MODESTO CITY COUNCIL
RESOLUTION NO. 2009-140

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR
THE PURCHASE OF AN EXCAVATOR FOR THE PUBLIC WORKS, FLEET
SERVICES DIVISION, TO MECOM EQUIPMENT COMPANY, STOCKTON,
CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A
PURCHASE ORDER FOR A TOTAL COST OF $172,804

WHEREAS, on October 28, 2008, the City Council, by Resolution No. 2008-592,
authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new
vehicles and heavy equipment, throughout FY 08/09 through various competitive
processes, with the Purchasing Division coming back to Council for award authorization,
and

WHEREAS, the excavator for the Water Quality Control Services is included in
the FY 08/09 new vehicles and heavy equipment list authorized by Council, and

WHEREAS, on December 18, 2008, the Purchasing Division issued RFB No.
0809-12 for the purchase of an excavator to twenty (20) prospective bidders, posted the
bid on the City’s web site and formally advertised as required by law, and

WHEREAS, based on providing a responsive and responsible bid, City staff
recommends the award of bid and contract for the purchase of an excavator for the Public
Works Department, Fleet Services Division, to Mecom Equipment Company, Stockton,
CA, and authorizing the Purchasing Manager to issue a purchase order for a total cost of
$172,804, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all
purchases, which meet or exceed $50,000 for material, equipment or contractual services
to be formally bid. The award of bid and contract for the purchase of an excavator for the
Public Works Department, Fleet Services Division, to Mecom Equipment Company, Stockton, CA. conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted in the amount of $172,804, in the Fleet Equipment Replacement Fund from the Wastewater Replacement Reserve in account 7210-480-5814-5853.

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 an excavator for the Public Works Department, Fleet Services Division, to Mecom Equipment Company, Stockton, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for a total cost of $172,804.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 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. 2009-141

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF MODESTO AND BROWN AND CALDWELL, DATED MAY 23, 2006, FOR THE PURPOSE OF PROVIDING WASTEWATER RATE ANALYSIS SERVICES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE AGREEMENT

WHEREAS, on May 23, 2006, by Resolution No. 2006-304, the City Council approved an Agreement for Consultant Services with Brown and Caldwell to provide a study on proposed wastewater user rates, and

WHEREAS, the City requires ongoing wastewater rate analysis to be performed in conjunction with the annual operating and capital project budget adoption process, and

WHEREAS, Brown and Caldwell is best suited to provide the required rate analysis through the adaptation of the existing rate model developed previously, and under the terms of the original contract, and

WHEREAS, there are sufficient appropriations in the wastewater operating budget to fund the cost of the rate analysis required as part of the Fiscal Year 2009-2010 budget adoption process.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Agreement for Consulting Services between the City of Modesto and Brown and Caldwell for the not to exceed amount of $23,200 per year.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment to the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 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)  

APPROVED AS TO FORM:

By:  

(SIGNATURE)  

SUSANA ALCAIJA WOOD, City Attorney
A RESOLUTION APPROVING AN AGREEMENT WITH NORTH STATE
PLAYGROUNDS (NSP3) FOR THE PURCHASE AND INSTALLATION OF
SHADE COVERINGS ON EXISTING STRUCTURES IN DAVIS AND DOWNEY
COMMUNITY PARKS, AND AUTHORIZING THE CITY MANAGER, OR HIS
DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Davis Park is located at 2701 College Avenue and Downey Park is
located at 1200 Brighton Avenue, and

WHEREAS, after inspection by Parks Maintenance Supervisors in June 2008, the
shade structures at Davis Park and Downey Park were deemed in need of repair, and

WHEREAS, Parks Planning and Development staff completed a RFQ for Design
consistent with City policy, and

WHEREAS, three firms responded with North State Playgrounds (NSP3)
submitting the lowest responsible quote and design, and

WHEREAS, funding is available in Parks Capital Improvement Account 1400-
310-M185 to purchase and install said coverings.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves an Agreement with North State Playgrounds (NSP3) for the
purchase and installation of shade coverings on existing structures in Davis and Downey
Community Parks.

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 7th day of April, 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: 

SUSANA ALCALA WOOD, City Attorney

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-143

A RESOLUTION APPROVING THE CITY OF MODESTO TO SERVE AS THE FISCAL AGENT FOR THE WEST MODESTO KING KENNEDY NEIGHBORHOOD COLLABORATIVE FOR A GRANT APPLICATION FOR $900,000 IN FUNDING TO THE CALIFORNIA LEGISLATED SAFE ROUTES TO SCHOOL (SR2S) FUNDING FOR THE DEVELOPMENT OF THE HELEN WHITE MEMORIAL TRAIL

WHEREAS, the Safe Routes to School Program (Program) came into effect in 1999 with the passage of Assembly Bill 1475, and

WHEREAS, Section 2333.5 of the Streets and Highways Code calls for the California Department of Transportation, in consultation with the California Highway Patrol (CHP), to make grants available to local governmental agencies under the Program based upon the results of a statewide competition, and

WHEREAS, the goals of the Program are to reduce injuries and fatalities to school children and to encourage increased walking and bicycling among students, and

WHEREAS, the West Modesto King Kennedy Neighborhood Collaborative (WMKKNC), staff and community members believe that developing this trail is an excellent match for the Program, and

WHEREAS, the WMKKNC will be responsible for raising the matching grant funds of $90,000, as well as all documentation associated with the grant such as legal documents, land use documents, CEQA documentation and annual reports as necessary, and

WHEREAS, the State of California has called for project proposals to be sent to the California Department of Transportation by April 15, 2009.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

1. The filing of a grant application for $900,000 from the Safe Routes to School Grant Program is hereby approved.

2. The City Manager, or his designee, is hereby authorized as agent of the applicant to conduct all negotiations and execute and submit all documents including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws, which may be necessary for the completion of the aforementioned Project upon acceptance of said 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 7th day of April, 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
RESOLUTION APPROVING THE PARTIAL REDUCTION OF CURRENT RECREATIONAL PROGRAMS FOR THE BALANCE OF FISCAL YEAR 08/09 AND AMENDING THE FISCAL YEAR 08/09 OPERATING BUDGET

WHEREAS, currently the Modesto Parks, Recreation and Neighborhoods Department provides recreational programs for youth, adults, senior citizens and the disabled, and

WHEREAS, in order to lower general fund spending for the remainder of Fiscal Year 08/09, staff proposes eliminating or reducing some recreation programs and funding that the City currently offers.

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

1. Reduce the Maddux Youth Center hours

<table>
<thead>
<tr>
<th>Day of the Week</th>
<th>Current Hours</th>
<th>Proposed Hours</th>
</tr>
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<tbody>
<tr>
<td>Monday through Thursday</td>
<td>9:00 am to 7:00 pm</td>
<td>11:00 am to 7:00 pm</td>
</tr>
<tr>
<td>Friday</td>
<td>9:00 am to 5:00 pm</td>
<td>11:00 am to 5:00 pm</td>
</tr>
<tr>
<td>Saturday</td>
<td>9:00 am to 1:00 pm</td>
<td>9:00 am to 1:00 pm</td>
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Additionally, all special events will take place during regular hours of operation.

2. Consolidate special events that take place at King Kennedy Memorial Center, Maddux Youth Center, as well as at the Neighborhood Center at Marshall Park.

