Environmental Checklist

- existing conditions,
- short term future conditions 5 years in the future assuming development of other approved projects and continuing regional growth, and
- future traffic volume forecasts developed using the City of Modesto travel demand forecasting model for year 2030 conditions.

The following existing intersections and associated roadway segments were studied:

1. L Street / 0th Street
2. K Street / 9th Street
3. J Street / 9th Street
4. I Street / 5th Street
5. I Street / 6th Street
6. H Street / 5th Street
7. H Street / 9th Street
8. H Street / existing alley
9. H Street / 10th Street
10. G Street / 6th Street
11. G Street / 9th Street
12. G Street / existing alley
13. G Street / 10th Street

Intersection lane configurations and volumes for each analysis scenario are provided in Appendix C.

Existing Street System

As an infill downtown project, many streets on the Modesto grid system provide access to the project site. These facilities are described below.

Primary access would be via the G Street and H Street couplet, which links the site with SR 99, and via 9th Street within provides access to the north and south.

9th Street is a major north-south minor arterial street serving central Modesto. 9th Street originates at the Hatch Road interchange on SR 99 in Ceres and extends north across the Tuolumne River into downtown Modesto before terminating at an intersection on Carpenter Road near the SR 99/Briggsmore Road interchange. The portion of 9th Street between L Street and R Street is part of State Route 132. State Route 132 enters Modesto from the west on Maze Boulevard, and exits to the west via D Street and Yosemite Blvd. In downtown Modesto, 9th Street is a four lane facility with a continuous two way left turn (TWLT) lane. On street parking is permitted on 9th Street.

The volume of traffic on 9th Street varies along its length. The California Department of Transportation (Caltrans) reports that SR 132 carries an Average Annual Daily Traffic (AADT) volume of 19,200 vehicles per day north of D Street and 15,300 ADT south of L Street. Caltrans data suggest that trucks
comprise 3.4% of the daily traffic on SR 108 in this area.

**H Street** is an east-west minor arterial street that links downtown Modesto with streets that extend outward from the central community. On the west, H Street extends Paradise Road, and on the east, H Street continues easterly as via Scenic Drive. H Street is one of five routes across SR 99 and across the UPRR. In the vicinity of the project site, H Street is a three-lane one-way street in the westbound direction. On street parking is permitted along H Street. Traffic counts available from the City of Modesto indicate that H Street carries 16,800 vehicles per day in the area of the Proposed Project.

**G Street** is the complimentary eastbound minor arterial street in the G Street-H Street couplet. G Street begins at an intersection with Sierra Drive near First Street, continues across SR 99 and the UPRR and proceeds across the downtown area to Burney Street. G Street is also a three lane street with on-street parking. City of Modesto traffic counts suggest that this road carries 15,000 vehicles per day in the vicinity of the Proposed Project.

**10th Street** is a local street that forms a portion of the City of Modesto’s downtown grid system. This two lane road originates at an intersection with D Street south of the project and continues north to an intersection with J Street. At that point the road is discontinuous through the downtown mall but continues north of L Street to an intersection on Needham Street. Left turn lanes have been striped at intersections, and on street parking is permitted along 10th Street. City of Modesto traffic counts suggest that 10th Street carries 2,160 vehicles per day.

**State Route 99 (SR 99)** is a six-lane, north-south freeway located approximately one-quarter mile west of the project site. This freeway extends most of the length of California. The interchanges on SR 99 at H Street - 5th Street and I Street - 6th Street provide the main freeway access to the project site. Traffic volume data available from the California Department of Transportation indicate that SR 99 carries an Annual Average Daily Traffic (AADT) volume of 123,000 vehicles per day in the area of the H Street interchange. Trucks comprise 13% of the daily volume on SR 99, and the speed limit on SR 99 is 65 miles per hour (mph).

**Existing Peak Hour Traffic Volumes**

To quantify existing traffic conditions, new a.m. and p.m. peak hour traffic counts were made at study intersections in December 2007 to supplement data contained in the Modesto Redevelopment Master Plan EIR. The weekday a.m. and p.m. peak hours were selected as being representative of typical "worst case" background traffic conditions and based on the highest hours of project trip generation. This approach is consistent with the analyses prepared for other projects in Modesto. Study area intersections are shown in Figure 14. Observed traffic volumes are presented in Appendix C.

**Methodology**

The operations of roadway facilities are described using the term "level of service" (LOS). LOS is a qualitative description of traffic flow based on factors such as speed, travel time, delay, and freedom...
to maneuver. LOS ranges from LOS A, which indicates free flow or excellent conditions with short delays, to LOS F, which indicates congested or overloaded conditions with extremely long delays and stop-and-go conditions. Typically, LOS E and LOS F represent unacceptable Levels of Service. Level of service definitions for intersections are provided in Table 15. The different methodologies used to assess operating conditions for the various types of roadways, including signalized intersections, stop-controlled intersections, and roadway segments, are described in Appendix C.

<table>
<thead>
<tr>
<th>Level of Service</th>
<th>Signalized Intersection</th>
<th>Unsignalized Intersection</th>
<th>Roadway (Daily)</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;A&quot;</td>
<td>Uncongested operations, all queues clear in a single-signal cycle. Delay &lt; 10.0 sec.</td>
<td>Little or no delay. Delay ≤ 10 sec/veh.</td>
<td>Completely free flow. Volume/Capacity (v/c) &lt; 0.60</td>
</tr>
<tr>
<td>&quot;B&quot;</td>
<td>Uncongested operations, all queues clear in a single cycle. Delay &gt; 10.0 sec and ≤ 20.0 sec.</td>
<td>Short traffic delays. Delay &gt; 10 sec/veh and ≤ 15 sec/veh.</td>
<td>Free flow, presence of other vehicles noticeable. 0.60 &lt; v/c &lt; 0.70</td>
</tr>
<tr>
<td>&quot;C&quot;</td>
<td>Light congestion, occasional backups on critical approaches. Delay &gt; 20.0 sec and ≤ 35.0 sec.</td>
<td>Average traffic delays. Delay &gt; 15 sec/veh and ≤ 25 sec/veh.</td>
<td>Ability to maneuver and select operating speed affected. 0.70 &lt; v/c &lt; 0.80</td>
</tr>
<tr>
<td>&quot;D&quot;</td>
<td>Significant congestions of critical approaches but intersection functional. Cars required to wait through more than one cycle during short peaks. No long queues formed. Delay &gt; 35.0 sec and &lt; 55.0 sec.</td>
<td>Long traffic delays. Delay &gt; 25 sec/veh and ≤ 35 sec/veh.</td>
<td>Unstable flow, speeds and ability to maneuver restricted. 0.80 &lt; v/c &lt; 0.90</td>
</tr>
<tr>
<td>&quot;E&quot;</td>
<td>Severe congestion with some long standing queues on critical approaches. Blockage of intersection may occur if traffic signal does not provide for protected turning movements. Traffic queue may block nearby intersection(s) upstream of critical approach(es). Delay &gt; 55.0 sec and &lt; 80.0 sec.</td>
<td>Very long traffic delays, failure, extreme congestion. Delay &gt; 35 sec/veh and ≤ 50 sec/veh.</td>
<td>At or near capacity, flow quite unstable. 0.90 &lt; v/c &lt; 1.00</td>
</tr>
<tr>
<td>&quot;F&quot;</td>
<td>Total breakdown, stop-and-go operation. Delay &gt; 80.0 sec.</td>
<td>Intersection blocked by external causes. Delay &gt; 50 sec/veh.</td>
<td>Forced flow, breakdown 1.00 &lt; v/c</td>
</tr>
</tbody>
</table>

**Existing Levels of Service**

Current a.m. and p.m. peak hour Levels of Service were calculated at the study intersections (Refer to the Appendix C for calculation worksheets) and are summarized in Table 16. Current Levels of Service were compared to adopted City standards to determine whether existing conditions are satisfactory.

As indicated, all signalized study intersections operate with an overall Level of Service of LOS C or better. Currently motorists in the alley approach in H Street and G Street experience delays that are indicative of LOS D during the morning peak hour, but the overall intersection operates at LOS C or better. Current Levels of Service meet City of Modesto standards. The observed traffic volumes at the alley connections do not satisfy peak hour volume warrants.

The current roadway segment Levels of Service on city streets and State highways are shown in Table 17. The volumes shown for city streets are taken directly from the peak hour intersection turning movement counts used earlier. On SR 99 the reported volumes are based on the directional peak hour volumes reported by Caltrans for PM 16.12 (L Street) with applicable adjustments for ramp volumes reported by Caltrans from counts taken in July 2006.

As noted, all city streets carry volumes that are indicative of LOS C or better conditions, including SR 132 through the study area. However, the volume on SR 99 is indicative of Levels of Service in excess of LOS D at various times during the day.

Current p.m. peak hour Levels of Service at mainline-ramp junctions are shown in Table 18. As noted, the minimum LOS D standard is already exceeded during the peak traffic hours at three locations on SR 99.

**Project Impacts**

To quantify the amount of vehicular traffic generated by the Proposed Project and by other approved projects, peak hour rates presented in the 7th Edition of the ITE publication Trip Generation were consulted. The project would displace one existing business. ITE rates for a furniture store have been employed to suggest the amount of existing traffic that would no longer be generated by that use.

Table 19 presents estimated net site trip generation under the current development proposal. As indicated, the elements of the project together are expected to generate 2,069 daily trips. A share of that travel demand would be between on-site uses. Due to the project’s proximity to the downtown transit station, some of the trips normally made by these types of uses would be made on foot or via transit. After discount for “internal capture” and “alternative transportation mode” and “pass-by” trips, this project would generate an estimated 1,451 daily trips, with 75 and 112 trips occurring during the a.m. and p.m. peak hour, respectively.

Appendix C contains more detail regarding the trip generation rates that were used, trip distribution and other assumptions and methods used to assess project impacts.
### TABLE 16
EXISTING PLUS PROJECT PEAK HOUR INTERSECTION LEVELS OF SERVICE

<table>
<thead>
<tr>
<th>Intersection</th>
<th>Control</th>
<th>A.M. Peak Hour</th>
<th>P.M. Peak Hour</th>
<th>Traffic Signal Warranted</th>
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<tr>
<td></td>
<td></td>
<td>Existing</td>
<td>Ex Plus Project</td>
<td>Existing</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Average Delay</td>
<td>Average Delay</td>
<td>Average Delay</td>
</tr>
<tr>
<td></td>
<td></td>
<td>LOS</td>
<td>LOS</td>
<td>LOS</td>
</tr>
<tr>
<td>L Street / 9th Street</td>
<td>Signal</td>
<td>29.0 C</td>
<td>29.0 C</td>
<td>32.8 C</td>
</tr>
<tr>
<td>K Street / 9th Street</td>
<td>Signal</td>
<td>14.9 B</td>
<td>14.9 B</td>
<td>13.1 B</td>
</tr>
<tr>
<td>J Street / 9th Street</td>
<td>Signal</td>
<td>7.2 A</td>
<td>7.3 A</td>
<td>13.0 B</td>
</tr>
<tr>
<td>I Street / 5th Street</td>
<td>Signal</td>
<td>11.4 B</td>
<td>11.5 B</td>
<td>13.2 B</td>
</tr>
<tr>
<td>I Street / 6th Street</td>
<td>Signal</td>
<td>16.8 B</td>
<td>16.7 B</td>
<td>19.2 B</td>
</tr>
<tr>
<td>H Street / 5th Street</td>
<td>Signal</td>
<td>18.6 B</td>
<td>18.6 B</td>
<td>18.6 B</td>
</tr>
<tr>
<td>H Street / 9th Street</td>
<td>Signal</td>
<td>17.1 B</td>
<td>17.1 B</td>
<td>21.6 C</td>
</tr>
<tr>
<td>H Street / Alley</td>
<td>NB/SB Stop</td>
<td>(0.2) A</td>
<td>(0.5) A</td>
<td>(0.3) A</td>
</tr>
<tr>
<td></td>
<td></td>
<td>13.4 B</td>
<td>15.1 C</td>
<td>15.9 C</td>
</tr>
<tr>
<td></td>
<td></td>
<td>26.9 D</td>
<td>20.1 D</td>
<td>13.6 B</td>
</tr>
<tr>
<td>H Street / 10th Street</td>
<td>Signal</td>
<td>6.6 A</td>
<td>6.7 A</td>
<td>6.9 A</td>
</tr>
<tr>
<td>G Street / 6th Street</td>
<td>Signal</td>
<td>21.7 C</td>
<td>21.6 C</td>
<td>18.4 B</td>
</tr>
<tr>
<td>G Street / 9th Street</td>
<td>Signal</td>
<td>13.2 B</td>
<td>13.3 B</td>
<td>13.4 B</td>
</tr>
<tr>
<td>G Street / Alley</td>
<td>NB/SB Stop</td>
<td>(0.2) A</td>
<td>(0.6) A</td>
<td>(0.1) A</td>
</tr>
<tr>
<td></td>
<td></td>
<td>31.7 D</td>
<td>34.9 D</td>
<td>-</td>
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<tr>
<td></td>
<td></td>
<td>16.1 C</td>
<td>16.0 C</td>
<td>11.6 B</td>
</tr>
<tr>
<td>G Street / 10th Street</td>
<td>Signal</td>
<td>2.5 A</td>
<td>2.6 A</td>
<td>3.2 A</td>
</tr>
</tbody>
</table>