3. Adjust the Fiscal Year 08/09 operating budget to reflect the reduction.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 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 ALCAI.A WOOD, City Attorney
A RESOLUTION AWARDING NON-CONSENSUAL TOWING FRANCHISE CONTRACTS TO TWENTY-ONE (21) TOWING COMPANIES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACTS

WHEREAS, on April 8, 2008, the City Council authorized the Purchasing Manager to issue a Request for Application (RFA) for City generated Non-Exclusive Non-Consensual Franchise Towing Services, and

WHEREAS, on April 22, 2008, the Purchasing Division solicited Request for Applications No. 0708-10 for City generated Non-Exclusive Franchise Towing Services, and

WHEREAS, on May 20, 2008, applications were opened in the City Clerk’s office, and

WHEREAS, a total of twenty-one (21) applications were received, and all twenty-one (21) met the requirements of Phase 1 and Phase 2 of the application process, and

WHEREAS, on January 27, 2009, the City Council, by Resolution No. 2009-051, declared its intention to consider applications for Non-Exclusive Non-Consensual franchise towing services, and gave notice of a public hearing to be held on February 24, 2009, and

WHEREAS, on February 24, 2009, the City Council, by motion, approved the introduction of an Ordinance adding Chapter 10 entitled “Award of Non-Consensual Towing Contracts” to Title 3 of the Modesto Municipal Code, and
WHEREAS, on March 3, 2009, the City Council, by motion, unanimously approved the final adoption of an Ordinance adding Chapter 10, entitled “Award of Non-Consensual Towing Contracts” to Title 3 of the Modesto Municipal Code granting award of Non-Exclusive Non-Consensual Franchise Towing Services to successful applicants for City Generated Non-Exclusive Franchise Towing Services (RFA No. 0708.10), and

WHEREAS, the anticipated start date of the towing contracts is April 13, 2009.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Non-Consensual Towing Franchise contracts to the following twenty-one (21) towing companies:

1. A&R Tow, Modesto, California
2. Advanced Tow, Modesto, California
3. Anderson’s Tow, Ceres, California
4. Central Valley Tow, Ceres, California
5. Ceres pro Tow, Ceres, California
6. City Tow, Modesto, California
7. Craig’s Tow, Ceres, California
8. DBM Tow, Modesto, California
9. Del Tow, Ceres, California
10. Dizney & Wise, Modesto, California
11. E-Tow, Modesto, California
12. Myers Towing, Modesto, California
13. Ramont’s Tow, Modesto, California
14. Reliable Tow, Modesto, California
15. Scenic Tow, Modesto, California
16. Stanislaus Tow, Modesto, California
17. State Tow, Modesto, California
18. Tow One, Modesto, California
19. Two Tiny Tows, Modesto, California
20. United Tow, Modesto, California
21. WS Towing, Modesto, California

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contracts.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 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. 2009-146

A RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT WITH MINER JOAQUIN BUILDING CORPORATION FOR THE ACQUISITION OF A PORTION OF A PARCEL OF LAND LOCATED AT 4204 DALE ROAD NEAR THE DALE/PELANDALE INTERSECTION (APN 078-018-035), IN THE AMOUNT OF $78,500 FOR THE PELANDALE AVENUE WIDENING PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, on August 12, 2008, the City Council, by Resolution No. 2008-476, approved proceeding with the Pelandale Avenue Widening project, and

WHEREAS, as part of the widening project, four additional vehicular traveled lanes will be added to the existing two-lane facility, and

WHEREAS, during construction it was discovered an additional 5,309 square feet of land in fee was required to extend Pelandale Avenue to its ultimate northerly boundary, and

WHEREAS, staff identified that 9.598 square feet of land is needed for a temporary construction easement, and

WHEREAS, staff identified the land (subject property) is owned by Miner Joaquin Building Company (APN 078-018-035), and

WHEREAS, the subject property was appraised at fair market value to determine just compensation, and

WHEREAS, an offer to acquire the subject property at fair market value was made to the landowner that the landowner accepted, and

WHEREAS, an Agreement is needed for the acquisition of the subject property.
WHEREAS, it has been determined that this project is within the scope of the previously certified Environmental Impact Report with a State Clearinghouse No. 2003072085.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Purchase and Sale Agreement with Miner Joaquin Building Corporation, for a 5.309 square foot portion in fee and 9.598 square foot temporary construction easement of a parcel of land located at 4204 Dale Road near the Dale/Pelandale intersection (APN: 078-018-035), in the amount of $78,500 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 7th day of April, 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

(Seal)

APPROVED AS TO FORM:

By: SUSANA ALCALÁ WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-147

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN CERTIFICATE OF ACCEPTANCE FORMS FOR THE GRANT DEED AND GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR THE ACQUISITION OF A PORTION OF A PARCEL OF LAND LOCATED AT 4204 DALE ROAD NEAR THE DALE/PELANDALE INTERSECTION, OWNED BY MINER JOAQUIN BUILDING CORPORATION, (APN 078-018-035) 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 5,309 square foot fee portion and a 9.598 square foot temporary construction easement from a parcel of land located at 4204 Dale Road, owned by Miner Joaquin Building Corporation (APN 078-018-035), to be purchased by the City of Modesto 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 sign Certificate of Acceptance forms on behalf of the City of Modesto for one (1) Grant Deed and one (1) Grant of Temporary Construction Easement for the acquisition of a portion of a parcel of land located at 4204 Dale Road near the Dale/Pelandale intersection, owned by Miner Joaquin Building Corporation, (APN 078-018-035) 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 7th day of April, 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 ALCA LA WOOD, City Attorney
A Resolution Approving an Amendment to Agreement for Construction Management Services with TRS Consultants, Inc. for the Project Titled, “State Route 219 Widening from West of Dale Road to Morrow Road” to Comply with Funding Requirements

WHEREAS, Caltrans, the City of Modesto, and Stanislaus County have been planning for the widening of Kiernan Avenue (State Route 219), and

WHEREAS, the State Route 219 (SR 219) project is needed to provide a means of keeping pace with the City’s and regional projected growth, and

WHEREAS, the project will include ultimate roadway improvements on the south leg of the SR 219 intersection, and the widening to four (4) lanes of Kiernan Avenue, east and west of the intersection, and

WHEREAS, on April 22, 2008, by Resolution Number 2008-242, City Council approved an agreement with TRS Consultants, Inc. to provide construction management services for the State Route 219 Widening from West of Dale Road to Morrow Road Project, and

WHEREAS, after the agreement was executed, it was determined that portions of the original agreement needed to be modified to comply with the Federal Grant funding requirements, and

WHEREAS, the “no cost” Amendment to Agreement adds and modifies the following areas: 1) Audit requirements and record retention, 2) Cost Principles discussing grant eligibility of costs, 3) Disadvantaged Business Enterprise requirements, and 4) Prevailing wages and associated reports.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement for Construction Management Services with TRS Consultants, Inc. for the project titled, "State Route 219 Widening from West of Dale Road to Morrow Road".

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 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 ALCALÁ WOOD, City Attorney
A RESOLUTION APPROVING 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., TO PROVIDE DESIGN SERVICES FOR UNDERGROUND WATER WELL DESIGNS AND TO IDENTIFY METHODS OF WELLHEAD TREATMENT, FOR A PERIOD NOT TO EXCEED THREE YEARS

WHEREAS, various new wells are planned to be constructed in the current Capital Improvement Program for the Modesto water system, and

WHEREAS, water is typically found underground in Modesto at varying depths; however, the quantity and quality varies substantially, and

WHEREAS, a hydrogeologist is most qualified to determine which underground layers of soil will produce the cleanest and most abundant water, and

WHEREAS, existing wells that are off-line due to contamination can be brought on-line if the contaminated water layer is identified and blocked off in the design of the well casing, and

WHEREAS, a hydrogeologist is the most knowledgeable in deciding which underground layer to eliminate, and for determining the effect it will have on the wells final delivery capacity, and

WHEREAS, staff proposes compiling a short-list of hydrogeologists to be used on a rotating, as-needed basis, and

WHEREAS, the purpose of a short-list of hydrogeologists is to provide the City with the expertise and experience of successful water well drilling specifications and water well rehabilitation, and
WHEREAS, on October 8, 2008, in compliance with Administrative Directive 3.1. Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, a Request for Proposals was sent to 190 civil engineering firms including local firms, and

WHEREAS, the City received qualification statements from sixteen (16) firms, none of them local, and

WHEREAS, a selection committee, comprised of City staff, determined that three of the firms, Brown & Caldwell, URS, and West Yost Associates, Inc., were the most qualified based on reviewing their Statement of Qualifications and past work experience, and

WHEREAS, the staff Selection Committee recommends that all three firms be included on the list.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves 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., to provide design services for underground water well designs and to identify methods of wellhead treatment, for a period not to exceed three years.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 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

(Seal)

APPROVED AS TO FORM:

By: ____________________________

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING THE CITY OF MODESTO’S SANITARY SEWER MANAGEMENT PLAN (SSMP)

WHEREAS, on May 2, 2006, the State Water Resources Control Board (Regional Board) initiated Order No. 2006-0003-DWQ, which implemented a new Waste Discharge Report (WDR) for Wastewater Collections which identified milestones that the City of Modesto must meet, and

WHEREAS, in order to comply with these new regulations, staff hired HDR Engineering, Inc. to perform a Gap Analysis, which identified the implementation plan and schedule for the new WDR, and

WHEREAS, on July 24, 2007, by Resolution No. 2007-460, the City Council approved the Wastewater Discharge Requirements (WDR) Gap Analysis, and

WHEREAS, the order further requires that the WDR-SSMP and Schedule be approved by City Council, and posted on the Regional Board’s website by May 1, 2009, and

WHEREAS, the goal of the SSMP is to provide a plan and schedule to properly manage, operate, and maintain all parts of the sanitary sewer system and help reduce and prevent sanitary sewer overflows (SSOs), as well as mitigate any SSOs that do occur, and

WHEREAS, the SSMP has now been completed,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto’s Sanitary Sewer Management Plan (SSMP).
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 7th day of April, 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. 2009-151

A RESOLUTION APPROVING AN AGREEMENT WITH RRM DESIGN GROUP FOR THE PREPARATION OF A PRELIMINARY DESIGN REPORT FOR AREA 2 STORM DRAIN CROSS CONNECTIONS REMOVAL FOR AN AMOUNT NOT TO EXCEED $229,720 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $22,972 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $252,692, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the scope of services to be provided under this agreement includes completing the 35% design for the Area 2 Storm Drain Cross Connections Removal project and summarizing the project scope and cost estimates in a Preliminary Design Report (PDR), and

WHEREAS, due to direct connections of storm drain runoff to the sanitary sewer system as outlined in the City’s Wastewater Master Plan (WWMP), the purpose of this project is to address the current wastewater capacity issues, and

WHEREAS, in many areas of the City, there are no positive storm drain systems, and in some of these areas, excess storm runoff drains directly into the sanitary sewer collections system by means of cross connections via street surface inlets (catch basins), and

WHEREAS, the WWMP identified a dramatic increase in the Peak Wet Weather Flow (PWWF) into the sanitary sewer collections system and ultimately into the Sutter Avenue Wastewater Treatment Plant following a storm event due to these cross connections, and

WHEREAS, the increase in flow from these cross connections results in surcharging and potential overflows in the sanitary sewer collections system, and could increase the costs of the downstream Capital Improvement Projects, and
WHEREAS, the WWMP designates 10 different wastewater collection tributary areas within the City and in its sphere of influence, and

WHEREAS, due to the near design completion of the Emerald Sewer Trunk Rehabilitation CIP (which primarily serves tributary Area 2), this PDR will only focus on Storm Drain Cross Connections in Area 2 which is located in the north-central section of the City as defined in the WWMP, and

WHEREAS, as a direct result of the storm drain cross connections, the Emerald Sewer Trunk currently experiences significant increases in PWWF after a storm event, and

WHEREAS, consequently, the Emerald Sewer Trunk Rehabilitation project and the Storm Drain Cross Connections Removal project are listed as two of the highest priorities in the WWMP for improving the sanitary sewer collections system, and

WHEREAS, removing the cross connections will mitigate existing surcharging and potential overflow conditions along the Emerald Trunk, and reduce the impacts of both street flooding and water quality, and

WHEREAS, the cost of this project’s PDR is substantial due to its complexity, necessary upfront analysis, and data collection, and

WHEREAS, the scope of work includes removing approximately 20 cross connections throughout Area 2, and storm runoff from the cross connections’ area of influence must then be diverted into new storm drain piping, and

WHEREAS, the PDR will present different options for storm water runoff disposal, and
WHEREAS, by conducting this considerable upfront analysis, the City can be assured this PDR presents the most efficient and cost effective design options possible, and

WHEREAS, because this project will be the first of its kind in terms of storm water runoff conveyance and storage, the City anticipates this project setting the benchmark for future storm drain cross connections removal and storm water runoff storage projects, and

WHEREAS, the Public Works Department anticipates moving ahead with other storm drain cross connections removal projects in other tributary areas in the near future, and

WHEREAS, in accordance with the Public Works Department Major Scope Policy approved on September 26, 2006, all projects exceeding $1,000,000 are required to be presented at Council at the preliminary design report stage if the projected cost estimate is expected to exceed the approved project budget by more than 10%, and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants who Provide Architectural and Engineering Services for Capital Projects, six (6) Request for Proposals (RFPs) were sent to local engineering design firms, and

WHEREAS, the proposals were submitted and subsequently reviewed by the Selection Committee which consisted of Public Works Engineering staff and an Environmental Compliance Inspector, and
WHEREAS, following the consultant interviews, the Selection Committee determined that RRM Design Group (RRM) was the most qualified consultant to prepare the PDR for the Area 2 Storm Drain Cross Connections Removal project, and

WHEREAS, the selection committee would like to possibly award future PDR’s for storm drain cross connections removal to other top local consultants resulting from this proposal and interview process, pending the Public Work’s Director’s approval, and

WHEREAS, this would eliminate the need to resend Requests for Proposals (RFPs) to the same local firms for essentially the same type project, and would save time and funds for the City by not having to review new proposals and re-interview consultants, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner, and

WHEREAS, City staff recommends an agreement with RRM Design Group as the City does not have the staffing level or subject matter expertise to complete the Preliminary Design Report for the Area 2 Storm Drain Cross Connections Removal 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 for Preliminary Design Report for the Area 2 Storm Drain Cross Connections Removal with RRM Design Group for an amount not to exceed $229,720 for the identified scope of services, plus $22,972 for additional services (if needed), for a maximum total amount of $252,692 for the project titled, “Storm Drain Cross Connections Removal.”
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 7th day of April, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: STEPHANIE LOPEZ, City Clerk

(Approved as to form)

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-152

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE AGREEMENT FOR THE PRELIMINARY DESIGN REPORT FOR AREA 2 STORM DRAIN CROSS CONNECTIONS REMOVAL

WHEREAS, certain budgetary transactions are necessary in the amount of $211,877, in order to fully fund the Agreement for Preliminary Design Report for Area 2 Storm Drain Cross Connections Removal project including engineering / design / administration for staff support, and

WHEREAS, the Fiscal Year 2008-2009 Capital Improvement Program budget must be amended 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 the amendment of the Fiscal Year 2008-2009 Capital Improvement Program budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: [Signature]

(Seal)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
**Exhibit A**

**FUND:**
Wastewater Fund

**EXPENDITURES:**

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MODESTO CITY COUNCIL  
RESOLUTION NO. 2009-153

A RESOLUTION APPROVING A LETTER OF AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE OFFICERS' ASSOCIATION (MPOA)

WHEREAS, revenues in the City's General Fund are approximately $2 million short of the Council-adopted 7% reserve for FY 08-09, and

WHEREAS, the City projects significant revenue shortfalls for FY 09-10, and

WHEREAS, the City and MPOA have reached an agreement pertaining to furloughs for FY 08-09,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that an agreement is attached hereto as Letter of Agreement and is hereby approved:

MPOA (Attachment 1). Said Letter of Agreement shall be on file in the City Clerk's Office following final execution by the parties.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
Letter of Agreement
Between
City of Modesto
And
Modesto Police Officers’ Association

The City of Modesto and Modesto Police Officers’ Association (MPOA) have met and conferred and have agreed to the following regarding Furloughs:

Furloughs
The City and MPOA have agreed to implement thirty-two (32) hours of furloughs as follows:

1. Effective the pay period beginning March 31, 2009, and for a total of six (6) pay periods, each member shall have five and thirty-three hundredths (5.33) unpaid furlough hours deducted from his/her paycheck. This translates to five hours and twenty minutes per pay period (5:20) and is calculated by dividing thirty-two (32) hours by six (6) pay periods.