**TABLE 17**

**EXISTING PLUS PROJECT ROADWAY SEGMENT LEVELS OF SERVICE**

<table>
<thead>
<tr>
<th>Direction</th>
<th>Lanes - Class</th>
<th>9th Street (SR 132)</th>
<th>10th Street</th>
<th>11th Street to 10th Street</th>
<th>10th Street to 9th Street</th>
<th>9th Street to 8th Street</th>
<th>8th Street to 9th Street</th>
<th>9th Street to 10th Street</th>
<th>10th Street to 11th Street</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>Existing Project</td>
<td>A.M. Peak Hour</td>
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<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Existing</td>
<td>Existing Plus Project</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Volume</td>
<td>Volume</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>LOS</td>
<td>LOS</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
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<td></td>
<td>Proj</td>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>L Street to K Street</td>
<td>NB</td>
<td>2 - Signalized Arterial</td>
<td>420</td>
<td>0.28</td>
<td>A</td>
<td>5</td>
<td>425</td>
<td>0.29</td>
<td>A</td>
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<tr>
<td>SB</td>
<td></td>
<td></td>
<td>745</td>
<td>0.50</td>
<td>A</td>
<td>7</td>
<td>752</td>
<td>0.50</td>
<td>A</td>
</tr>
<tr>
<td>K Street to J Street</td>
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<td>584</td>
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<td>A</td>
<td>5</td>
<td>589</td>
<td>0.39</td>
<td>A</td>
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<tr>
<td>SB</td>
<td></td>
<td></td>
<td>503</td>
<td>0.34</td>
<td>A</td>
<td>7</td>
<td>510</td>
<td>0.34</td>
<td>A</td>
</tr>
<tr>
<td>J Street to I Street</td>
<td>NB</td>
<td></td>
<td>716</td>
<td>0.48</td>
<td>A</td>
<td>5</td>
<td>721</td>
<td>0.48</td>
<td>A</td>
</tr>
<tr>
<td>SB</td>
<td></td>
<td></td>
<td>561</td>
<td>0.37</td>
<td>A</td>
<td>7</td>
<td>568</td>
<td>0.38</td>
<td>A</td>
</tr>
<tr>
<td>I Street to H Street</td>
<td>NB</td>
<td></td>
<td>649</td>
<td>0.43</td>
<td>A</td>
<td>5</td>
<td>654</td>
<td>0.44</td>
<td>A</td>
</tr>
<tr>
<td>SB</td>
<td></td>
<td></td>
<td>449</td>
<td>0.30</td>
<td>A</td>
<td>5</td>
<td>454</td>
<td>0.30</td>
<td>A</td>
</tr>
<tr>
<td>H Street to G Street</td>
<td>NB</td>
<td></td>
<td>696</td>
<td>0.46</td>
<td>A</td>
<td>0</td>
<td>696</td>
<td>0.46</td>
<td>A</td>
</tr>
<tr>
<td>SB</td>
<td></td>
<td></td>
<td>492</td>
<td>0.33</td>
<td>A</td>
<td>7</td>
<td>499</td>
<td>0.33</td>
<td>A</td>
</tr>
<tr>
<td>G Street to F Street</td>
<td>NB</td>
<td></td>
<td>757</td>
<td>0.50</td>
<td>A</td>
<td>7</td>
<td>764</td>
<td>0.51</td>
<td>A</td>
</tr>
<tr>
<td>SB</td>
<td></td>
<td></td>
<td>486</td>
<td>0.32</td>
<td>A</td>
<td>2</td>
<td>488</td>
<td>0.33</td>
<td>A</td>
</tr>
</tbody>
</table>

| H Street | 11th Street to 10th Street | 1,532 | 0.68 | B | 11 | 1,543 | 0.69 | B | 1,564 | 0.70 | C | 13 | 1,577 | 0.70 | C |
|          | 10th Street to 9th Street | 1,428 | 0.63 | B | 20 | 1,448 | 0.64 | B | 1,565 | 0.70 | C | 36 | 1,601 | 0.71 | C |
|          | 9th Street to 8th Street | 1,432 | 0.64 | B | 10 | 1,442 | 0.64 | B | 1,627 | 0.72 | C | 21 | 1,648 | 0.73 | C |

| G Street | 8th Street to 9th Street | 1,176 | 0.52 | A | 13 | 1,189 | 0.53 | A | 1,175 | 0.52 | A | 15 | 1,190 | 0.53 | A |
|          | 9th Street to 10th Street | 1,241 | 0.55 | A | 25 | 1,266 | 0.56 | A | 1,217 | 0.54 | A | 29 | 1,246 | 0.55 | A |
|          | 10th Street to 11th Street | 1,191 | 0.53 | A | 8 | 1,199 | 0.53 | A | 1,228 | 0.55 | A | 15 | 1,243 | 0.55 | A |
**TABLE 17 (cont’d)**

**EXISTING PLUS PROJECT ROADWAY SEGMENT LEVELS OF SERVICE**

<table>
<thead>
<tr>
<th>Street</th>
<th>Direction</th>
<th>Lanes – Class</th>
<th>A.M. Peak Hour</th>
<th>P.M. Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Existing Conditions</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Vol</td>
<td>V/C</td>
</tr>
<tr>
<td>10th Street</td>
<td>I Street to H Street</td>
<td>NB</td>
<td>1 – Signalized Collector</td>
<td>112</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Vol</td>
<td>V/C</td>
</tr>
<tr>
<td></td>
<td>I Street to H Street</td>
<td>SB</td>
<td></td>
<td>35</td>
</tr>
<tr>
<td></td>
<td>H Street to G Street</td>
<td>NB</td>
<td></td>
<td>97</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Vol</td>
<td>V/C</td>
</tr>
<tr>
<td></td>
<td>H Street to G Street</td>
<td>SB</td>
<td></td>
<td>70</td>
</tr>
<tr>
<td></td>
<td>G Street to F Street</td>
<td>NB</td>
<td></td>
<td>41</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Vol</td>
<td>V/C</td>
</tr>
<tr>
<td></td>
<td>G Street to F Street</td>
<td>SB</td>
<td></td>
<td>37</td>
</tr>
<tr>
<td>State Route 99</td>
<td>I Street to I Street</td>
<td>NB</td>
<td>3 – Freeway Mainline</td>
<td>4,970</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Vol</td>
<td>V/C</td>
</tr>
<tr>
<td></td>
<td>I Street to I Street</td>
<td>SB</td>
<td></td>
<td>3,870</td>
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<td>H Street to F Street</td>
<td>NB</td>
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<td>Vol</td>
<td>V/C</td>
</tr>
<tr>
<td></td>
<td>H Street to F Street</td>
<td>SB</td>
<td></td>
<td>3,345</td>
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<td>F St to Tuolumne Blvd</td>
<td>NB</td>
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<td></td>
<td></td>
<td>Vol</td>
<td>V/C</td>
</tr>
<tr>
<td></td>
<td>F St to Tuolumne Blvd</td>
<td>SB</td>
<td></td>
<td>3,900</td>
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<td></td>
<td></td>
<td></td>
<td>Vol</td>
<td>V/C</td>
</tr>
<tr>
<td></td>
<td>F St to Tuolumne Blvd</td>
<td>NB</td>
<td></td>
<td>5,590</td>
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<td></td>
<td></td>
<td></td>
<td>Vol</td>
<td>V/C</td>
</tr>
<tr>
<td></td>
<td>F St to Tuolumne Blvd</td>
<td>SB</td>
<td></td>
<td>3,950</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>Direction</th>
<th>Ramp</th>
<th>Action</th>
<th>Existing Peak Hour Volume</th>
<th>Existing Density (pc/ml/ln)</th>
<th>Existing Level of Service</th>
<th>Existing Peak Hour Volume</th>
<th>Percent Increase in Volume</th>
<th>Significant?</th>
</tr>
</thead>
<tbody>
<tr>
<td>SR 99 / L Street - 5th Street</td>
<td>Southbound</td>
<td>Off Ramp</td>
<td>400</td>
<td>30</td>
<td>D</td>
<td>0</td>
<td>400</td>
<td>D &lt; 0.01</td>
</tr>
<tr>
<td></td>
<td>Northbound</td>
<td>On-ramp</td>
<td>185</td>
<td>32</td>
<td>D</td>
<td>0</td>
<td>185</td>
<td>D &lt; 0.01</td>
</tr>
<tr>
<td>SR 99 / 5th Street - I Street</td>
<td>Southbound</td>
<td>Off Ramp</td>
<td>525</td>
<td>28</td>
<td>C</td>
<td>5</td>
<td>530</td>
<td>C &lt; 0.01</td>
</tr>
<tr>
<td>SR 99 / 6th Street - I Street</td>
<td>Northbound</td>
<td>On-ramp</td>
<td>490</td>
<td>32</td>
<td>D</td>
<td>3</td>
<td>493</td>
<td>D &lt; 0.01</td>
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<tr>
<td>SR 99 / 5th Street - H Street</td>
<td>Southbound</td>
<td>On-ramp</td>
<td>555</td>
<td>26</td>
<td>C</td>
<td>3</td>
<td>558</td>
<td>C &lt; 0.01</td>
</tr>
<tr>
<td>SR 99 / 5th Street - Tuolumne Blvd</td>
<td>Southbound</td>
<td>Weave</td>
<td>50 - 315</td>
<td>22</td>
<td>C</td>
<td>0 - 0</td>
<td>50 - 315</td>
<td>C &lt; .01</td>
</tr>
<tr>
<td>SR 99 / Tuolumne Blvd - 8th Street</td>
<td>Northbound</td>
<td>Weave</td>
<td>290 - 1100</td>
<td>42</td>
<td>E</td>
<td>0 - 4</td>
<td>290 - 1104</td>
<td>E &lt; .01</td>
</tr>
</tbody>
</table>
### TABLE 18 (cont'd)
**EXISTING PLUS PROJECT**
**PM PEAK HOUR RAMP LEVELS OF SERVICE AT SR 99 INTERSECTIONS**

| Direction          | Ramp Type | Action    | Existing Traffic | Peak Hour Volume | Density (pc/mln) | Level of Service | Peak Hour Volume | Project Only | Total   | Density (pc/mln) | Level of Service | Percent Increase in Volume | Significant? |
|--------------------|-----------|-----------|------------------|------------------|------------------|------------------|------------------|--------------|---------|---------|------------------|------------------|--------------------------|--------------|
| **SR 99 / L Street - 5th Street** |           |           |                  |                  |                  |                  |                  |              |         |              |                  |                          |              |
| Southbound         | Off Ramp  | Diverge   | 300              | 35               | E                | 0                | 400              | 35           | E       | < 0.01 | No                |                  |                          |              |
| Northbound         | On-ramp   | Merge     | 310              | 31               | D                | 0                | 185              | 31           | D       | < 0.01 | No                |                  |                          |              |
| **SR 99 / 5th Street - L Street** |           |           |                  |                  |                  |                  |                  |              |         |              |                  |                          |              |
| Southbound         | Off Ramp  | Diverge   | 435              | 34               | D                | 4                | 439              | 34           | D       | < 0.01 | No                |                  |                          |              |
| Northbound         | On-ramp   | Merge     | 610              | 30               | D                | 6                | 616              | 30           | D       | < 0.01 | No                |                  |                          |              |
| **SR 99 / 6th Street - H Street** |           |           |                  |                  |                  |                  |                  |              |         |              |                  |                          |              |
| Southbound         | On-ramp   | Merge     | 920              | 37               | E                | 6                | 926              | 37           | E       | < 0.01 | No                |                  |                          |              |
| **SR 99 / 5th Street - Tuolumne Blvd** |           |           |                  |                  |                  |                  |                  |              |         |              |                  |                          |              |
| Southbound         | Weave     | Weave     | 50 - 320         | 35               | E                | 0 - 0            | 50 - 320         | 35           | E       | <.01  | No                |                  |                          |              |
| **SR 99 / Tuolumne Blvd - 8th Street** |           |           |                  |                  |                  |                  |                  |              |         |              |                  |                          |              |
| Northbound         | Weave     | Weave     | 385 - 655        | 32               | D                | 0 - 5            | 385 - 660        | 32           | D       | <.01  | No                |                  |                          |              |

*Source: KD Anderson Traffic Engineers, 2008.*
### TABLE 19
TRIP GENERATION FORECAST FOR 10th/H STREET PROJECT

<table>
<thead>
<tr>
<th>Land Use (ITE Code)</th>
<th>Quantity</th>
<th>Daily Inbound</th>
<th>Daily Outbound</th>
<th>A.M. Peak Hour Total</th>
<th>P.M. Peak Hour Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Specialty Retail (814)</td>
<td>20.0 ksf</td>
<td>886</td>
<td>33</td>
<td>21</td>
<td>54</td>
</tr>
<tr>
<td>Clothing store (670)</td>
<td>7.5 ksf</td>
<td>498</td>
<td>0</td>
<td>0</td>
<td>14</td>
</tr>
<tr>
<td>Quality restaurant (931)</td>
<td>2.5 ksf</td>
<td>225</td>
<td>0</td>
<td>0</td>
<td>12</td>
</tr>
<tr>
<td>Office (710)</td>
<td>19.0 ksf</td>
<td>209</td>
<td>26</td>
<td>3</td>
<td>29</td>
</tr>
<tr>
<td>Condominiums (232)</td>
<td>66 du's</td>
<td>276</td>
<td>4</td>
<td>18</td>
<td>22</td>
</tr>
<tr>
<td>&lt;less Existing Furniture Store&gt;</td>
<td>5 ksf</td>
<td>&lt;25&gt;</td>
<td>&lt;1&gt;</td>
<td>&lt;0&gt;</td>
<td>&lt;1&gt;</td>
</tr>
<tr>
<td>Gross Total</td>
<td>2,069</td>
<td>62</td>
<td>42</td>
<td>104</td>
<td>70</td>
</tr>
<tr>
<td>Less Retail Pass-by Trips</td>
<td>30%</td>
<td>&lt;408&gt;</td>
<td>&lt;10&gt;</td>
<td>&lt;6&gt;</td>
<td>&lt;16&gt;</td>
</tr>
<tr>
<td>Residential to office / retail</td>
<td>5%*</td>
<td>&lt;28&gt;</td>
<td>&lt;1&gt;</td>
<td>&lt;1&gt;</td>
<td>&lt;2&gt;</td>
</tr>
<tr>
<td>Office to retail</td>
<td>5%*</td>
<td>&lt;20&gt;</td>
<td>&lt;1&gt;</td>
<td>&lt;1&gt;</td>
<td>&lt;2&gt;</td>
</tr>
<tr>
<td>Net external &quot;New&quot; total</td>
<td>1,613</td>
<td>49</td>
<td>34</td>
<td>83</td>
<td>57</td>
</tr>
<tr>
<td>Discount for Transit</td>
<td>5%</td>
<td>&lt;81&gt;</td>
<td>&lt;2&gt;</td>
<td>&lt;2&gt;</td>
<td>&lt;4&gt;</td>
</tr>
<tr>
<td>Discount for Downtown Walking</td>
<td>5%</td>
<td>&lt;81&gt;</td>
<td>&lt;3&gt;</td>
<td>&lt;1&gt;</td>
<td>&lt;4&gt;</td>
</tr>
<tr>
<td><strong>NET NEW EXTERNAL AUTOMOBILE TRIPS</strong></td>
<td><strong>1,451</strong></td>
<td><strong>44</strong></td>
<td><strong>31</strong></td>
<td><strong>75</strong></td>
<td><strong>51</strong></td>
</tr>
</tbody>
</table>

**NOTES:**
1. Include discount for modal split in downtown environment
2. Includes 30% retail pass-by
* Caltrans traffic study guidelines default value for internal capture.