2. On the pay period ending April 13, 2009 the City shall create for each member a furlough bank of thirty-two (32) hours. Between March 31, 2009 and March 28, 2011, the Police Chief shall ensure that all members exhaust all thirty-two (32) hours in the furlough bank in a manner that does not result in an increase in overtime cost due to the vacancy left by the furloughed employee.

3. Furlough hours that have been deducted and banked but have not been taken as time off by March 28, 2011, shall be forfeited by the employee and shall not be cashed out.

4. Employees who have already taken voluntary unpaid furloughs during FY 08/09 may credit those voluntary furlough hours against this thirty-two (32) hour requirement. These employees will be required to take the remaining hours, if any, to total thirty-two (32) hours of voluntary and mandatory furlough time.

5. During this designated furlough deduction period through June 22, 2009, the City will continue to report each employee’s full base pay rate to CalPERS each pay period. In addition, an employee’s percentage-based special incentive pay (if any) will continue to be paid based on the employee’s regular schedule and will not be impacted by the furlough deductions. Therefore, these percentage-based special pays will be fully reported to CalPERS.

Attachment 1
6. Employees who regularly work a reduced work schedule will have the thirty-two (32) hour furlough requirement reduced in proportion to their reduced work schedule.

7. The parties agree that the City has the sole discretion to assign overtime and that the City shall not allow members of this bargaining unit to require the City to backfill with overtime to cover furlough hours in order to avoid actual reduction of pay by any employee.

8. Before March 28, 2011, the Modesto Police Department will schedule non-statutory required training for at least one training day to allow MPOA represented employees an opportunity to use furlough hours in exchange for their mandatory attendance. At the discretion of the department, additional non-statutory required training days will be scheduled to allow MPOA represented employees an opportunity to use furlough hours in exchanges for their mandatory attendance.

9. The City agrees to maintain allocated and filled positions represented by this bargaining unit, as of March 24, 2009 and continuing to June 30, 2009. Vacancies due to voluntary separation/retirement or involuntary separation (disability/discipline) are to be filled at the department's discretion for the period of March 24, 2009 to June 30, 2009. This is a non-precedent setting provision.

For the City of Modesto:                                      For Modesto Police Officers' Association:

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

Attachment 1
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-154

RESOLUTION APPROVING (1) A PURCHASE AGREEMENT WITH ERIC S. SCHMIER, AN UNMARRIED MAN, AS TO AN UNDIVIDED 8.33% INTEREST; KENNETH J. SCHMIER, A MARRIED MAN, AS TO AN UNDIVIDED 8.33% INTEREST, AS TENANTS IN COMMON AND LIBITZKY HOLDINGS, L.P., A CALIFORNIA LIMITED PARTNERSHIP, AS TO AN UNDIVIDED 83.34% INTEREST (COLLECTIVELY HEREINAFTER REFERRED TO AS GRANTOR), FOR A 6.3-ACRE PARCEL IN FEE AND 2.33-ACRE PORTION FOR A TEMPORARY CONSTRUCTION EASEMENT OF A PARCEL LOCATED NEAR THE NORTHEAST CORNER OF THE TULLY ROAD/BANGS AVENUE INTERSECTION (APN 046-012-002), IN THE AMOUNT OF $997,117, AND (2) AN AGREEMENT TO GRANT REVOCABLE CONDITIONAL LICENSE OF EGRESS WITH GRANTOR, FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS, TIER I-NORTH TANK PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENTS, AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, on October 11, 2005, the City Council, by Resolution No. 2005-515, approved proceeding with the expansion of the City’s water distribution system, and

WHEREAS, as part of the expansion, above-ground water storage tanks must be constructed to support increased water flow, and

WHEREAS, staff identified a 6.3-acre portion of a 38.4-acre parcel of land (hereinafter referred to as PROPERTY) owned by GRANTOR (APN 046-012-002) near the northeast corner of Bangs Avenue and Tully Road, and

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with GRANTOR to purchase the PROPERTY for the Downstream Water System Improvements, Tier I-North Tank Project, and

WHEREAS, the PROPERTY needs to be acquired for this water tank project, and

WHEREAS, an Agreement is needed for the acquisition of the PROPERTY, and
WHEREAS, the sale of the PROPERTY has the potential of impacting access to and from the remainder parcel of GRANTOR, and

WHEREAS, a Phase I and Phase II environmental review has been completed on the PROPERTY which indicates no known contamination, and

WHEREAS, the City Council, on July 12, 2005, by Resolution No. 2005-378, certified the Subsequent Environmental Impact Report (“SEIR”) (SCH No. 2004022013), and

WHEREAS, it has been determined that, pursuant to Sections 15168 (c) and 15182 of the California Environmental Quality Act Guidelines (“CEQA”), this project is within the scope of the SEIR for the Modesto Regional Water Treatment Plant Phase Two Expansion and the City of Modesto Downstream Water System Improvements, and

WHEREAS, the PROPERTY has been appraised and an offer to acquire the property rights at fair market value has been accepted by GRANTOR.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves (1) a Purchase Agreement with Eric S. Schmier, an unmarried man, as to an undivided 8.33% interest; Kenneth J. Schmier, a married man, as to an undivided 8.33% interest, as Tenants in Common and Libitzky Holdings, L.P., a California Limited Partnership, as to an undivided 83.34% interest, for a 6.3-acre parcel in fee and a 2.33-acre portion for a temporary construction easement located near the northeast corner of the Tully Road/Bangs Avenue intersection (APN 046-012-002), in the amount of $997,117, and (2) an Agreement to Grant Revocable Conditional License of Egress with Eric S. Schmier, an unmarried man, as to an undivided 8.33% interest; Kenneth J. Schmier, a married man, as to an undivided 8.33% interest, as Tenants in
Common and Libitzky Holdings, L.P., a California Limited Partnership, as to an undivided 83.34% interest, for the Downstream Water System Improvements, Tier 1-North Tank Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreements, 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 7th day of April, 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: 

(SFAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-155

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN CERTIFICATE OF ACCEPTANCE FORMS FOR THE GRANT DEED AND GRANT FOR TEMPORARY CONSTRUCTION EASEMENT FOR THE ACQUISITION OF A PROPERTY LOCATED NEAR THE NORTHEAST CORNER OF THE TULLY ROAD/BANGS AVENUE INTERSECTION, OWNED BY ERIC S. SCHMIER, AN UNMARRIED MAN, AS TO AN UNDIVIDED 8.33% INTEREST; KENNETH J. SCHMIER, A MARRIED MAN, AS TO AN UNDIVIDED 8.33% INTEREST, AS TENANTS IN COMMON AND LIBITZKY HOLDINGS, L.P., A CALIFORNIA LIMITED PARTNERSHIP, AS TO AN UNDIVIDED 83.34% INTEREST (COLLECTIVELY HEREINAFTER REFERRED TO AS GRANTOR), (APN 046-012-002) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS, TIER I-NORTH TANK 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 6.3-acre portion of a 38.4-acre parcel of land located near the northeast corner of the Tully Road/Bangs Avenue intersection, owned by GRANTOR (APN 046-012-002), to be purchased by the City of Modesto for the Downstream Water System Improvements, Tier I-North Tank 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 sign Certificate of Acceptance Forms for the Grant Deed and the Grant for Temporary Construction Easement for the acquisitions of a property located near the northeast corner of the Tully Road/Bangs Avenue intersection, owned by Eric S. Schmier, an unmarried man, as to an undivided 8.33% interest; Kenneth J. Schmier, a married man, as to an undivided 8.33% interest, as Tenants in Common and Libitzky Holdings, L.P., a California Limited Partnership, as to an undivided 83.34% interest. (APN 046-012-002) to be purchased by
the City of Modesto for the Downstream Water System Improvements, Tier 1-North Tank Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 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: 