Based on criteria used by the City of Modesto and accepted professional practice for transportation engineering, a project-generated increase in traffic is considered to be significant if it would result in any of the following:

- Deterioration of a signalized intersection from LOS D (or better) to LOS E or LOS F, or an increase in the service volume of any approach by 5 percent or more for a signalized intersection operating at LOS E or LOS F under Baseline conditions, or an increase in average delay of 5 or more seconds for a signalized intersection operating at LOS E or LOS F under Baseline conditions.

- Deterioration of a controlled movement at an unsignalized intersection from LOS E or better to LOS F, or at intersections where a controlled movement already operates at LOS F, resulting in one of the following:

  1. satisfaction of the peak hour volume signal warrant (supporting the need for a traffic signal) as a result of project traffic;
2. an increase in minor movement delay of 30 seconds or more;
3. if the peak hour volume signal warrant is already met without project traffic and delay cannot be measured, an increase in traffic of 10 or more vehicles per lane on any approach.

- Deterioration of a roadway segment from LOS D or better to LOS E or LOS F, or an increase in the volume to capacity ratio of 0.05 or more for a segment operating at LOS E or F under Baseline conditions.

- Deterioration of a ramp merge/diverge area from LOS D or better to LOS E or LOS F, or an increase of a ramp merge/diverge area traffic volumes of 5% or more for a ramp merge/diverge area operating at LOS E or LOS F under baseline conditions.

**Existing Conditions Impacts**

As shown in Table 16, the Proposed Project would increase traffic at local intersections. However, the Proposed Project would not degrade any intersection from an acceptable level (LOS D or better) to an unacceptable level (LOS E or F). Similarly, the Proposed Project would add only a small number of cars to the study roadway segments and freeway ramps (see Tables 17 and 18, respectively).

**Existing Plus Approved Projects**

Table 20 compares Existing plus Approved Projects (EPAP) Levels of Service with those conditions accompanying development of the Proposed Project. As indicated, the addition of project traffic would increase the average delay at each intersection, but would not result in any change to the Level of Service at signalized or unsignalized study intersections. Table 21 shows that the addition of project traffic would not result in any new locations operating with Levels of Service in excess of the City’s LOS D minimum. The project would add a slight amount of traffic to segments of SR 99 that already operate at LOS E. This increment is, however, too small to be considered to be significant. Table 22 shows that, while background growth would result slower speeds, greater density and deterioration of the Level of Service at SR 99 ramps, addition of project traffic would not result in any new locations operating at Levels of Service in excess of the City’s LOS D minimum. The project would add a small amount of traffic to ramps that already operate at LOS E, but the incremental increase in volume at these locations would fall below the measure used by the City of Modesto to determine significance.

**Cumulative (Year 2025) Conditions**

The relative impacts of the Proposed Project were also assessed within the context of future traffic conditions occurring in the year 2025. The future traffic volumes presented herein are based on long-term traffic volume forecasts derived from the City of Modesto’s regional travel demand forecasting model and originally presented in the _Redevelopment Master Plan EIR_. Where published data were not available intersection turning movements, mainline highway volumes and ramp forecasts were taken from the traffic model.
<table>
<thead>
<tr>
<th>Intersection</th>
<th>Control</th>
<th>EPAP Average Delay</th>
<th>EPAP Average Delay</th>
<th>EPAP LOS</th>
<th>EPAP Average Delay</th>
<th>EPAP Average Delay</th>
<th>EPAP LOS</th>
<th>EPAP Plus Project Average Delay</th>
<th>EPAP Plus Project Average Delay</th>
<th>EPAP Plus Project LOS</th>
<th>Traffic Signal Warranted?</th>
</tr>
</thead>
<tbody>
<tr>
<td>L Street / 9th Street</td>
<td>Signal</td>
<td>28.8 C</td>
<td>28.8 C</td>
<td>C</td>
<td>33.4 C</td>
<td>33.6 C</td>
<td>C</td>
<td></td>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>K Street / 5th Street</td>
<td>Signal</td>
<td>16.0 B</td>
<td>15.9 B</td>
<td>B</td>
<td>14.8 B</td>
<td>14.8 B</td>
<td>B</td>
<td></td>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>J Street / 9th Street</td>
<td>Signal</td>
<td>7.3 A</td>
<td>7.3 A</td>
<td>A</td>
<td>13.7 B</td>
<td>13.8 B</td>
<td>B</td>
<td></td>
<td></td>
<td></td>
<td>-</td>
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<tr>
<td>I Street / 5th Street</td>
<td>Signal</td>
<td>11.8 B</td>
<td>11.9 B</td>
<td>B</td>
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<tr>
<td>I Street / 6th Street</td>
<td>Signal</td>
<td>16.5 B</td>
<td>16.6 B</td>
<td>B</td>
<td>18.4 B</td>
<td>17.9 B</td>
<td>B</td>
<td></td>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>H Street / 5th Street</td>
<td>Signal</td>
<td>18.4 B</td>
<td>18.6 B</td>
<td>B</td>
<td>18.6 B</td>
<td>18.6 B</td>
<td>B</td>
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<td></td>
<td></td>
<td>-</td>
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<tr>
<td>H Street / 6th Street</td>
<td>Signal</td>
<td>17.7 B</td>
<td>17.5 B</td>
<td>B</td>
<td>22.2 C</td>
<td>22.9 C</td>
<td>C</td>
<td></td>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>H Street / Alley</td>
<td>(overall)</td>
<td>NB/SB (0.2)</td>
<td>NB/SB (0.5)</td>
<td>(A)</td>
<td>NB/SB (0.3)</td>
<td>NB/SB (0.9)</td>
<td>(A)</td>
<td></td>
<td></td>
<td></td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>NB left turn +thru</td>
<td>Stop (13.4 A)</td>
<td>Stop (15.2 C)</td>
<td>(A)</td>
<td>Stop (16.3 C)</td>
<td>Stop (16.8 C)</td>
<td>(A)</td>
<td></td>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>SB thru +right turn</td>
<td>27.0 D</td>
<td>29.2 D</td>
<td>(B)</td>
<td>13.8 B</td>
<td>14.1 B</td>
<td>(B)</td>
<td></td>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>H Street / 10th Street</td>
<td>Signal</td>
<td>6.6 A</td>
<td>6.7 A</td>
<td>A</td>
<td>6.9 A</td>
<td>7.1 A</td>
<td>A</td>
<td></td>
<td></td>
<td></td>
<td>-</td>
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<tr>
<td>G Street / 6th Street</td>
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<td>21.8 C</td>
<td>21.8 C</td>
<td>C</td>
<td>20.1 C</td>
<td>20.1 C</td>
<td>C</td>
<td></td>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>G Street / 6th Street</td>
<td>Signal</td>
<td>13.2 B</td>
<td>13.3 B</td>
<td>B</td>
<td>12.3 B</td>
<td>12.3 B</td>
<td>B</td>
<td></td>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>G Street / Alley</td>
<td>(overall)</td>
<td>NB/SB (0.2)</td>
<td>NB/SB (0.6)</td>
<td>(A)</td>
<td>NB/SB (0.1)</td>
<td>NB/SB (0.7)</td>
<td>(A)</td>
<td></td>
<td></td>
<td></td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>NB thru +right turn</td>
<td>Stop (31.7 D)</td>
<td>Stop (34.9 D)</td>
<td>(B)</td>
<td>Stop (11.7 C)</td>
<td>Stop (13.3 B)</td>
<td>(B)</td>
<td></td>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>SB left turn +thru</td>
<td>16.1 C</td>
<td>16.0 C</td>
<td>(B)</td>
<td>11.7 B</td>
<td>13.3 B</td>
<td>(B)</td>
<td></td>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>G Street / 10th Street</td>
<td>Signal</td>
<td>2.6 A</td>
<td>2.7 A</td>
<td>A</td>
<td>3.4 A</td>
<td>3.4 A</td>
<td>A</td>
<td></td>
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</tr>
</tbody>
</table>

### TABLE 21
**EPAP PLUS PROJECT ROADWAY SEGMENT LEVELS OF SERVICE**

<table>
<thead>
<tr>
<th>Direction</th>
<th>Lanes Class</th>
<th>A.M. Peak Hour</th>
<th>P.M. Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>EPAP Plus Project</td>
<td>EPAP Plus Project</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Volume</td>
<td>V/C</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proj</td>
<td>Total</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9th Street (SR 132)</td>
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</tr>
<tr>
<td>L St to K Street</td>
<td>NB</td>
<td>429</td>
<td>0.29</td>
</tr>
<tr>
<td></td>
<td>SB</td>
<td>855</td>
<td>0.57</td>
</tr>
<tr>
<td>K St to J Street</td>
<td>NB</td>
<td>735</td>
<td>0.49</td>
</tr>
<tr>
<td></td>
<td>SB</td>
<td>546</td>
<td>0.36</td>
</tr>
<tr>
<td>J St to I Street</td>
<td>NB</td>
<td>777</td>
<td>0.52</td>
</tr>
<tr>
<td></td>
<td>SB</td>
<td>611</td>
<td>0.41</td>
</tr>
<tr>
<td>I St to H Street</td>
<td>NB</td>
<td>672</td>
<td>0.45</td>
</tr>
<tr>
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<td>SB</td>
<td>465</td>
<td>0.31</td>
</tr>
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<td>H St to G Street</td>
<td>NB</td>
<td>716</td>
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</tr>
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<td>SB</td>
<td>500</td>
<td>0.33</td>
</tr>
<tr>
<td>G St to F Street</td>
<td>NB</td>
<td>767</td>
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</tr>
<tr>
<td></td>
<td>SB</td>
<td>494</td>
<td>0.33</td>
</tr>
<tr>
<td>H Street</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11th St to 10th St</td>
<td>WB</td>
<td>1,535</td>
<td>0.66</td>
</tr>
<tr>
<td>10th St to 9th St</td>
<td>WB</td>
<td>1,431</td>
<td>0.64</td>
</tr>
<tr>
<td>9th St to 8th St</td>
<td>WB</td>
<td>1,440</td>
<td>0.64</td>
</tr>
<tr>
<td>G Street</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8th St to 9th St</td>
<td>EB</td>
<td>1,186</td>
<td>0.53</td>
</tr>
<tr>
<td>9th St to 10th St</td>
<td>EB</td>
<td>1,241</td>
<td>0.55</td>
</tr>
<tr>
<td>10th St to 11th St</td>
<td>EB</td>
<td>1,191</td>
<td>0.53</td>
</tr>
</tbody>
</table>
### TABLE 21 (cont'd)

**EPAP PLUS PROJECT ROADWAY SEGMENT LEVELS OF SERVICE**

<table>
<thead>
<tr>
<th>Direction</th>
<th>Lanes - Class</th>
<th>A.M. Peak Hour</th>
<th>P.M. Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>EPAP Exist.</td>
<td>EPAP Plus Project</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Vol</td>
<td>V/C</td>
</tr>
<tr>
<td>10th Street</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>I St to H Street</td>
<td>NB</td>
<td>112</td>
<td>0.22</td>
</tr>
<tr>
<td></td>
<td>SB</td>
<td>35</td>
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<tr>
<td>H St to G Street</td>
<td>NB</td>
<td>97</td>
<td>0.19</td>
</tr>
<tr>
<td></td>
<td>SB</td>
<td>70</td>
<td>0.14</td>
</tr>
<tr>
<td>G St to F Street</td>
<td>NB</td>
<td>41</td>
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<td>SB</td>
<td>37</td>
<td>0.07</td>
</tr>
<tr>
<td>State Route 99</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>L St to I Street</td>
<td>NB</td>
<td>5,290</td>
<td>0.88</td>
</tr>
<tr>
<td></td>
<td>SB</td>
<td>4,115</td>
<td>0.69</td>
</tr>
<tr>
<td>I St to H Street</td>
<td>NB</td>
<td>5,290</td>
<td>0.88</td>
</tr>
<tr>
<td></td>
<td>SB</td>
<td>3,560</td>
<td>0.59</td>
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<tr>
<td>H St to F Street</td>
<td>NB</td>
<td>4,770</td>
<td>0.79</td>
</tr>
<tr>
<td></td>
<td>SB</td>
<td>4,150</td>
<td>0.69</td>
</tr>
<tr>
<td>F St to Tuolume Blvd</td>
<td>NB</td>
<td>5,950</td>
<td>0.99</td>
</tr>
<tr>
<td></td>
<td>SB</td>
<td>4,200</td>
<td>0.70</td>
</tr>
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</table>

## Table 22

**EPAP Plus Project**  
**AM Peak Hour Ramp Levels of Service at SR 99 Interchanges**

<table>
<thead>
<tr>
<th>Direction</th>
<th>Ramp Direction</th>
<th>Action</th>
<th>EPAP</th>
<th>Peak Hour Volume</th>
<th>Density (pc/mi/ln)</th>
<th>Level of Service</th>
<th>Project Only</th>
<th>Total</th>
<th>Density (pc/mi/ln)</th>
<th>Level of Service</th>
<th>Percent Increase</th>
<th>Significant?</th>
</tr>
</thead>
<tbody>
<tr>
<td>SR 99 / L Street - 6th Street</td>
<td>Southbound</td>
<td>Off Ramp</td>
<td>Diverge</td>
<td>425</td>
<td>31</td>
<td>D</td>
<td>0</td>
<td>425</td>
<td>31</td>
<td>D</td>
<td>&lt; 0.01</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Northbound</td>
<td>On-ramp</td>
<td>Merge</td>
<td>195</td>
<td>34</td>
<td>D</td>
<td>0</td>
<td>195</td>
<td>34</td>
<td>D</td>
<td>&lt; 0.01</td>
<td>No</td>
</tr>
<tr>
<td>SR 99 / 5th Street - I Street</td>
<td>Southbound</td>
<td>Off Ramp</td>
<td>Diverge</td>
<td>560</td>
<td>29</td>
<td>D</td>
<td>5</td>
<td>565</td>
<td>29</td>
<td>D</td>
<td>&lt; 0.01</td>
<td>No</td>
</tr>
<tr>
<td>SR 99 / 6th Street - I Street</td>
<td>Northbound</td>
<td>On-ramp</td>
<td>Merge</td>
<td>520</td>
<td>33</td>
<td>D</td>
<td>3</td>
<td>423</td>
<td>33</td>
<td>D</td>
<td>&lt; 0.01</td>
<td>No</td>
</tr>
<tr>
<td>SR 99 / 5th Street - H Street</td>
<td>Southbound</td>
<td>On-ramp</td>
<td>Merge</td>
<td>590</td>
<td>28</td>
<td>C</td>
<td>3</td>
<td>593</td>
<td>28</td>
<td>C</td>
<td>&lt; 0.01</td>
<td>No</td>
</tr>
<tr>
<td>SR 99 / 5th Street - Tuolumne Blvd</td>
<td>Southbound</td>
<td>Weave</td>
<td>55 - 335</td>
<td>24</td>
<td>C</td>
<td>0</td>
<td>55 - 335</td>
<td>24</td>
<td>C</td>
<td>&lt; 0.01</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>SR 99 / Tuolumne Blvd - 6th Street</td>
<td>Northbound</td>
<td>Weave</td>
<td>310 - 1180</td>
<td>46</td>
<td>F</td>
<td>0</td>
<td>310 - 1180</td>
<td>46</td>
<td>F</td>
<td>&lt; 0.01</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