SEAL

APPROVED AS TO FORM:

By: 

SUSANA GCALA WOOD, City Attorney
A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE CITY OF MODESTO WATER QUALITY CONTROL LAB REMODEL PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH HUFF CONSTRUCTION COMPANY, INC., IN THE AMOUNT OF $670,982, FOR THE CITY OF MODESTO WATER QUALITY CONTROL LAB REMODEL PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the City of Modesto Water Quality Control Lab Remodel project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the City of Modesto Water Quality Control Lab Remodel project were opened at 11:00 a.m. on February 17, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $670,982 received from Huff Construction Company, Inc. be accepted as the lowest responsible bid and the contract be awarded to Huff Construction Company, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the City of Modesto Water Quality Control Lab Remodel project, accepts the bid of Huff Construction Company, Inc., in the amount of $670,982, and awards Huff Construction Company, Inc. the contract for the City of Modesto Water Quality Control Lab Remodel project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with Huff Construction Company, Inc., in the amount of $670,982, for the City of Modesto Water Quality Control Lab Remodel project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, 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
A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE CONSTRUCTION CONTRACT AND CONTINGENCY, CONSTRUCTION ADMINISTRATION AND EQUIPMENT ACQUISITION COSTS FOR THE CITY OF MODESTO WATER QUALITY CONTROL LAB REMODEL.

WHEREAS, a budget adjustment in the amount of $385,062 is necessary to fully fund the contract with Huff Construction and contingency, construction administration and equipment acquisition costs for the City of Modesto Water Quality Control Lab Remodel project, and

WHEREAS, in order to fully fund construction, contingency, construction administration and equipment acquisition costs a transfer from Primary to Secondary account is required, and

WHEREAS, the Fiscal Year 2008-2009 Capital Improvement Program budget must be amended 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 the amendment of the Fiscal Year 2008-2009 Capital Improvement Program budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 7th day of April, 2009, by Councilmember Marsh, who
moved its adoption, which motion being duly seconded by Councilmember Hawn, was
upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  
(SIGNATURE)

APPROVED AS TO FORM:

By:  
(SIGNATURE)
SUSANA ALCALA WOOD, City Attorney
### Exhibit A

**FUND:**

Wastewater Fund

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-158

A RESOLUTION AMENDING SECTIONS 1 AND 3 OF MODESTO CITY COUNCIL RESOLUTION NO. 2004-425 ENTITLED “A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT PREZONE, P-P-D(567)” (KAISER FOUNDATION HOSPITALS)

WHEREAS, the City Council by Ordinance No. 3356-C.S., which was introduced on August 10, 2004, and which became effective on October 8, 2004, granted approval of Planned Development Zone, P-D(567), to allow development of the Kaiser Medical Center on property located on the west side of Dale Road, north of Bangs Avenue and south of Health Care Way, and

WHEREAS, City Council Resolution No. 2004-425, adopted by the City Council on August 10, 2004, approved the development plan for Planned Development Zone, P-D(567), and contained the conditions of approval thereof; and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(567), was filed by Kaiser Foundation Hospitals on March 14, 2008, to allow a farmers market at the Kaiser Medical Center on property located on the west side of Dale Road, north of Bangs Avenue and south of Health Care Way, and

WHEREAS, after a public hearing held on February 23, 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. 2009-12, that amending the Planned Development Zone, P-D(567), as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The Kaiser sponsored program of hosting farmers markets at their medical facilities will benefit the general public, as well as Kaiser employees and members, by promoting healthy food choices and improving the availability of healthy foods:
2. The proposed amendment to P-D(567) is consistent with the General Plan because, given Kaiser’s health-related objectives for establishing this use at its facilities, the farmers market may be classified as an “ancillary use” to the medical and health services allowed within the Medical Campus Subarea of the Kiernan Business Park Specific Plan;

3. The Kiernan Business Park Specific Plan provides for the Community and Economic Development Director to allow other uses determined to be compatible with and of the same general character as those uses explicitly listed as permitted; and

4. The proposed Amendment to Planned Development, P-D(567), is generally within the scope of and adequately described by the Kaiser Medical Center/Cornerstone Business Park Project Final EIR, but required minor and insubstantial changes or additions to the EIR. A Third Addendum to the EIR was prepared and no further environmental documentation is necessary.

WHEREAS, said matter was set for a public hearing of the City Council to be held on April 7, 2009, in the Tenth Street Place Chambers located at 1010 Tenth 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 Kaiser Foundation Hospitals for an amendment to Planned Development Zone, P-D(567) should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2009-12 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3508-C.S. on the 7th day of April, 2009, amending Section 2 of Ordinance No. 3356-C.S. to allow a farmers market at the Kaiser Medical Center on property located on the west side of Dale Road, north of Bangs Avenue and south of Health Care Way,

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 Zone, P-D(567), is hereby approved subject to the following conditions:

1. All of the farmers market events allowed by this Amendment to P-D(567) shall be subject to the following limitations in location, size, and operation (items "a" through "g", below); however, subsequent minor changes to these limitations may be approved by the Community and Economic Development Director or designee:
   a. Farmers market events shall be held annually from June 1st to September 30th;
   b. The hours of operation for each farmers market event shall be from 7:00 AM to 4:00 PM, including all time necessary to set up and take down vendor booths, tables, tents, canopies, etc., and the time to clean up after the event;
   c. Farmers market events shall be allowed only in those locations designated on the approved plans;
   d. There shall be no more than two farmers market events per week;
   e. All farmers market events shall be limited to a maximum of twenty (20) vendors and an area approximately 120 feet by 120 feet (or 14,400 square feet);
   f. There shall be no cooking of food at farmers market events;
   g. There shall be no use of an amplified sound system, or music or entertainment of any kind.

2. Applicant shall ensure that operation of the farmers market complies with all applicable provisions of the 2007 California Building Code (CBC) for accessibility. The required minimum clearance shall be provided around any tables, booths, canopies, tents, or other obstructions placed upon sidewalk areas.

3. Applicant shall ensure compliance with all requirements of the City Fire Marshal, including the placement, number, and type of fire extinguishers to be available for use during each individual farmers market event.

4. Applicant shall submit a scaled drawing showing the layout of the farmers market, including location of all tables, booths, tents, canopies, and fire lanes, for approval by the City of Modesto Fire Department prior to the start of each event season, and prior to any change to this approved layout, and also to determine the permit requirements based upon the plan submitted.
5. Applicant shall ensure that all necessary permits, licenses, certificates, and other approvals are obtained prior to opening the farmers market; these may include (but may not be limited to) the following:

   a. Permit obtained from the City of Modesto Fire Department for tents or canopies in accordance California Fire Code §105.7.13, as follows: all tents that equal or exceed 200 square feet in area, either individually or collectively, and canopies that equal or exceed 400 square feet in area, either individually or collectively;

   b. Permit obtained from the City of Modesto Fire Department for any use of fueled equipment (such as a generator);

   c. Permit for temporary event signs, obtained from the City of Modesto, Neighborhood Preservation Unit (NPU);

   d. Approvals from other agencies as necessary.

6. Applicant shall ensure that during each individual farmers market event, temporary trash receptacles are provided within and in the vicinity of the designated area for the event and that all trash generated by the event is subsequently disposed of within the existing on-site trash enclosures.

7. Temporary event signage may be provided for each individual farmers market event in accordance with City of Modesto Municipal Code Sections 10-2.2114(b) and (f), except that it will not be limited to a total of twelve (12) times per year as specified in Section 2.2114(b)(1). In addition, temporary directional signage, in the form of A-frame or other free-standing signs, may be provided as appropriate and necessary to ensure effective on-site circulation and to avoid conflict with other hospital related traffic. All temporary event signage (including directional signs) must be located exclusively upon the Kaiser medical facility property where the event is held, and all such signage must be removed at the end of each individual event.