Note: The table compares the levels of service before and after the EPAP Plus Project implementation at various ramp locations along SR 99.
### TABLE 22 (cont'd)
EPAP PLUS PROJECT
PM PEAK HOUR RAMP LEVELS OF SERVICE AT SR 99 INTERCHANGES

| Direction          | Ramp          | Action     | Existing | Peak Hour Volume | Density (pc/ml/min) | Level of Service | Peak Hour Volume | Project Only | Total     | Density (pc/ml/min) | Level of Service | Percent Increase in Volume | Significant? |
|--------------------|---------------|------------|----------|------------------|---------------------|-------------------|------------------|---------------|-----------|-----------|---------------------|-------------------|--------------------------|--------------|
| **SR 99 / L Street - 5th Street** |               |            |          |                  |                     |                   |                  |              |           |                      |                   |                          |              |
| Southbound         | Off Ramp      | Diverge    | 320      | 37               | E                   | 0                 | 320              | 37            | E         | < 0.01   | No                  |                   |                          |              |
| Northbound         | On ramp       | Merge      | 330      | 33               | D                   | 0                 | 330              | 33            | D         | < 0.01   | No                  |                   |                          |              |
| **SR 99 / 5th Street - L Street** |               |            |          |                  |                     |                   |                  |              |           |                      |                   |                          |              |
| Southbound         | Off Ramp      | Diverge    | 465      | 36               | E                   | 4                 | 469              | 36            | E         | < 0.01   | No                  |                   |                          |              |
| **SR 99 / 6th Street- L Street** |               |            |          |                  |                     |                   |                  |              |           |                      |                   |                          |              |
| Northbound         | On-ramp       | Merge      | 650      | 32               | D                   | 6                 | 656              | 32            | D         | < 0.01   | No                  |                   |                          |              |
| **SR 99 / 5th Street - H Street** |               |            |          |                  |                     |                   |                  |              |           |                      |                   |                          |              |
| Southbound         | On-ramp       | Merge      | 980      | 39               | F                   | 6                 | 986              | 39            | F         | < 0.01   | No                  |                   |                          |              |
| **SR 99 / Tuolumne Blvd** |               |            |          |                  |                     |                   |                  |              |           |                      |                   |                          |              |
| Southbound         | Weave         | 55 - 340   | 39       | E                | 0 - 0               | 54 - 340          | 39               | E             | < .01    | No                   |                   |                          |              |
| Northbound         | Weave         | 410 - 700  | 34       | D                | 0 - 5               | 410 - 705         | 34               | D             | < .01    | No                   |                   |                          |              |

A full discussion of the assumptions and methods used in the cumulative analysis is provided in Appendix C.

As shown in Table 23, three intersections would operate at unacceptable levels of service:

- L Street/9th Street (LOS E in AM and PM)
- H Street/5th Street (LOS E in PM)
- H Street/9th Street (LOS F in AM)

Table 24 identifies year 2025 Levels of Service for segments with and without the Proposed Project. As shown in Table 24, without the project there are several locations where background growth is projected to result in traffic volumes in excess of the City's LOS D standard. These locations include:

- 9th Street between L Street and K Street (LOS E in a.m. and p.m.)
- 9th Street between J Street and I Street (LOS E in p.m.)
- 9th Street between H Street and G Street (LOS E in a.m.)
- H Street from 8th Street to 9th Street (LOS F in a.m.)
- H Street from 9th Street to 10th Street (LOS F in a.m.)
- H Street from 10th Street to 11th Street (LOS F in a.m.)
- Northbound SR 99 from Tuolumne Blvd to L Street (LOS F in a.m.)
- Southbound SR 99 from H Street to Tuolumne Blvd (LOS F in p.m.)

Of these locations, both 9th Street and H Street are in developed areas where creating additional lanes is possible but may not be desirable. It would be possible to re-stripe H Street to provide a fourth through lane, but this action would require eliminating on-street parking through this area. A four-lane section would yield LOS D. Similarly, it could be possible to add a lane on 9th Street by eliminating on-street parking. However, the feasibility of adding a lane in each direction appears unlikely. Adding a lane would, however, yield LOS D.

On SR 99 the need for mainline widening is acknowledged in the 2007 Regional Transportation Plan (RTP). Creating an eight-lane facility from Ceres to Kiernan Avenue is identified as a Tier 1 project in the RTP. An eight-lane facility would improve the Level of Service at most locations on SR 99, but would not yield LOS D on the southbound SR 99 during the a.m. peak hour.

Cumulative Project Intersection and Roadway Segment Impacts

Because the volume of traffic added by the Proposed Project is relatively low, the incremental impact of the Proposed Project on intersection and roadway segment Levels of Service is not significant. The addition of project traffic would not result in any locations changing from an acceptable to an unacceptable Level of Service. At those locations where background conditions are expected to exceed the LOS D standard, the addition of project traffic would not result in an increase in the volume/capacity ratio (v/c) that exceeds the threshold identified in the Modesto General Plan (i.e., v/c increase greater than 0.05). Thus, the cumulative impact of this Proposed Project on roadway segment Levels of Service is not significant.
### Table 23
2030 Plus Project
Peak Hour Intersection Levels of Service

<table>
<thead>
<tr>
<th>Intersection</th>
<th>Control</th>
<th>A.M. Peak Hour</th>
<th>Base plus Project</th>
<th>P.M. Peak Hour</th>
<th>Base plus Project</th>
<th>Traffic Signal Warranted?</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Average Delay (sec)</td>
<td>LOS</td>
<td>Average Delay</td>
<td>LOS</td>
<td>Average Delay</td>
</tr>
<tr>
<td>L Street / 9th Street</td>
<td>Signal</td>
<td>73.5</td>
<td>E</td>
<td>74.4</td>
<td>E</td>
<td>56.7</td>
</tr>
<tr>
<td>K Street / 9th Street</td>
<td>Signal</td>
<td>19.4</td>
<td>B</td>
<td>19.4</td>
<td>B</td>
<td>22.5</td>
</tr>
<tr>
<td>J Street / 9th Street</td>
<td>Signal</td>
<td>23.9</td>
<td>C</td>
<td>24.5</td>
<td>C</td>
<td>35.9</td>
</tr>
<tr>
<td>I Street / 5th Street</td>
<td>Signal</td>
<td>20.4</td>
<td>C</td>
<td>20.4</td>
<td>C</td>
<td>42.6</td>
</tr>
<tr>
<td>I Street / 6th Street</td>
<td>Signal</td>
<td>23.6</td>
<td>C</td>
<td>23.7</td>
<td>C</td>
<td>27.7</td>
</tr>
<tr>
<td>H Street / 5th Street</td>
<td>Signal</td>
<td>38.7</td>
<td>D</td>
<td>39.3</td>
<td>D</td>
<td>73.2</td>
</tr>
<tr>
<td>H Street / 9th Street</td>
<td>Signal</td>
<td>80.2</td>
<td>F</td>
<td>82.5</td>
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<td>28.1</td>
</tr>
<tr>
<td>H Street / Alley (overall)</td>
<td>NB/SB Stop</td>
<td>(0.5)</td>
<td>(A)</td>
<td>(1.0)</td>
<td>(A)</td>
<td>(0.3)</td>
</tr>
<tr>
<td>NB left turn + thru</td>
<td></td>
<td>23.0</td>
<td>C</td>
<td>28.8</td>
<td>D</td>
<td>17.9</td>
</tr>
<tr>
<td>SB thru + right turn</td>
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<td>87.6</td>
<td>F</td>
<td>98.5</td>
<td>F</td>
<td>14.9</td>
</tr>
<tr>
<td>H Street / 10th Street</td>
<td>Signal</td>
<td>8.6</td>
<td>A</td>
<td>8.8</td>
<td>A</td>
<td>8.3</td>
</tr>
<tr>
<td>G Street / 6th Street</td>
<td>Signal</td>
<td>22.4</td>
<td>C</td>
<td>22.4</td>
<td>C</td>
<td>20.9</td>
</tr>
<tr>
<td>G Street / 9th Street</td>
<td>Signal</td>
<td>26.5</td>
<td>C</td>
<td>27.4</td>
<td>C</td>
<td>17.4</td>
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<tr>
<td>G Street / Alley (overall)</td>
<td>NB/SB Stop</td>
<td>(0.2)</td>
<td>(A)</td>
<td>(0.4)</td>
<td>A</td>
<td>(0.1)</td>
</tr>
<tr>
<td>NB thru + right turn</td>
<td></td>
<td>12.4</td>
<td>B</td>
<td>12.4</td>
<td>B</td>
<td>-</td>
</tr>
<tr>
<td>SB left turn + thru</td>
<td></td>
<td>14.4</td>
<td>B</td>
<td>16.2</td>
<td>C</td>
<td>14.0</td>
</tr>
<tr>
<td>G Street / 10th Street</td>
<td>Signal</td>
<td>4.4</td>
<td>A</td>
<td>4.5</td>
<td>A</td>
<td>7.1</td>
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</table>

<table>
<thead>
<tr>
<th>Direction</th>
<th>Lanes - Class</th>
<th>A.M. Peak Hour</th>
<th>P.M. Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Baseline</td>
<td>Baseline Plus Project</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Volume</td>
<td>V/C</td>
</tr>
<tr>
<td>9th Street (SR 132)</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>L Street to K Street</td>
<td>NB</td>
<td>2 -</td>
<td>531</td>
</tr>
<tr>
<td></td>
<td>SB</td>
<td>Signalized Arterial</td>
<td>1,378</td>
</tr>
<tr>
<td>K Street to J Street</td>
<td>NB</td>
<td></td>
<td>1,006</td>
</tr>
<tr>
<td></td>
<td>SB</td>
<td></td>
<td>976</td>
</tr>
<tr>
<td>J Street to I Street</td>
<td>NB</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>SB</td>
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<td>1,284</td>
</tr>
<tr>
<td>I Street to H Street</td>
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<td>1,140</td>
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<td>SB</td>
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<td>1,120</td>
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<tr>
<td>H Street to G Street</td>
<td>NB</td>
<td></td>
<td>1,405</td>
</tr>
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<td></td>
<td>SB</td>
<td></td>
<td>965</td>
</tr>
<tr>
<td>G Street to F Street</td>
<td>NB</td>
<td></td>
<td>1,235</td>
</tr>
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<td></td>
<td>SB</td>
<td></td>
<td>910</td>
</tr>
<tr>
<td>H Street</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11th Street to 10th Street</td>
<td>WB</td>
<td>3 -</td>
<td>2,315</td>
</tr>
<tr>
<td>10th Street to 9th Street</td>
<td>WB</td>
<td>Signalized Arterial</td>
<td>2,210</td>
</tr>
<tr>
<td>9th Street to 8th Street</td>
<td>WB</td>
<td></td>
<td>2,530</td>
</tr>
<tr>
<td>G Street</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8th Street to 9th Street</td>
<td>EB</td>
<td>3 -</td>
<td>1,905</td>
</tr>
<tr>
<td>9th Street to 10th Street</td>
<td>EB</td>
<td>Signalized Arterial</td>
<td>1,660</td>
</tr>
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<td>10th Street to 11th Street</td>
<td>EB</td>
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<td>1,610</td>
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</table>
### TABLE 24 (cont'd)
#### YEAR 2025 PLUS PROJECT ROADWAY SEGMENT LEVELS OF SERVICE

<table>
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<tr>
<th></th>
<th>Direction</th>
<th>Lanes - Class</th>
<th>A.M. Peak Hour</th>
<th>P.M. Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Baseline</td>
<td>Baseline Plus Project</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Volume</td>
<td>V/C</td>
</tr>
<tr>
<td>10th Street</td>
<td></td>
<td></td>
<td>Vol</td>
<td>V/C</td>
</tr>
<tr>
<td>I Street to H Street</td>
<td>NB</td>
<td>1 - Signalized Collector</td>
<td>225</td>
<td>0.45</td>
</tr>
<tr>
<td>SB</td>
<td></td>
<td></td>
<td>70</td>
<td>0.14</td>
</tr>
<tr>
<td>H Street to G Street</td>
<td>NB</td>
<td></td>
<td>195</td>
<td>0.39</td>
</tr>
<tr>
<td>SB</td>
<td></td>
<td></td>
<td>140</td>
<td>0.28</td>
</tr>
<tr>
<td>G Street to F Street</td>
<td>NB</td>
<td></td>
<td>100</td>
<td>0.20</td>
</tr>
<tr>
<td>SB</td>
<td></td>
<td></td>
<td>75</td>
<td>0.15</td>
</tr>
<tr>
<td>State Route 99</td>
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<td></td>
<td>7,355</td>
<td>1.23</td>
</tr>
<tr>
<td>L Street to I Street</td>
<td>NB</td>
<td>3 - Freeway Mainline</td>
<td>3,595</td>
<td>0.65</td>
</tr>
<tr>
<td>SB</td>
<td></td>
<td></td>
<td>6,585</td>
<td>1.10</td>
</tr>
<tr>
<td>I Street to H Street</td>
<td>NB</td>
<td></td>
<td>3,595</td>
<td>0.56</td>
</tr>
<tr>
<td>SB</td>
<td></td>
<td></td>
<td>6,585</td>
<td>1.10</td>
</tr>
<tr>
<td>H Street to F Street</td>
<td>NB</td>
<td></td>
<td>5,095</td>
<td>0.85</td>
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<tr>
<td>SB</td>
<td></td>
<td></td>
<td>8,130</td>
<td>1.34</td>
</tr>
<tr>
<td>F St to Tuolumne Blvd</td>
<td>NB</td>
<td></td>
<td>5,145</td>
<td>0.86</td>
</tr>
</tbody>
</table>

Year 2025 Freeway Ramp Merge-Diverge Level of Service

Table 25 identifies Year 2025 ramp and weaving area Levels of Service assuming that no improvements are made to SR 99. As noted, Levels of Service in excess of the LOS D minimum are projected for many locations assuming anticipated background traffic volume growth, including:

- Southbound off ramp to L Street – 5th Street (LOS E in p.m.)
- Northbound on ramp from L Street – 6th Street (LOS E in a.m. and p.m.)
- Southbound off ramp to 5th Street – I Street (LOS E in p.m.)
- Southbound on ramp for 5th Street – H Street (LOS E in a.m. and LOS F in p.m.)
- Southbound weave 5th Street on-ramp to Tuolumne Blvd off ramp (LOS F in p.m.)
- Northbound weave Tuolumne Blvd on-ramp to 6th Street off ramp (LOS F in a.m. and p.m.)