8. Applicant shall, at its 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 or reasonable attorneys fees and costs, by reason of, or rising out of, an amendment to P-D(567) to allow a farmers market at the Kaiser Medical Facility, located at 4601 Dale Road. The obligation to defend, indemnify and hold harmless shall include, but is not limited to, any actions to arbitrate, attack, review, set aside, void or annul on any grounds whatsoever an amendment to P-D(567) to allow a farmers market at the Kaiser Medical Facility, located at 4601 Dale Road. The City of Modesto shall promptly notify the applicant of any such claim, action, or proceeding and shall cooperate fully in the defense.
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 and in accordance with the provisions of Condition No. 1 as specified in Section 1 above.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance amending Planned Development Zone, P-D(567), to allow a farmers market at the Kaiser Medical Center on property located on the west side of Dale Road, north of Bangs Avenue and south of Health Care Way, becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Keating, 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: Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature] SUSANA ALCALA WOOD, City Attorney
A RESOLUTION CALLING A SPECIAL ELECTION FOR THE PURPOSE OF SUBMITTING THE LEVY OF THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2007-2 (KIERNAN BUSINESS PARK WEST) SPECIAL TAXES TO THE QUALIFIED ELECTORS OF THE TERRITORY PROPOSED TO BE ANNEXED TO THE DISTRICT (ANNEXATION NO. 1)

WHEREAS, this Council did, on February 24, 2009, adopt its Resolution No. 2009-081 (the “Resolution of Intention to Annex”) to indicate its intention to annex certain territory to the City’s Community Facilities District No. 2007-2 (Kiernan Business Park West) (the “District”) and authorize the levy of the District special taxes within the territory proposed to be annexed (the “Annexed Territory”), pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”), and set a hearing thereon, and

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

WHEREAS, a map of the Annexed Territory, entitled “Annexation Map No. 1 of Community Facilities District No. 2007-2 (Kiernan Business Park West) of the City of Modesto, County of Stanislaus, State of California.” was recorded on February 26, 2009, in the Office of the County Recorder of the County of Stanislaus, in Book 5 of Maps of Assessment and Community Facilities Districts, at page 1, and

WHEREAS, at the time and date set for the hearing (April 7, 2009) pursuant to the Resolution of Intention to Annex, this Council held the public hearing, as required by the Act, related to the proposed annexation and the levy of the District special taxes
within the Annexed Territory, and all other matters set forth in the Resolution of
Intention to Annex, and

WHEREAS, at the hearing all persons desiring to be heard on all matters
pertaining to the proposed annexation and the levy of the District special taxes within the
Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex,
including all interested persons for or against the proposed annexation to the District and
the levy of the District special taxes within the Annexed Territory were heard and
considered, and a full and fair hearing was held thereon, and

WHEREAS, at the hearing evidence was presented to this Council on the matters
before it, and this Council, at the conclusion of the hearing, was fully advised as to all
matters related to the proposed annexation and the levy of the District special taxes
within the Annexed Territory, and all other matters set forth in the Resolution of
Intention to Annex, and

WHEREAS, written protests against the proposed annexation and the levy of the
District special taxes within the Annexed Territory have not been filed with the City
Clerk by 50 percent or more of the registered voters or six registered voters, whichever is
more, residing within the District or residing within the Annexed Territory, or the owners
of one-half or more of the land in the District, or in the Annexed Territory, and

WHEREAS, the Stanislaus County Registrar of Voters has certified there are less
than 12 registered voters residing in the Annexed Territory; accordingly, the qualified
electors are the landowners, and
WHEREAS, the City Clerk, being the Council's designated election official for purposes of the election herein called, has concurred in the election date herein set forth for the election,

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. All prior proceedings taken with respect to the annexation of the Annexed Territory to the District, and the levy of the District special taxes within the Annexed Territory were valid and in conformity with the requirements of the Act. This determination shall be final and conclusive upon all persons.

SECTION 3. The proposed annexation of the Annexed Territory to the District and the levy of the District special taxes within the Annexed Territory have not been precluded by majority protest pursuant to Section 53339.5 of the Act.

SECTION 4. As stated in the Resolution of Intention to Annex, it is the intention of this Council, subject to the approval of the qualified electors of the Annexed Territory, to annex the Annexed Territory to the District and levy the District special taxes within the Annexed Territory. Upon such approval the Council will be authorized to levy the District special taxes within the Annexed Territory.

SECTION 5. A special election is hereby called at which the question of levying the District special taxes within the Annexed Territory shall be submitted to the qualified electors of the Annexed Territory. The election shall be held in accordance with and subject to the Act, all of the terms of which shall, unless waived as herein provided, be
applicable to such election. The ballot measure shall be substantially in the form attached hereto as Exhibit A.

SECTION 6. Fewer than 12 persons have been registered to vote within the Annexed Territory for each of the 90 days preceding the close of the hearing referenced herein. Accordingly, the vote shall be by the landowners of the Annexed Territory, and each such landowner shall have one vote for each acre or portion thereof that he or she owns within the Annexed Territory. The ballots shall be distributed by mail with return postage prepaid, or by personal service, to each landowner, all as provided in Section 53326 of the Act.

Since the City Clerk has received an appropriate waiver of time limits and other requirements pertaining to the conduct of the election by the owner of all of the land in the Annexed Territory (the “Landowner”), the election shall be held on the 7th day of April 2009. The election shall be conducted by the City Clerk in the manner required by this resolution, the Act and applicable laws.

The hour on such date when the ballots are required to be received in the office of the City Clerk is 5:30 p.m., Pacific Time, provided that if all qualified electors have voted prior to such time, the election shall be closed upon the receipt of all of the ballots.

SECTION 7. In accordance with Section 53327(b) of the Act, analysis and arguments, as required by Section 53327(a) of the Act are hereby waived, as the City Clerk has received the unanimous consent to such waivers from the Landowner.

SECTION 8. The publication of this Resolution as notice of the special election is hereby waived as the City Clerk has received the unanimous consent to such waiver from the Landowner.
SECTION 9. The Annexed Territory shall constitute a single election precinct for the purpose of holding the election.

SECTION 10. The City Clerk is hereby authorized to take any and all steps necessary for the holding of the election, and to perform and render all services and proceedings incidental to and in connection with the election.

SECTION 11. The City Clerk shall canvass the returns and certify the results of the election to this Council. If two-thirds or more of the votes cast are in favor of levying the District special taxes in the Annexed Territory, this Council may thereafter order the annexation of the Annexed Territory to the District and levy the District special taxes in the Annexed Territory in the amount and for the purposes specified in Resolution No. 2007-584 adopted by this Council on October 2, 2007 (the “Resolution of Formation”).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th of April, 2009, by Councilmember Hawn, 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: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: S. ALCAI A WOOD City Attorney

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD City Attorney
SAMPLE
OFFICIAL BALLOT

BALLOT NO. 1

CITY OF MODESTO
COMMUNITIES FACILITIES DISTRICT NO. 2007-2
(KIERNAN BUSINESS PARK WEST)

ANNEXATION NO. 1
SPECIAL TAX ELECTION
April 7, 2009

100% OF LAND IN TERRITORY PROPOSED TO BE ANNEXED TO DISTRICT
NUMBER OF VOTES ENTITLED TO BE CAST: 13
(VOTER MAY REMOVE AND RETAIN THIS STUB)

INSTRUCTIONS TO VOTERS

To vote, make a mark (x) in the voting area to the right of the word “YES” or “NO.”