As discussed under the evaluation of roadway segments, SR 99 is expected to be widened to an 8 lane facility. While the effect on ramp geometry associated with this work is unknown, the merge-diverge operations at isolated ramps would improve when the freeway is widened, and LOS D or better conditions would result. However, due to the short spacing between ramps, the addition of a northbound through lane would not deliver LOS D conditions during the weaving area between the Tuolumne Blvd on ramp and the 6th Street off ramp. A multi-lane weaving area is likely to be needed in this area.

**Cumulative Project Freeway Ramp Impacts**

As shown in Table 25, the incremental impact of the Proposed Project on long-term ramp operation is not significant. The volume added by the Proposed Project falls well below the threshold employed by the City of Modesto to identify significant cumulative impacts (i.e., volume increase greater than 5%).

Development of the Proposed Project would lengthen delays at study intersections. However, the project would not result in any new locations where the projected Level of Service exceed the minimum standards, nor would the incremental change in delay identified at any location reach the 5.0 second threshold employed by the City of Modesto to identify the significance of cumulative impacts. The potential improvements cited for background conditions would also provide satisfactory Levels of Service with development of the Proposed Project, although these actions would not be required mitigation measures.

Because the Proposed Project would not cause significant reductions in service levels or increases in delay on roadways or freeway ramps, this would be a *less-than-significant impact*.

**Circulation**

Although the Proposed Project would not have a significant effect on LOS on local streets and intersections, the project’s alley access could result in conflicts with through traffic. The following mitigation measure would reduce this impact by capacity for deceleration and adequate site distance.
### TABLE 25
**YEAR 2025 PLUS PROJECT**
**AM PEAK HOUR RAMP LEVELS OF SERVICE AT SR 99 INTERCHANGES**

<table>
<thead>
<tr>
<th>Direction</th>
<th>Ramp</th>
<th>Action</th>
<th>Base Year 2025</th>
<th>Base Plus Project</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Peak Hour Volume</td>
<td>Density (pc/ml/in)</td>
</tr>
<tr>
<td>SR 99 / L Street - 5th Street-6th Street</td>
<td>Off Ramp</td>
<td>Diverge</td>
<td>230</td>
<td>27</td>
</tr>
<tr>
<td>Southbound</td>
<td>On ramp</td>
<td>Merge</td>
<td>315</td>
<td>45</td>
</tr>
<tr>
<td>SR 99 / 5th Street - I Street</td>
<td>Off Ramp</td>
<td>Diverge</td>
<td>305</td>
<td>26</td>
</tr>
<tr>
<td>Northbound</td>
<td>On-ramp</td>
<td>Merge</td>
<td>830</td>
<td>32</td>
</tr>
<tr>
<td>SR 99 / 6th Street - I Street</td>
<td>On-ramp</td>
<td>Merge</td>
<td>1,805</td>
<td>36</td>
</tr>
<tr>
<td>SR 99 / 5th Street - Tuolumne Blvd</td>
<td>Off Ramp</td>
<td>Weave</td>
<td>50 - 235</td>
<td>30</td>
</tr>
<tr>
<td>Southbound</td>
<td>On-ramp</td>
<td>Merge</td>
<td>750 - 1,605</td>
<td>72</td>
</tr>
<tr>
<td>Direction</td>
<td>Ramp</td>
<td>Action</td>
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<td>Base Plus Project</td>
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<td></td>
<td></td>
<td>Density (pc/ml/ln)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Level of Service</td>
<td>Project Only</td>
</tr>
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<td>Total</td>
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</tr>
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<td></td>
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<td></td>
<td>Density (pc/ml/ln)</td>
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</tr>
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<td></td>
<td>Level of Service</td>
<td>Percent increase in Volume</td>
</tr>
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<td>Significant?</td>
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</tr>
<tr>
<td><strong>SR 99 / L Street – 5th Street</strong></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Southbound</td>
<td>Off Ramp</td>
<td>Diverge</td>
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<tr>
<td>Northbound</td>
<td>On ramp</td>
<td>Merge</td>
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</tr>
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<td><strong>SR 99 / 5th Street – I Street</strong></td>
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<tr>
<td>Southbound</td>
<td>Off Ramp</td>
<td>Diverge</td>
<td>665</td>
<td>36</td>
</tr>
<tr>
<td><strong>SR 99 / 6th Street – I Street</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Northbound</td>
<td>On-ramp</td>
<td>Merge</td>
<td>470</td>
<td>30</td>
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<tr>
<td><strong>SR 99 / 5th Street – H Street</strong></td>
<td></td>
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<tr>
<td>Southbound</td>
<td>On-ramp</td>
<td>Merge</td>
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<tr>
<td><strong>SR 99 / 6th Street – Tuolumne Blvd</strong></td>
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<td></td>
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</tr>
<tr>
<td>Southbound</td>
<td>Weave</td>
<td></td>
<td>120 - 600</td>
<td>47</td>
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<tr>
<td><strong>SR 99 / Tuolumne Blvd - 8th Street</strong></td>
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<td></td>
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<tr>
<td>Northbound</td>
<td>Weave</td>
<td></td>
<td>335 - 1,195</td>
<td>45</td>
</tr>
</tbody>
</table>
Mitigation Measure 8

The City shall monitor future traffic volumes and compare against current forecast. If background traffic volumes increase as forecast, parking shall be prohibited on each street in advance of the G Street and H Street alleys in order to provide deceleration opportunities and to increase sight distance for emerging traffic.

e) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

The Proposed Project is located approximately two miles from the Modesto City-County Airport, and is located in Category 4 of the airport Land Use Commission Plan. Areas in Category 4 are listed as “Other Land Within the Planning Area” and consist of lands within the planning areas with possible height and/or noise problems envisioned in the future. The Airport Land Use Commission Plan includes an Airport Land Use Compatibility Listing that includes compatible, conditionally approvable, and prohibited uses in the four airport land use categories.

The Proposed Project would result in a seven-story structure with 30,000 square feet of retail uses, 19,000 square feet of office uses, 66 condominium residential units, and associated parking. According to the Airport Land Use Commission Plan, multi-family, commercial, and office uses are compatible uses in the Category 4 areas. The Proposed Project would not result in changes to air traffic patterns would be compatible with existing air traffic. Therefore, this would be a less-than-significant impact.

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

The project site is within a developed, urban area and would include uses that are similar to the surrounding land uses; therefore, the project would not introduce incompatible land uses to the area. The Proposed Project would be required to comply with City of Modesto standards for road design. For these reasons, the impacts due to hazards from design features or incompatible uses would be less than significant.

e) Result in inadequate emergency access?

The Proposed Project would not involve modification of existing streets or temporary road closures. The project would not change existing road circulation on adjacent streets. In addition, the City requires that all-weather, hard-surfaced roadways be constructed and maintained free of obstructions prior to and at all times during construction. For these reasons, the impacts to emergency access would be less than significant.

f) Result in inadequate parking capacity?

Automobile parking in downtown Modesto is accomplished via a combination of on-street spaces and

The City of Modesto maintains three parking structures (8th, 10th and 11th Street) and seven surface lots. A portion of the project site is currently occupied by a 110-space surface parking lot. On street parking is permitted on the streets abutting the project site.

Title 10 of the Modesto Municipal Code addresses planning and zoning regulations. The amount of parking would be regulated by Section 10-2.2002, which sets forth the amount of parking required for the various land uses within the city.

Utilization of the current on-site parking supply as well as the utilization of on-street parking in spaces near the project site was determined through a survey conducted on December 12, 2007. There are 110 spaces in the parking lot that occupied the northern 2/3 of the project site. Utilization of these spaces was observed to range from 23% to 36% during the three time periods when the survey was taken. A total of 109 on-street parking spaces were inventoried at the same time. While the use of spaces on individual block faces varied, the overall on-street supply experienced 61% to 62% utilization during the morning and at noon.

Parking spaces are typically assumed to be “fully utilized” at occupancy rates that are below 100%. It is assumed that motorists would have difficulty finding a vacant space due to uneven turnover, and that some spaces would be unavailable due to poor parking practices. Parking lots and on-street parking are typically assumed to be “fully utilized” when occupancy rates reach 85% to 100%.

Development of the Proposed Project would affect downtown parking in two ways. First, the Proposed Project itself would result in a demand for parking to satisfy the needs of residents and business patrons. Second, the existing parking demands occurring in the parking lot that now occupies this site would be displaced.

The Proposed Project would meet City of Modesto parking code requirement by providing 346 parking spaces in the project building. A total of 295 spaces are required by code. Thus, the project provides enough parking to meet its demands.

As noted earlier, 110 existing parking spaces would be eliminated when the Proposed Project is developed, and the vehicles currently parked in this lot would be displaced. Based on the occupancy survey, approximately 40 vehicles could be displaced at some time during a weekday. While it is not possible to determine the exact locations used by displaced parking, adjoining on-street parking and other City lots are expected to be used. It is also possible that some parking demand could be accommodated in the “extra” spaces provided on site.

The parking utilization survey noted the presence of 109 on-street parking spaces in the immediate area of the Proposed Project. Of that total, 42 were vacant during the noon utilization period when parking lot use was highest. Assuming that the practical capacity of on-street parking is 85% to 90%, then 26 to 31 vacant spaces could theoretically be available for the 40 displaced vehicles. This would leave demand for another 9 to 14 spaces. Theoretically, the remaining 9 to 14 vehicles would be displaced to locations beyond the immediate limits of the Proposed Project, or could be parked in the “extra” spaces beyond code requirements that are to be provided on-site. Because the site
Environmental Checklist

provides parking to meet its demands and provides a surplus beyond code requirements, the project’s parking impacts under city guidelines are not significant. This would be a less-than-significant impact.

g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

Modesto Area Express (MAX) and Stanislaus Regional Transit (StaRT) provide bus service within the City of Modesto. The project site is two blocks from the MAX Downtown Transportation Center located on the west side of 9th Street between I Street and J Street. MAX operates fixed-route service throughout the Modesto area. Service hours are Monday through Friday from 6:00 a.m. to 8:00 p.m., with half-hour frequencies. Saturday and Sunday service is hourly.

Regionally, MAX operates the Modesto Altamont Commuter Express shuttle bus to transfer passengers from Modesto (at Vintage Faire Mall) to the Lathrop/Manteca train station. The Altamont Commuter Express (ACE) train provides passenger rail service between the San Joaquin Valley and the Santa Clara Valley. MAX also operates the Modesto Bay Area Rapid Transit Express (BART Express), transferring riders from Orchard Supply Hardware on Sisk Road to the Dublin/Pleasanton BART station. BART provides commuter rail service to San Francisco (including the San Francisco International Airport), Fremont, Oakland, Richmond and Pittsburg/Bay Point.

The City of Modesto Urban Area General Plan Circulation Element promotes the use of alternative forms of transportation, including the use of light rail, buses, bikes, walking and car pooling. The Proposed Project would not conflict with adopted policies, plans, or programs supporting alternative transportation, but, rather, would be supportive of such policies, plans, and programs by developing a mix of residential and non-residential uses in the downtown area and in proximity to the above transit services. Therefore, impacts on adopted policies supporting alternative transportation would be less than significant.
**Environmental Checklist**

<table>
<thead>
<tr>
<th>Issues</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>16. UTILITIES AND SERVICE SYSTEMS.</strong></td>
</tr>
<tr>
<td><em>Would the project:</em></td>
</tr>
<tr>
<td>a. Exceed wastewater treatment requirements of the applicable</td>
</tr>
<tr>
<td>Regional Water Quality Control Board?</td>
</tr>
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<td>□ □ ■ ○</td>
</tr>
<tr>
<td>b. Require or result in the construction of new water or wastewater</td>
</tr>
<tr>
<td>treatment facilities or expansion of existing facilities, the</td>
</tr>
<tr>
<td>construction of which could cause significant environmental effects?</td>
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<tr>
<td>□ ■ □ ○</td>
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<tr>
<td>c. Require or result in the construction of new storm water drainage</td>
</tr>
<tr>
<td>facilities or expansion of existing facilities, the construction of</td>
</tr>
<tr>
<td>which could cause significant environmental effects?</td>
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<tr>
<td>□ □ ■ ○</td>
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<tr>
<td>d. Have sufficient water supplies available to serve the project from</td>
</tr>
<tr>
<td>existing entitlements and resources, or are new or expanded</td>
</tr>
<tr>
<td>entitlements needed?</td>
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<tr>
<td>□ □ ■ ○</td>
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<tr>
<td>e. Result in a determination by the wastewater treatment provider</td>
</tr>
<tr>
<td>which serves or may serve the project that it has adequate capacity</td>
</tr>
<tr>
<td>to serve the project’s projected demand in addition to the provider’s</td>
</tr>
<tr>
<td>existing commitments?</td>
</tr>
<tr>
<td>□ □ ■ ○</td>
</tr>
<tr>
<td>f. Be served by a landfill with sufficient permitted capacity to</td>
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<tr>
<td>accommodate the project’s solid waste disposal needs?</td>
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<tr>
<td>□ □ ■ ○</td>
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<tr>
<td>g. Comply with federal, state, and local statutes, and regulations</td>
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<tr>
<td>related to solid waste?</td>
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</tr>
</tbody>
</table>

Modesto 10th & H Streets Project  
Initial Study/MND
Discussion

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?

The City’s Urban Area General Plan Policy V-D.1(a) requires the City to obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB as its wastewater treatment facilities are expanded. The Wastewater Master Plan (WMP) requires the implementation of BMPs for post-construction activities in order to prevent violations of the permits during the operation of the wastewater treatment plant.

Policy V.D.2.a of the City Of Modesto Urban Area General Plan requires the City to maintain the standards for effluent water and biosolids from its wastewater treatment plants as established by the Central Valley RWQCB, in compliance with the federal CWA and the State Porter-Cologne Act. The secondary wastewater treatment plant discharges the majority of treated wastewater onto irrigated pasturelands with limited amounts discharged into the San Joaquin River under a permit from the Central Valley RWQCB. The secondary wastewater treatment plant does not discharge treated effluent to farmland or into the San Joaquin River when conditions for discharge would not meet water quality standards or are otherwise unfavorable. When conditions are unfavorable, the secondary wastewater treatment plant stores treated effluent in its storage pond system. The secondary wastewater treatment plant can discharge up to 25.8 million gallons/day (mgd) average dry-weather flow and 71.7 mgd peak wet-weather flow into San Joaquin River under an existing NPDES permit. 54

Under the Proposed Project, wastewater would be treated at the City’s primary and secondary wastewater treatment plants and discharged into the San Joaquin River. The City of Modesto Wastewater Treatment Facilities are located on two sites, separated by approximately seven miles. The Sutter Avenue Primary Plant (headworks, primary clarification, and solids handling) is adjacent to the Tuolumne River, within a residential area. The Jennings Road Secondary Plant (oxidation ponds, storage, and ranchlands) is within an agricultural region adjacent to the San Joaquin River. The wastewater treatment plants serve the City of Modesto and a small northern portion of the City of Ceres. Influent consists primarily of domestic, commercial, industrial, food processing and winery waste. Depending on the time of year and weather conditions, the secondary effluent is either discharged to the San Joaquin River (9,300 afy) or recycled for irrigation (21,400 afy). Effluent is stored on site until river discharge or irrigation is possible. 55

As shown in Table 26, the Proposed Project would generate approximately 18,500 gallons per day of wastewater. According to the City’s Wastewater Treatment Master Plan Update, and due to recent

54 City of Modesto, Wastewater Master Plan Phase 2 Update, Master Plan Report, prepared by Carollo Engineers, March 2007, pages 2-7 and 2-9.

improvements, the Sutter Avenue primary plant and the Jennings Road secondary plant have adequate treatment capacity to accommodate the City’s projected growth until 2030.\textsuperscript{56} Therefore, this is considered a \textit{less-than-significant} impact.

b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

As stated above, the existing wastewater treatment plants would have adequate treatment capacity to serve the Proposed Project since the Phase 1A (dissolved air flotation) of the tertiary treatment has been completed. However, the existing wastewater collection system would require improvements to the system or reductions/removals of existing direct connections from the sewer system to serve additional development.

**Wastewater Collection**

The City has developed a wastewater system capital improvement program (CIP) to address existing deficiencies and replacement needs in the City wastewater collection system. Projects contained within the CIP provide capacity to meet the demands of projected growth through the buildout of the sphere of influence, which is projected to occur by the year 2030.

A sewer capacity analysis was completed for the Proposed Project in 2007. It should be noted that the sewer capacity analysis was completed for a previous version of the project, which was larger than the current Proposed Project. Therefore, the conclusions of the study provide a worst-case scenario for the provision of wastewater collection services.

The project site is located in Sewer Basin Area 4 (also known as Tributary Area 4 or TA-4) in the 2007 Wastewater Master Plan (WWMP) and is currently served by City sewer. TA-4 comprises most of the core downtown area as well as a roughly equal area northeast of downtown. The expected sewer flow routing would be to the existing 12-inch H Street subtrunk, then generally south.


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<table>
<thead>
<tr>
<th>Type of Use</th>
<th>Generation Rate</th>
<th>Proposed Project</th>
<th>Wastewater Generation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>100 gals/day/resident</td>
<td>132 residents</td>
<td>13,200</td>
</tr>
<tr>
<td>Office</td>
<td>108 gals/day/1,000 ft(^2)</td>
<td>19,000 ft(^2)</td>
<td>2,052</td>
</tr>
<tr>
<td>Retail</td>
<td>108 gals/day/1,000 ft(^2)</td>
<td>30,000 ft(^2)</td>
<td>3,240</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>18,492 gallons/day</td>
</tr>
</tbody>
</table>

SOURCE: Dennis E. Wilson, written communication to Linda Boston, City of Modesto, September 2007, and Dennis E. Wilson, written communication to Chuck Covolo, City of Modesto, March 24, 2009.
in the 14-inch 9th Street subtrunk to the F Street 15-inch subtrunk. The F Street 15-inch subtrunk flows to the 6th Street 21-inch trunk, which connects to the 48-inch River Trunk. The River Trunk follows along the Tuolumne River alignment and increases in size to 60-inches before terminating at the Sutter Primary Treatment Plant.

The current parcels within the project site are served with a 6-inch alley sewer main. It should be noted that the downtown area has multiple trunks with interconnects at various locations, thus complicating the flow routing analysis.57

The City's standard for design pipe capacity is 70% full for new development areas and 85% full for existing build-out areas under peak wet weather flow (PWWF) conditions, where percent full is determined by the depth of pipe flow compared to the pipe diameter.

In general, the more positive slope on a pipe, the more flow capacity it can handle because gravity has a large influence on the flow of liquid. When pipe has flatter slope, less liquid moves through the pipe under the influence of gravity in a given amount of time, thus reducing the flow capacity.

Actual average day existing flow for existing parcels on the project site is estimated at 488 gpd, based on metered data. The future predicted flow for the project area is 1,768 gpd for a mixed-use development or about 3.5 times the actual estimated existing flow. This indicates that the existing parcels are contributing less flow than modeled in the WWMP under build-out conditions, which is due to low and non-sewerage producing parcels (i.e. parking lots) within the project site, and generally that the existing structures are low sewer demand uses.

As stated above, and shown in Table 26, the Proposed Project would generate approximate 18,500 gallons per day (gpd) of wastewater. The 2007 Sewer Capacity Analysis assumed an average dry weather flow of 25,640 gallons per day and a peak dry weather flow of 76,920 gpd. The 2007 Sewer Capacity Analysis determined that, without the recommended capital improvements identified in the Wastewater Master Plan for the F Street Trunk and for reducing the direct impacts of storm runoff on the wastewater system of Tributary Area 4, there would continue to be Peak Wet Weather Flow capacity constraints. It should be noted that the 2007 Sewer Capacity Analysis included the addition of sewer flows from the Gallo Center for the Arts because that development was under construction during development of the WWMP.

Since January 2009, additional information has been provided to the City Land Development Department indicating a future reduction in Peak Wet Weather Flow for the related tributary area. The City of Modesto's Public Works Department "H" Street Reconstruction project calls for the removal of a direct storm water connection from the existing 8-inch sewer main in H Street. The net effect of the storm water disconnection and the Proposed Project development would result in an overall decrease in wastewater flow.58 The H Street Reconstruction project improvements are

57 Jim Alves, PE, Associate Civil Engineer, Final Sewer Capacity Analysis for 10th and H Street Project, October 17, 2007, page 3.
58 Charles L. Covolo, P.E., City of Modesto Land Development Engineering, written correspondence to David Wage, Associate Planner, March 27, 2009.
anticipated to be constructed sometime during the summer of 2009 and would be completed before the Proposed Project is constructed.

Based on the additional information and the proposed City capital project, the City has determined that there is sufficient wastewater capacity to allow for the development of the Proposed Project, if it is constructed before other projects using the same trunk line. Therefore, this impact would be less than significant.

If other projects were to be constructed prior to the Proposed Project, then the sewer capacity would be reduced. Depending on the timing of the Proposed Project and construction of additional sewer improvements, there could be a period of time in which the sewer system did not have adequate capacity to serve all development. The Proposed Project would contribute to this potential cumulative sewer deficiency. The following mitigation measure would reduce this impact to a less-than-significant level by ensuring that sewer capacity is available for the Proposed Project and that the project pays its fair share toward required improvements.

**Mitigation Measure 9**

*If project construction is delayed so that other new development using the same trunk lines proceeds the Proposed Project, the applicant shall demonstrate through engineering studies that wastewater conveyance infrastructure serving the site is adequate.*

Regardless of timing of project construction relative to other projects, the proposed project will be required to pay its fair share toward sewer improvements through connection fees. If capacity is not available at the time of project construction, then the applicant would have two options. The project could fund and/or construct sewer improvements planned for the future, so that additional capacity would be available when the project is completed. If the costs of improvements funded or constructed by the project exceeded the project’s connection fees, then the applicant would be eligible for some reimbursement. This approach would change the timing of improvements that are already planned to be constructed by the City. If the applicant chose not to advance needed improvements, the project could be delayed until the such improvements were completed by the City. In either case, sewer capacity would be in place prior to occupancy of the project.

c) **Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?**

As discussed above under Item 8e, Hydrology and Water Quality, the Proposed Project would not substantially affect the amount of drainage flow contributed to the existing storm drainage system because the project site is already developed and highly impervious. This would be a less-than-significant impact.

d) **Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?**
Water service in Modesto is provided by the City's municipal water supply system. The City owns and operates the Modesto drinking water system, nine smaller systems for the communities of Empire, Salida, Waterford, Hickman, Del Rio, Grayson, and Ceres, and three small systems in Turlock. The City derives drinking water from a combination of groundwater and surface water sources, which include approximately 120 groundwater wells, and the Modesto Regional Water Treatment Plant (MRWTP), which draws water from Modesto Reservoir located on the Tuolumne River 17 miles east of the city. Surface water is provided by the Modesto Irrigation District (MID) through a Treatment and Delivery Agreement that began in 1992. A new TDA was signed with MID in 2005 to deliver an additional 30 mgd, upon completion of the MRWTP Phase Two.

Water consumption in Modesto fluctuates seasonally, with demand being lowest during the winter and highest during the summer. The City has an Urban Water Management Plan (UWMP), which identifies existing and long-term water supply sources, and describes the supply and conservation management programs through the year 2030, or until the city reaches projected build-out, which could vary slightly.

In 2005, the City obtained approximately 60% of its potable water from City-owned, City-operated wells. The city overlies and draws water from two groundwater sub-basins: the Tuolumne River Groundwater Sub-basin (a.k.a. the Modesto Sub-basin), which serves the area north of the Tuolumne River, and the Turlock Groundwater Sub-basin, which serves the area south of the Tuolumne River. The City's estimated sustainable yield of groundwater is 45,625 acre-feet per yard (AFY) from the Tuolumne River Sub-basin, and 4,587 AFY from the Turlock Sub-basin. Sustainable yield is considered the amount of water pumped that does not contribute to overdrafting condition. However, the actual "sustainable yield" has not been determined.

The City pumped an average of approximately 45,500 AFY of groundwater from the Tuolumne River Sub-basin and up to 4,587 AFY from the Turlock Sub-basin during the 2000–2005 timeframe. Groundwater levels had been declining in the Tuolumne River Sub-basin before 1995. Groundwater levels in the Modesto Sub-basin declined nearly 15 feet between 1970 and 2000. However, since augmenting the City's water supply with treated surface water from the MRWTP beginning in 1995, the City has observed that groundwater levels have started to rise as a result of reduced groundwater pumping. Water levels in the Turlock Sub-basin, similarly, rose about seven feet from 1994 to 2000. The rising water levels suggest that the groundwater subbasin has started to recover and that the current level of pumping in each subbasin is less than the previously assumed "safe yields" of the two subbasins.


Modesto 10th & H Streets Project Initial Study/MND

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Although the City has increased its groundwater pumping to meet growth demands, groundwater production rates are still less than historic highs, and overdraft conditions have not occurred in either subbasin.

Using historic groundwater level and pumping data from the past 25 years, the City of Modesto estimated an operational yield of 53,500 AFY for the Modesto water service area for use until a more accurate estimate of sustainable yield is available from the ongoing hydrogeologic studies and modeling. This operational yield, or ultimate amount of groundwater extraction, represents the amount of groundwater that can be extracted from the two groundwater subbasins without lowering groundwater levels below 40 feet ASL and potentially affecting long-term sustainability of the basin. Therefore, it can be assumed that the City of Modesto could potentially increase its annual groundwater extraction rates to volumes greater than are currently being pumped without adversely affecting the basin. However, the City’s current operational capacity for groundwater production is limited by the reliable pumping capacity of its existing wells.63

Drought conditions can significantly reduce available surface water supplies. The reliability of the surface water supply is dependent on hydrologic variations and the ability to store and extract water from available storage reservoirs. River flows and the incidental recharge of applied irrigation water are the primary sources of groundwater recharge to the groundwater basin. Because drought conditions can reduce available groundwater supplies by reducing available recharge, groundwater is not entirely drought-resistant. However, dry year supply reductions are less pronounced for groundwater than for surface water supplies, and are not expected to result in a reduction in pumping in dry years. Rather, by using surface water in lieu of groundwater in normal years, the City of Modesto will bank groundwater supplies for use in meeting dry year demands.

The City of Modesto has elected to continue to diversify its water supply alternatives by developing additional surface water supplies to offset groundwater pumping. Phase Two of the MRWTP will provide an additional 33,602 AFY of surface water supplies to offset groundwater pumping to meet demands north of the Tuolumne River. Water demands in the City of Modesto and outlying areas is projected to grow to a buildout normal year demand of 133,313 AFY in 2030.64

The City of Modesto is converting to all metered water usage. Since 1991, meters have been installed for most new construction, but are not necessarily billed on a metered rate. Starting in 2005, the City of Modesto began retrofitting single-family flat-rate customers to meters at a rate of approximately 5,000 EDU per year. Based on the City’s metering plan, existing single-family flat-rate customers will be gradually converted to meters once all non-metered flat-rate customers are converted to metered use.

As shown in Table 27, the Proposed Project is expected to generate a water demand of 22,380 gallons per day (25.1 AFY). The City of Modesto’s future water supply planning incorporates

sufficient future surface water supplies to allow the City of Modesto to meet demands primarily through the use of surface water, banking groundwater for future and dry year use and protecting the basin from overdraft. Groundwater pumping would increase in dry years to meet any demands unmet by available surface water supplies. Because there would be adequate water supply for the Proposed Project, this would be a less-than-significant impact.

<table>
<thead>
<tr>
<th>TABLE 27</th>
<th>PROPOSED PROJECT WATER DEMAND</th>
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<tbody>
<tr>
<td>Type of Use</td>
<td>Generation Rates</td>
</tr>
<tr>
<td>Residential</td>
<td>125 gals/day/resident</td>
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<tr>
<td>Office</td>
<td>120 gals/day/1,000 ft</td>
</tr>
<tr>
<td>Retail</td>
<td>120 gals/day/1,000 ft</td>
</tr>
<tr>
<td>Total</td>
<td></td>
</tr>
</tbody>
</table>

1. Dennis E. Wilson, written communication to Linda Boston, City of Modesto, September 2007.

f) Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?
g) Comply with federal, state, and local statutes, and regulations related to solid waste?

Solid waste generated in Modesto is collected and hauled to interim transfer stations by three private firms. A fourth hauler hauls industrial waste. Solid waste generated in Modesto is disposed of at the Stanislaus Resource Recovery Facility (SRRF) located approximately 25 miles southwest of the city; the adjoining Fink Road Landfill; and 11 other landfills.