All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly mark, tear or deface this ballot, telephone the Office of the City Clerk of the City of Modesto for instructions as soon as possible at (209) 577-5398, Monday through Friday, between the hours of 9:00 a.m. and noon

MARK YOUR CHOICE IN THIS MANNER ONLY: □
MEASURE SUBMITTED TO VOTE OF VOTERS

Proposition A. Shall special taxes, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City’s Resolution No. 2007-584 entitled “A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 2007-2, Authorizing the Levy of Special Taxes within the District, Preliminarily Establishing an Appropriations Limit for the District, and Calling an Election for the Purpose of Submitting the Levy of the Special Tax and the Establishment of the Appropriations Limit to the Qualified Electors of the District (Kiernan Business Park West)” (the “Resolution of Formation”), adopted by the City Council on October 2, 2007, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West) pursuant to the City Resolution No. 2009-081, entitled “A Resolution of Intention to Annex Territory to Community Facilities District No. 2007-2 (Kiernan Business Park West) and to authorize the levy of Special Taxes therein. (Annexation No. 1) (the “Resolution of Intention to Annex”) adopted by the City Council of the City of Modesto on February 24, 2009, for the purposes set for in the Resolution of Formation.

BALLOT NO. 1

100% of land in territory proposed to be annexed to District
THIS BALLOT HAS A VALUE OF 13 VOTES
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-160

A RESOLUTION CANVASSING THE RESULTS OF THE APRIL 7, 2009, ELECTION HELD WITHIN THE TERRITORY PROPOSED TO BE ANNEXED TO CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2007-2 (KIERNAN BUSINESS PARK WEST), AND ORDERING ANNEXATION OF THE TERRITORY TO THE DISTRICT (ANNEXATION NO. 1)

WHEREAS, this Council is conducting proceedings pertaining to the annexation of certain territory to the City’s Community Facilities District No. 2007-2 (Kiernan Business Park West) (the “District”) and the levy of the District special taxes (the “District Special Taxes”) within such territory, as described in its Resolution No. 2009-081, entitled “A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2007-2 (Kiernan Business Park West) and to Authorize the Levy of Special Taxes therein (Annexation No. 1)” adopted on February 24, 2009, pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”), and

WHEREAS, the owners of all the property within the territory proposed to be annexed to the District waived those provisions related to the timing and conduct of the election referenced in Sections 5, 6, 7 and 8 of this Council’s Resolution No. 2009-159, adopted on April 7, 2009, and, as a result, this Council called an election within the territory proposed to be annexed to the District (the “Election”) for April 7, 2009, or as soon thereafter as practicable, relative to the foregoing, and

WHEREAS, on April 7, 2009, the Election was held, and

WHEREAS, the City Clerk has certified that at the Election the proposition of levying the District Special Taxes within the territory proposed to be annexed to the District was approved by more than two-thirds (2/3) of the votes cast at the Election.
NOW, THEREFORE, BE IT RESOLVED, ORDERED AND FOUND by the City Council of the City of Modesto that:

SECTION 1. The Election was duly and validly conducted in conformity with all applicable laws pertaining thereto. It is hereby determined that the owner or owners of the territory proposed to be annexed are as set forth in the Certificate of City Clerk as to Distribution of Official Ballots, submitted to this Council and on file with the City Clerk.

SECTION 2. The ballot proposition presented to the qualified electors of the territory proposed to be annexed at the Election received at least two-thirds (2/3) of the votes cast at the Election. A copy of the City Clerk’s certificate of election results is attached.

SECTION 3. Pursuant to Section 53339.8 of the Act, it is hereby ordered that the territory proposed to be annexed to the District pursuant to Resolution No. 2009-081 be annexed to and be a part of the District with full legal effect, and that the District Special Taxes be levied within the territory.

SECTION 4. The City Clerk is hereby directed to enter this resolution on the minutes of this City Council, which shall constitute the official declaration of the result of the Election.

SECTION 5. The City Clerk is further authorized and directed to record an amendment to the Notice of Special Tax Lien with the County Recorder of the County of Stanislaus, within 15 days from the date hereof, in accordance with the provisions of Sections 3114.5 and 3117.7 of the California Streets and Highways Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Hawn, 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: Hawn, Keating, Lopez, Marsh, O'Bryan, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SUSANA ALCALA WOOD, City Attorney
CERTIFICATE OF CITY CLERK

I, STEPHANIE LOPEZ, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2009-159, A Resolution of the City Council of the City of Modesto Calling an Election for the Purpose of Submitting the Levy of the City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West) Special Taxes to the Qualified Electors of the Territory Proposed to be Annexed to the District (Annexation No. 1) adopted on February 24, 2009, by the City Council of the City of Modesto, I did conduct the Special Tax Election on April 7, 2009, and that the election was conducted by mail or in person at the City Hall of the City of Modesto.

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

**Proposition A.** Shall special taxes, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City’s Resolution No. 2007-584 entitled “A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 2007-2, Authorizing the Levy of Special Taxes within the District, Preliminarily Establishing an Appropriations Limit for the District, and Calling an Election for the Purpose of Submitting the Levy of the Special Tax and the Establishment of the Appropriations Limit to the Qualified Electors of the District (Kiernan Business Park West)” (the “Resolution of Formation”), adopted by the City Council on October 2, 2007, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West) pursuant to the City Resolution No. 2009-081, entitled “A Resolution of Intention to Annex Territory to Community Facilities District No. 2007-2 (Kiernan Business Park West) and to authorize the levy of Special Taxes therein. (Annexation No. 1) (the “Resolution of Intention to Annex”) adopted by the City Council of the City of Modesto on February 24, 2009, for the purposes set for in the Resolution of Formation?

TOTAL VOTES CAST: YES 13 | NO 0

Stephanie Lopez
City Clerk of the City of Modesto

Dated: April 17, 2009
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-161

A RESOLUTION DENYING THE APPEAL OF MR. BRADY POST, ON BEHALF OF MODESTO VIRTUAL, TO A DECISION BY THE CHIEF OF POLICE TO DENY AN APPLICATION FOR A DANCE HALL PERMIT, DBA MODESTO VIRTUAL, FOR A DANCE HALL PERMIT APPLICATION DENIAL BY THE POLICE CHIEF

WHEREAS, In August of 2008 the City Council enacted Ordinance number 3492 which created the Entertainment Commission and granted to the Commission the authority to accept, review and conduct all hearings for applications of the entertainment establishment permits, which also include dance permits, and

WHEREAS, as part of it’s adoption of the ordinance, Council acknowledged that until such time as the Entertainment Commission were requested to apply, interviewed and appointed, there would be an interim period of time where existing dance permits, or applications for dance permits would have to continue to be handled by staff, and

WHEREAS, staff implemented this direction by issuing dance permits and extensions of dance permits until such time as the Entertainment Commission has been seated and could take over such applications, and

WHEREAS, The City Council has jurisdiction to hear this appeal pursuant to Modesto Municipal code section 1-4.01, which provides that any appeal of an administrative decision made by any official of the City can be heard by the City Council, and

WHEREAS, on February 28, 2009, the Police Chief sent a Letter of Intent to deny Brady Post, dba Modesto Virtual, a dance hall permit, and

WHEREAS, on March 17, 2009, Modesto Virtual submitted a Notice of Appeal, and
WHEREAS, said appeal was set for a duly noticed public hearing before the City Council at its regular meeting place in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at 5:30 p.m. on April 7, 2009, at which date and time said public hearing was held and evidence both oral and documentary by the appellant and the City staff was received and considered, and

WHEREAS, the Council heard testimony from various members of the Modesto Police Department regarding the numerous incidents that have occurred at the subject premises that required police response, and involved violations of State alcoholic beverage control laws and illegal substances usage.

WHEREAS, the Council also heard evidence about prior attempts by the Police Department staff to seek cooperation with the owner of Modesto Virtual; however, efforts by the owner have fallen short and have not addressed the problems set forth above.

WHEREAS, the evidence also demonstrates that there is insufficient barriers to prevent minors from interacting or entering upon the portions of the premises where alcoholic beverages are sold, and that fact further exacerbates the problem of trying to keep alcohol away from the minors.

WHEREAS, as a result of the inability to adequately address existing problems and illegal activity on the premises as it is currently being operated, it would be inappropriate at this time to allow further expansion of the operation to include dancing.