The City disposes of approximately 30% of its solid waste by incineration through a waste-to-energy facility at the Stanislaus Resource Recovery Facility that is jointly owned by the City and the County. The Fink Road Landfill is currently at approximately 50% capacity with a projected closing date of 2023 and an overall capacity of 12 million cubic feet. The Stanislaus Resource Recovery Facility has an operating capacity of 800 tons per day, but has handled up to 1,300 tons per day and is planned to operate through 2036. According to Landfill Division staff, out of the 1,300 tons disposed at the landfill, approximately 800 tons are burned in the incinerator, and the residue is disposed of in the landfill.

The Proposed Project would increase the residential, retail, and office uses on the project site and would generate additional solid waste requiring disposal. As shown in Table 28, operation of the

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68 Ron Grider, Landfill Manager, Stanislaus County Landfill Division, personal communication, October, 2007.
Proposed Project would generate 95.8 tons of solid waste per year. In addition, removal of the existing buildings on the project site would result in construction and demolition debris. The disposal location of the project’s solid waste would depend on the waste haulers. Because there is existing capacity at the two most likely landfills, this would be a less-than-significant impact.

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Generation Rate</th>
<th>Units/Square Footage</th>
<th>Tons/year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>0.46 tons/unit/yr (multi-family)</td>
<td>66</td>
<td>30.4</td>
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<tr>
<td>Office</td>
<td>1 lb/100 ft²/day</td>
<td>19,000</td>
<td>34.7</td>
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<tr>
<td>Commercial</td>
<td>10.53 lb/employee/day</td>
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<tr>
<td>Total</td>
<td></td>
<td></td>
<td>95.8</td>
</tr>
</tbody>
</table>

17. MANDATORY FINDINGS OF SIGNIFICANCE.

a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Discussion

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

The Proposed Project is located in an urban area determined to have little habitat value. It was determined that potential impacts on biological resources would be less than significant. There are no known cultural resources on the project site. Mitigation Measures 2 and 3 would reduce impacts...
to previously unknown cultural resources including human remains that could be discovered on the project site. Therefore, the impact would be less than significant with mitigation incorporated.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

The Proposed Project could contribute to air quality degradation and noise, particularly during construction. The Proposed Project would not result in a considerable contribution to air quality impacts, including the generation of greenhouse gases. Potential noise and vibration impacts would be reduced to less-than-significant levels with implementation of Mitigation Measures 5 through 7. Implementation of Mitigation Measure 9 would reduce the project’s contribution to potential cumulative, temporary short-falls in the capacity of the wastewater conveyance system that would serve the Proposed Project. Although, the project’s contribution to cumulative impacts would be considerable, the cumulative impacts of the project would be less than significant after mitigation.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

As discussed throughout this Checklist, potential impacts on human beings that could occur as a result of the Proposed Project are less than significant or could be reduced to less-than-significant levels with mitigation.
RESPONSE TO COMMENTS
EA/C&ED NO. 2009-03: 10th AND H MIXED-USE PROJECT (PDZ-08-004)

I. LIST OF RECIPIENTS

The Draft Initial Study/Mitigated Negative Declaration (IS/MND) was routed to State Clearing House and other various agencies for a 30-day public review period from May 1, 2009 through June 1, 2009. The following is a list of all agencies and individuals who received notice of the Draft IS/MND:

- Department of Transportation (Caltrans) District No. 10
- Department of Fish and Game Region No. 4
- State Office of Historic Preservation
- San Joaquin Valley Air Pollution Control District
- Stanislaus Area Council of Governments
- Modesto City Schools/Planning Division
- Stanislaus County Department of Environmental Resources
- Stanislaus County Environmental Review Committee
- Public Utilities Commission
- Native American Heritage Commission
- Department of Toxic Substances Control
- Regional Water Quality Control Board, Region No. 5
- Integrated Waste Management Board
- California Highway Patrol
- Department of Water Resources
- Department of Parks and Recreation
- Natural Resources Agency

II. RESULTS OF PUBLIC REVIEW

One letter was received within the above-identified public review and comment period and one letter was received three days following the close of the review and comment period. Copies of the letters and City responses to all comments in each of the letters are presented in the following pages. None of the letters raised new significant environmental issues that had not been discussed and mitigation provided at the time the Draft IS/MND was released for public review. No modifications were required to the document in response to comments received and no new avoidable significant effect was identified or mitigation measures added. Therefore, pursuant to CEQA Section 15073.5, recirculation of the IS/MND is not required as no substantial revision was made to the Draft document following the public review and comment period. Based upon the evidence presented in the Initial Study, and in recognition of the two letters of comment received on the Draft IS/MND, the findings in the Planning Commission Resolution for adoption of the Mitigated Negative Declaration can be made.
June 1, 2009

David Wage
City of Modesto
Community and Economic Development- Planning Division
P.O. Box 642, 1010 Tenth Street
Third Floor
Modesto, CA 95353

Project: Proposed Rezone to Planned Development for 10th & H Street Mixed Use Project

District Reference No: 20090287

Dear Mr. Wage:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Draft Mitigated Negative Declaration for the proposed 10th & H Street Mixed Use Project. The proposed project would include 66 residential units, 30,000 square feet of commercial space, 19,000 square feet of office space, 16,000 square feet of storage, and approximately 360 parking spaces. The District offers the following comments:

District Comments

1) The District's review of the project concludes that the project is expected to have a less than significant adverse impact on air quality.

The proposed project is subject to District Rule 9510 (Indirect Source Review). District Rule 9510 is intended to mitigate a project's impact on air quality through project design elements or by payment of applicable off-site mitigation fees. Any applicant subject to District Rule 9510 is required to submit an Air Impact Assessment (AIA) application to the District no later than seeking final discretionary approval, and to pay any applicable off-site mitigation fees before issuance of the first building permit. If approval of the subject project constitutes the last discretionary approval by your agency, the District recommends that demonstration

Sayed Sadredin
Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-6718
Tel: (209) 557-6400  FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000  FAX: (559) 230-6061
www.valleyair.org

Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: (661) 392-5500  FAX: (661) 392-5585

Printed on recycled paper.
of compliance with District Rule 9510, including payment of all applicable fees, be made a condition of the project’s approval.

2) The proposed project may require District permits. Prior to the start of construction the project proponent should contact the District’s Small Business Assistance Office at (559) 230-5888 to determine if an Authority to Construct (ATC) is required.

3) The proposed project may be subject to the following District rules: Regulation VIII, (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).

The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to this project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District’s Small Business Assistance Office at (559) 230-5888. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm.

District staff is available to meet with you and/or the applicant to further discuss the regulatory requirements that are associated with this project. If you have any questions or require further information, please call Mark Montelongo at (559) 230-5905 and provide the reference number at the top of this letter.

Sincerely,

David Warner
Director of Permit Services

Mark Montelongo

Arnaud Marjollet
Permit Services Manager

DW: mm
RESPONSE TO SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT,
RECEIVED JUNE 2, 2009

Comment No. 1:
As required by law, the project shall comply with District Rule 9150, which requires the applicant to submit an Air Impact Assessment application to the District prior to City Council Approval and pay any applicable off-site mitigation fees before issuance of a building permit.

Comment No. 2:
All necessary District permits shall be obtained prior to start of construction.

Comment No. 3:
As required by law, the project shall comply with all District Rules.
June 4, 2009

Mr. David Wage
Associate Planner
City of Modesto
Tenth Street Place/Third Floor
P. O. Box 642
Modesto, CA 95353

Dear Mr. Wage:

The California Department of Transportation (Caltrans) appreciates the opportunity to review and comment on the above subject project located on the south corner of 10th and H Streets. This project is for a seven-story, mixed use building. Caltrans has the following comments:

Traffic Operations

- The lead agency should be responsible in implementing and assessing the mitigation to address the potential traffic impacts. All mitigation fees should address impacts to State Highway System and mainline in closest proximity to the project.

If you have any questions, please contact Janet P. Jaramillo at (209) 942-6022 (email: jjaramil@dot.ca.gov) or me at (209) 941-1921. We look forward to continuing to work with you in a cooperative manner.

Sincerely,

TOM DUMAS, Chief
Office of Metropolitan Planning

c: Scott Morgan, State Clearinghouse

"Cleaner improves mobility across California"
RESPONSE TO CALTRANS DISTRICT 10, RECEIVED JUNE 4, 2009

Comment No. 1:
The Traffic Impact Analysis studied impacts to State facilities closest to the project, SR 99 and SR 132. No significant impacts were identified and therefore no mitigation measures are necessary.
Introduction

In accordance with CEQA Guidelines § 15097, to ensure implementation of mitigation measures identified in the Initial Study as included in the project and those imposed as conditions of approval by the lead agency, a program for monitoring or reporting (Mitigation Monitoring and Reporting Program (MMRP)) must be adopted. Until mitigation measures are completed, the lead agency remains responsible for ensuring that implementation occurs in accordance with the program.

The attached MMRP lists the project mitigation measures that will be implemented for the Modesto 10th and H Streets Project. It identifies who is responsible for implementation of the mitigation measure and the necessary steps, or actions, to complete it. The MMRP describes how the measure will be monitored, who is responsible for the monitoring, and presents a schedule of when the mitigation is to be implemented.
# Modesto 10th & H Streets Project
## Mitigation Monitoring and Reporting Program

### Mitigation Measure
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<tbody>
<tr>
<td>1 Wood stoves shall be prohibited within the Proposed Project.</td>
<td>Developer</td>
<td>Demonstrate that the project design does not include wood stoves.</td>
<td>Building Safety</td>
<td>Prior to issuance of a building permit</td>
</tr>
</tbody>
</table>

### 3. Air Quality

#### 2(a) In the event that any prehistoric or historic subsurface archeological features or deposits, including locally darkened soil ("midden"), that could conceal cultural deposits, animal bone, obsidian, and/or mortar, are discovered during construction-related earth-moving activities, all work within 50 feet of the resource shall be halted and the City shall consult with a qualified archeologist or paleontologist to assess the significance of the find. If the find is determined to be significant by the qualified archeologist/paleontologist, then representatives of the City and the qualified archeologist/paleontologist shall meet to determine the appropriate course of action, consistent with General Plan Policy VII-F.2(g).

- Developer
- developer
- Developer
- Confirm that qualified archeologist has been hired to monitor all grading and excavation.
- Land Development Engineering Division
- Planning Division
- Upon discovery of archaeological resources

#### 2(b) Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, fossils or other cultural materials from the project area.

- Developer
- Include specifications of Mitigation Measure 2b in contractor’s contract.
- Land Development Engineering Division
- Prior to issuance of a grading permit

#### 2(c) If paleontological resources are discovered, a qualified paleontologist shall evaluate the resource and

- Developer
- Include specifications of Mitigation Measure 2c in contractor’s contract.
### Modesto 10th & H Streets Project Mitigation Monitoring and Reporting Program

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<tr>
<td>Prepare a mitigation plan in accordance with Society of Vertebrate Paleontology guidelines. The mitigation plan may include a field survey of additional construction areas, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations determined by the City to be necessary and feasible shall be implemented before construction activities can resume.</td>
<td>Developer</td>
<td>Confirm that qualified paleontologist has been hired to evaluate the resource and prepare mitigation plan.</td>
<td>Engineering Division Planning Division</td>
<td>Upon discovery of paleontological resources</td>
</tr>
<tr>
<td>3(a) During all phases of project construction, and prior to any ground disturbance, the project applicant or developer shall notify contractors that they are required to watch for human remains.</td>
<td>Developer</td>
<td>Include specifications of Mitigation Measure 3a in Contractor's contract</td>
<td>Land Development Engineering Division</td>
<td>Prior to issuance of a grading permit</td>
</tr>
<tr>
<td>3(b) In the event of the discovery of a burial, human bone, or suspected human bone, all excavation or grading in the vicinity of the find shall halt immediately and the area of the find shall be protected and the contractor shall immediately notify the County Coroner of the find and comply with the provisions of Cal. Health and Safety Code Section 7050.5, and Cal. Public Resources Code Section 5097.98, if applicable. If human remains are identified, the project sponsor shall also retain a Native American monitor from the appropriate Native American Tribe(s) as determined by the Native American Heritage Commission. No further disturbance of the site may be made except as</td>
<td>Construction Contractor</td>
<td>If human bone is found, contact the County Coroner, as indicated in Mitigation Measure 3(b).</td>
<td>Land Development Engineering Division</td>
<td>During grading and excavation upon discovery of human remains</td>
</tr>
</tbody>
</table>
### Modesto 10th & H Streets Project Mitigation Monitoring and Reporting Program

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<tr>
<td>authorized by the County Coroner. The Coroner shall make the determination within two working days from the time the person responsible for the excavation, or authorized representative, notifies the Coroner of the discovery or recognition of the human remains.</td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

### 7. Hazards and Hazardous Materials

#### 4(a)
Prior to approval of Improvement Plans, a Phase 1 Environmental Site Assessment shall be prepared for parcels 104-042-005 (713 10th Street) and 104-042-007 (701 10th Street, the former bus station). The recommendations of the Phase 1 ESA will be fully implemented prior to construction of the project.

<table>
<thead>
<tr>
<th>Developer</th>
<th>Contract for the preparation of a Phase 1 Environmental Site Assessment, as outlined in Mitigation Measure 4(a).</th>
<th>Land Development Engineering Division</th>
<th>Prior to approval of Improvement Plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Developer</td>
<td>Implement recommendations of the Phase 1 Assessment.</td>
<td>Land Development Engineering Division</td>
<td>Prior to issuance of a grading permit</td>
</tr>
</tbody>
</table>

#### 4(b)
Prior to approval of Improvement Plans, a geotechnical investigation for the entire project site will be undertaken to determine whether any underground storage tanks are present. If such tanks are present, they shall be removed, and any associated soil contamination shall be remediated prior to onset of project grading or excavation.

<table>
<thead>
<tr>
<th>Developer</th>
<th>Contract with a qualified professional for the preparation of a geotechnical investigation, as outlined in Mitigation Measure 4(b).</th>
<th>Land Development Engineering Division</th>
<th>Prior to approval of Improvement Plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Developer</td>
<td>Implement recommendations of the Geotechnical Report.</td>
<td>Land Development Engineering Division</td>
<td>Prior to issuance of a grading permit</td>
</tr>
</tbody>
</table>
### Modesto 10th & H Streets Project Mitigation Monitoring and Reporting Program

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<tr>
<td>4(c) Where any activity would be performed at a contaminated site or where hazardous materials are suspected, a project-specific Health and Safety Plan shall be prepared prior to any site work. The Health and Safety Plan shall be prepared by the contractor(s) and filed with the City and regulatory agencies, as required. The Plan shall include required worker health and safety provisions for all workers potentially exposed to contaminated materials at the site, identification of hazardous materials present, monitoring to be performed during site activities, required training for workers, identification of appropriate personal protective equipment and emergency response procedures, and designation of personnel responsible for Plan implementation.</td>
<td>Developer, Construction Contractor</td>
<td>If Phase 1 ESA indicates that hazardous materials could be present, contract with a qualified professional to prepare a Health and Safety Plan, as outlined in Mitigation Measure 4(c). Follow the recommendations of the Health and Safety Plan.</td>
<td>Building Safety and Land Development Engineering Division, Building Safety</td>
<td>Prior to issuance of a grading or building permit, whichever occurs first, During project construction</td>
</tr>
</tbody>
</table>

4(d) The contractor(s) shall prepare a Waste Disposal and Hazardous Materials Transportation Plan prior to construction activities where hazardous wastes or materials requiring off-site disposal would be generated. The Plan shall include a description of analytical methods for characterizing wastes and handling methods required to minimize the potential for exposure and shall establish procedures for the safe storage of contaminated materials and stockpiling of soils, as required. The required disposal method for contaminated materials (e.g., lead-based paint, asbestos, other hazardous materials requiring disposal) and the approved disposal site shall be indicated in the Plan. The Plan shall also identify specific routes to be used for transport of hazardous materials and waste to and from the site. | Developer, Construction Contractor | Contract with a qualified professional to prepare a Waste Disposal and Hazardous Materials Transportation Plan, as outlined in Mitigation Measure 4(d). Follow the recommendations of the Waste Disposal and Hazardous Material Transportation Plan. | Land Development Engineering Division, Building Safety | Prior to issuance of grading permit, During project construction |
from the project site, or specific routes to be avoided during transport. Routes shall be selected to minimize proximity to sensitive receptors to the greatest practical degree. Elements of the Plan regarding transportation of hazardous materials and wastes shall be reviewed and approved by the City Fire Department.

4(e) In the event that previously unidentified contamination is encountered (e.g., identified by odor or visual staining) during soil disturbing activities, or any underground storage tanks, abandoned drums, or other hazardous materials or wastes are encountered during construction, the contractor(s) shall immediately notify the City, and the City shall then notify the County. The contractor(s) shall have prepared a Contingency Plan for Sampling and Analysis of potentially hazardous substances and coordination with appropriate regulatory agencies. The Plan shall be submitted to the City prior to soil disturbing activities. Any site investigations or remedial activities shall be performed in accordance with applicable laws under the direction of a regulatory agency and the City, in accordance with Mitigation Measures 4(c) and 4(d).

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>4(e)</td>
<td>Developer</td>
<td>Include provisions of Mitigation Measure 4(e) in contractor's contract.</td>
<td>Land Development Engineering Division and Building Safety</td>
<td>Prior to issuance of a building or grading permit, whichever occurs first</td>
</tr>
<tr>
<td></td>
<td>Construction Contractor</td>
<td>Notify the City if and when contamination is found.</td>
<td>Land Development Engineering Division and Building Safety</td>
<td>If and when contamination is discovered.</td>
</tr>
<tr>
<td></td>
<td>Community and Economic Development Department</td>
<td>Notify the County if and when contamination is found.</td>
<td>Land Development Engineering Division and Building Safety</td>
<td>If and when contamination is discovered.</td>
</tr>
<tr>
<td></td>
<td>Construction Contractor</td>
<td>Follow the recommendations of the Contingency Plan for Sampling and Analysis.</td>
<td>Land Development Engineering Division and Building Safety</td>
<td>After contamination is discovered and before construction</td>
</tr>
</tbody>
</table>
# Modesto 10th & H Streets Project Mitigation Monitoring and Reporting Program

## 11. Noise

<table>
<thead>
<tr>
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<tr>
<td><strong>5(a)</strong> Erect a solid 8-foot-tall plywood construction/noise barrier along the exposed project boundaries. The barrier shall not contain any significant gaps at its base or face, except for site access and surveying openings.</td>
<td>Construction Contractor</td>
<td>Erect a construction/noise barrier, per Mitigation Measure 5(a)</td>
<td>Building Safety and Building Safety</td>
<td>Prior to onset of grading or construction</td>
</tr>
<tr>
<td><strong>5(b)</strong> Comply with the City of Modesto Noise Ordinance and General Plan Policy Vii-G.3(a). Demolition and pile-driving activities shall be coordinated with adjacent land uses in order to minimize potential disturbance of planned activities.</td>
<td>Developer</td>
<td>Include the provisions of Measure 5(b) in contractor contract</td>
<td>Building Safety</td>
<td>Prior to issuance of a demolition or building permit, whichever occurs first</td>
</tr>
<tr>
<td></td>
<td>Construction Contractor</td>
<td>Inspect the site during construction to ensure that provisions are being followed</td>
<td>Building Safety</td>
<td>Periodically during construction</td>
</tr>
<tr>
<td><strong>5(c)</strong> If pile driving occurs, pile holes shall be pre-drilled to the maximum feasible depth. This would reduce the number of blows required to seat the pile, and would concentrate the pile driving activity closer to the ground where noise can be attenuated more effectively by the construction/noise barrier.</td>
<td>Developer</td>
<td>Include the provisions of Measure 5(c) in contractor contract</td>
<td>Building Safety</td>
<td>Prior to issuance of a building permit</td>
</tr>
<tr>
<td></td>
<td>Construction Contractor</td>
<td>Inspect the site during construction to ensure that provisions are being followed</td>
<td>Building Safety</td>
<td>During pile driving</td>
</tr>
<tr>
<td><strong>5(d)</strong> Locate fixed construction equipment such as compressors and generators as far as possible from...</td>
<td>Developer</td>
<td>Include the provisions of Measure 5(d) in...</td>
<td>Building Safety</td>
<td>Prior to issuance of a building permit</td>
</tr>
<tr>
<td>Mitigation Measure</td>
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</tr>
<tr>
<td>sensitive receptors. Shroud or shield all impact tools, and muffle or shield all intake and exhaust ports on power construction equipment.</td>
<td>Construction Contractor</td>
<td>contractor contract</td>
<td>Building Safety</td>
<td>During grading and construction</td>
</tr>
<tr>
<td>5(e) Designate a disturbance coordinator and conspicuously post this person’s number around the project site and in adjacent public spaces. The disturbance coordinator would receive all public complaints about construction noise disturbances and would be responsible for determining the cause of the complaint, and implement any feasible measures to be taken to alleviate the problem.</td>
<td>Developer</td>
<td>Include the provisions of Measure 5(e) in contractor contract</td>
<td>Building Safety</td>
<td>Prior to issuance of a building permit</td>
</tr>
<tr>
<td>6(a) Construct a solid roof line screen barrier 5 feet in height to shield the third floor courtyard area from traffic and railroad noise. The barrier shall be continuous along the roof line without significant gaps or openings that would compromise the acoustical performance of the barrier. The barrier shall be constructed of a solid material that blocks airflow to the full 5 foot height. Appropriate materials include concrete, masonry, various steel and glass panels (depending on stiffness and thickness). The acoustical screen shall be reviewed by an acoustical consultant prior to construction.</td>
<td>Developer</td>
<td>Demonstrate that project design includes the screen barrier as described in Measure 6(a)</td>
<td>Planning Division</td>
<td>Prior to issuance of a building permit</td>
</tr>
<tr>
<td>6(b) All residential units facing 9th Street or H Street shall be constructed with materials that will achieve an interior noise level of 45 dB ( L_{dn} ) or less.</td>
<td>Developer</td>
<td>Demonstrate that project design will achieve an interior noise level of 45</td>
<td>Building Safety</td>
<td>Prior to issuance of a building permit</td>
</tr>
</tbody>
</table>
## Modesto 10th & H Streets Project Mitigation Monitoring and Reporting Program

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<tr>
<td>7(a)</td>
<td>Implement Mitigation Measures 5(a) and 5(c) above.</td>
<td>See 5(a) and 5(c) above</td>
<td>dB Ldn</td>
<td></td>
</tr>
<tr>
<td>7(b)</td>
<td>If pile driving occurs, provide protective coverings or temporary shoring of on-site or adjacent historic features as necessary, in consultation with the Preservation Director.</td>
<td>Developer</td>
<td>Include the provisions of Measure 7(b) in contractor contract</td>
<td>Building Safety</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Construction Contractor</td>
<td>Consult with City Preservation Director</td>
<td>City Preservation Director</td>
</tr>
<tr>
<td>7(c)</td>
<td>If pile driving occurs, the pre-existing condition of all buildings within a 50-foot radius would be recorded in order to evaluate damage from construction activities. Fixtures and finishes within a 50-foot radius of construction activities susceptible to damage shall be documented (photographically and in writing) prior to construction. All damage shall be repaired back to its pre-existing condition.</td>
<td>Developer</td>
<td>Include the provisions of Mitigation Measure 7(c) in contractor's contract and pay for recordation of buildings.</td>
<td>Building Safety</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Construction Contractor</td>
<td>Repair any damage to adjacent buildings, as necessary.</td>
<td>City Preservation Director</td>
</tr>
<tr>
<td>7(d)</td>
<td>If pile driving occurs and fire sprinkler failures are reported in surrounding buildings to the disturbance coordinator, the contractor shall provide monitoring during construction and repairs to sprinkler systems shall be provided.</td>
<td>Developer</td>
<td>Include the provisions of Measure 7(d) in contractor contract</td>
<td>Building Safety</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Construction Contractor</td>
<td>Monitor and repair sprinkler systems if any damage occurs</td>
<td>Building Safety</td>
</tr>
<tr>
<td>7(e)</td>
<td>Should damage occur despite the above mitigation measures, construction operations shall be halted and</td>
<td>Developer</td>
<td>Include the provisions of Mitigation Measure 7(e)</td>
<td>Building Safety</td>
</tr>
</tbody>
</table>
### Modesto 10th & H Streets Project Mitigation Monitoring and Reporting Program

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<td>8</td>
<td>Community and Economic Development Department</td>
<td>Monitor traffic volumes at the G Street and H Street alleys.</td>
<td>City Traffic Engineer</td>
<td>Annually after project completion</td>
</tr>
<tr>
<td></td>
<td>Community and Economic Development Department</td>
<td>Restripe and sign G Street and H Street in advance of the alleys to provide adequate deceleration and sight distance for emerging traffic</td>
<td>City Traffic Engineer</td>
<td>As warranted based on traffic volumes</td>
</tr>
<tr>
<td>9</td>
<td>Developer</td>
<td>Demonstrate that wastewater conveyance study is adequate</td>
<td>Land Development Engineering Division</td>
<td>If and when project is delayed, and other projects using the same infrastructure have been constructed</td>
</tr>
</tbody>
</table>

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The problem activity shall be identified. A qualified engineer shall establish vibration limits based on soil conditions and the types of buildings in the immediate area. The contractor shall monitor the buildings throughout the remaining construction period and follow all recommendations of the qualified engineer to repair any damage that has occurred to the pre-existing state, and to avoid any further structural damage.

The City shall monitor future traffic volumes and compare against current forecast. If background traffic volumes increase as forecast, parking shall be prohibited on each street in advance of the G Street and H Street alleys in order to provide deceleration opportunities and to increase sight distance for emerging traffic.

If project construction is delayed so that other new development using the same trunk lines precedes the Proposed Project, the applicant shall demonstrate through engineering studies that wastewater conveyance infrastructure serving the site is adequate.
<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Mitigation Responsibility</th>
<th>Monitoring Actions</th>
<th>Monitoring / Reporting Responsibility</th>
<th>Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delay project occupancy until sewer improvements needed to provide capacity are implemented. Developer may choose to advance fund and/or construct needed improvements</td>
<td>Developer</td>
<td>Land Development Engineering Division</td>
<td>Prior to issuance of a building permit</td>
<td></td>
</tr>
</tbody>
</table>
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-569

A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION
AND A MITIGATION MONITORING AND REPORTING PROGRAM (SCH NO.
2009052001): AMENDING SECTION 32-3-9 OF THE ZONING MAP TO
REZONE FROM GENERAL COMMERCIAL, C-2, TO PLANNED
DEVELOPMENT ZONE, P-D(590), PROPERTY LOCATED ON THE
SOUTHWEST SIDE OF 10th STREET BETWEEN G AND H STREETS. (PAUL B.
DRAPER)

WHEREAS, a verified application for an amendment to Section 32-3-9 of the
Zoning Map was filed by Paul B. Draper on December 19, 2008, to rezone from C-2, to
Planned Development Zone, P-D(590), to allow a seven-story mixed use development
that includes commercial space, professional office space, residential units and parking,
property located on the southwest side of 10th Street between G and H Streets, and

WHEREAS, Section 15070 of the CEQA Guidelines relating to Initial
Study/Mitigated Negative Declaration (EA/C&ED No. 2007-01) provides for a lead
agency to prepare an Initial Study on any proposed project to analyze whether the project
may cause any significant effect on the environment, and

WHEREAS, the City of Modesto Department of Community and Economic
Development has prepared an Initial Study/Mitigated Negative Declaration as provided
for by CEQA, and

WHEREAS, a 30-day public review period for the proposed Initial Study/
Mitigated Negative Declaration began on May 1, 2009 and ended on June 1, 2009, and

WHEREAS, the City received public comments on the draft Initial
Study/Mitigated Negative Declaration and no changes to the document were necessary as
a result, and
WHEREAS, the Mitigation Monitoring Plan (MMP) is included and described within the Initial Study/Mitigated Negative Declaration, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on December 1, 2009, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study (SCH No. 2009052001), Environmental Assessment No. EA/C&ED 2009-03 and Mitigation Monitoring and Reporting Program prepared for the 10th and H Mixed Use Project, a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The Initial Study/Mitigated Negative Declaration prepared for the proposed project has identified potentially significant environmental effects;

2. Before the Initial Study/Mitigated Negative Declaration was released for public review, feasible mitigation measures were made by or agreed to by the applicant, which will avoid or mitigate the effects to a point where clearly no significant effect will occur;

3. There is no substantial evidence, in light of the whole record before the public agency, that the project, as revised, may have a significant effect on the environment (Public Resources Code Section 21064.5(2));

4. The Initial Study/Mitigated Negative Declaration reflects the independent judgment of the lead agency;

5. As required by Public Resources Code Section 21081.6 et seq., the Mitigation Monitoring and Reporting Program is hereby adopted, a copy of which is on file with the City Clerk;

6. The Initial Study, Environmental Assessment No. EA/C&ED 2009-03, provides the substantial evidence to support findings 1-5, noted above.
BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of December, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:  

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

Initial Study & Mitigation Monitoring and Reporting Program

EA/C&ED No. 2009-03

Attachment included with Reso 2009-568