WHEREAS, after said public hearing the Council found and determined that said appeal should be denied, and the decision of the Chief of Police should be affirmed,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of Brady Post, on behalf of Modesto Virtual, to a decision by the Chief of Police to deny an application for a dance permit, is hereby affirmed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Hawn, who moved its adoption, which 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, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: (SEAL)

STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-162

RESOLUTION APPROVING REDUCTIONS TO MODESTO AREA EXPRESS (MAX) BUS SERVICE EFFECTIVE AUGUST 15, 2009, TO SAVE APPROXIMATELY $104,000 IN OPERATING EXPENSES DURING FY 2009/10

WHEREAS, approximately 52% of the revenues used to operate the City of Modesto’s transit services are obtained under the State Transportation Development Act (TDA), and

WHEREAS, other major sources of operating revenues include Federal Transit Administration (FTA) funds (25% of total) and fare revenues (22%), and

WHEREAS, TDA funds are also the primary source of revenues used to meet the local match required for FTA capital funds, and

WHEREAS, TDA funds are composed of two different revenue programs, the Local Transportation Fund (LTF) and the State Transit Assistance (STA) Fund, and

WHEREAS, funding for these two sources has declined in the past two fiscal years due to the poor economy and the state budget crisis, and the state budget for FY 2009/10 does not include any funding for the STA program, and

WHEREAS, the recently enacted American Recovery and Reinvestment Act (ARRA) will help offset some of the lost funding, and

WHEREAS, because the duration and intensity of the economic downturn is not predictable, it is prudent to eliminate some bus service at the beginning of FY 2009/10 to preserve revenues for coming fiscal years, and

WHEREAS, Transit staff, in conjunction with the MAX operations contractor (MV Transit) has identified service reductions that would appear to impact very few
customers while saving approximately $119,000 annually in non-FTA funded operating expenses ($104,000 in FY 2009/10), and

WHEREAS. the proposed reductions include small changes to locations and start/end times, as well as eliminating infrequently used trips on certain routes, and

WHEREAS. service reductions would be made effective August 15, 2009 to allow staff and the operating contractor time to get all of the ground work done that is necessary for a schedule change.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves reductions to Modesto Area Express (MAX) bus service effective August 15, 2009, to save approximately $104,000 in operating expenses during FY 2009/10.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmember: Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: O’Bryant

ATTEST: ____________________________

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ____________________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-163

A RESOLUTION APPROVING THE ADOPTION OF THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT CORPORATION (ICMA-RC) VANTAGECARE RETIREMENT HEALTH SAVINGS PLAN, EFFECTIVE APRIL 15, 2009, AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE NECESSARY DOCUMENTS

WHEREAS, the City of Modesto offers deferred compensation programs for its employees, and

WHEREAS, The International City Management Association Retirement Corporation (ICMA-RC) has worked with the City of Modesto to administer the City's current deferred compensation plans, and

WHEREAS, the ICMA-RC has established a retiree health savings plan titled the VantageCare Retirement Health Savings Plan, and

WHEREAS, the VantageCare Retirement Health Savings Plan allows governmental employers and employees to accumulate assets to pay for health insurance and out-of-pocket medical expenses in retirement or following separation from City service, and

WHEREAS, the City of Modesto desires to adopt the VantageCare Retirement Health Saving Plan for its employees, and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the adoption of the ICMA Retirement Corporation's VantageCare Retirement Health Savings Plan (Plan), Plan Number: 803063, for employees of the City of Modesto, a municipality in the State of California.

BE IT FURTHER RESOLVED that the assets of the Plan shall be held in trust for the exclusive benefit of Plan participants and their survivors, and the assets of the Plan
shall not be diverted to any other purpose prior to the satisfaction of all liabilities of the
Plan. The City has executed the Declaration of Trust of the City of Modesto Integral Part
Trust and designates the City of Modesto to serve as trustee. The City Manager shall act
as trustee on behalf of the City of Modesto.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City
Manager, or designee, to execute all necessary documents for the implementation and
administration of the Plan.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 7th day of April, 2009. by Councilmember Hawn, 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: Hawn, Keating, Lopez, Marsh, Olsen,
        Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Numer

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING A CONSOLIDATION OF ALL TRAFFIC-RELATED FUNCTIONS IN THE PUBLIC WORKS AND COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENTS UNDER THE COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

WHEREAS, to promote the City’s vision/goal of all major development-related services under a one-stop shop, all traffic service program elements will be consolidated into the Community and Economic Development Department, as more fully described in EXHIBIT 2, attached hereto and incorporated herein by reference, and

WHEREAS, the consolidation of these program elements in the Community and Economic Development Department will result in the elimination of two positions within the Public Works Department as more fully described in EXHIBIT 2, attached hereto and incorporated herein by reference, and

WHEREAS, while the transition of reporting relationship shall be implemented with approval of this action, the budgetary actions related to this action shall be deferred to coincide with Fiscal Year 2009-10 budget adoption,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the consolidation of all traffic service program elements into the Community and Economic Development Department, as more fully described in EXHIBIT 2, attached hereto 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 7th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCAI.A WOOD, City Attorney
GOAL:
Improve the development review process by consolidating all traffic service program elements under the umbrella of the Community and Economic Development Department (CEDD).

ACTION:
This action consolidates all traffic service program areas in Public Works to CEDD. This includes traffic operations (signals, signs, and markings), traffic engineering and transportation planning functions.

Layoffs related to this action will occur four weeks after Council action with transition of reporting relationships beginning at the same time. Budget related changes will coincide with adoption of the Fiscal Year 2009-10 budget.

FISCAL IMPACT:
The management structure within CEDD does not include a formal Deputy Director level position. Rather, the department is organized under four senior-level managers as shown in the attached organization chart. Thus, this reorganization will result in the layoff of two filled positions in the Public Works Department. Both of these positions are allocated in the General Fund. The savings derived from these position reductions are as follows:

<table>
<thead>
<tr>
<th>Position</th>
<th>Org.</th>
<th>Savings 2008-09</th>
<th>Savings 2009-10</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sr. Admin. Office Asst. Conf.</td>
<td>4301</td>
<td>9,961</td>
<td>63,466</td>
</tr>
<tr>
<td>Deputy Director</td>
<td>4301</td>
<td>26,964</td>
<td>170,988</td>
</tr>
<tr>
<td>Total Position Savings*</td>
<td></td>
<td>36,925</td>
<td>234,454</td>
</tr>
</tbody>
</table>

* These savings are partially offset by the loss of service credit revenue to the General Fund from Gas Tax, Local Transportation Funds, and capital projects.

SERVICE LEVEL IMPACTS:
The proposed merger of the traffic services from Public Works and Community and Economic Development Department provides benefits to both the City organization and the community.

- It promotes the City’s vision/goal of all major development related services under a one-stop shop. Traffic analysis is an integral part of each development plan review. It is imperative that such analysis be in sync with all other development review comments to provide clear direction to the customer. The one-stop shop will provide a better orchestrated plan review from beginning to end, resulting in a more expedient plan review process.

- The merger results in a more balanced perspective with regard to traffic engineering solutions applied to development projects. Historically, system-wide improvements often took precedent over individual project needs. This will provide a more balanced approach without sacrificing or diminishing standards.
RESOLUTION AMENDING THE FISCAL YEAR 2008-09 GAS TAX OPERATING BUDGET TO REDUCE EXPENDITURES THROUGH THE ELIMINATION OF EIGHT ALLOCATED POSITIONS AND RELATED FLEET EQUIPMENT

WHEREAS, the Gas Tax Fund has insufficient revenues to continue operating at the current level of spending, and

WHEREAS, due to the loss of State Transit Assistance funding this year and the expected loss of this funding for next year, there is no expectation that the City will receive Local Transportation Funds for FY 2009-10, and

WHEREAS, in order to reduce expenditures it is necessary to eliminate eight (8) allocated positions in the Gas Tax Fund, as more fully described in EXHIBIT 1, attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the elimination of eight (8) allocated positions in the Gas Tax Fund, as described in EXHIBIT 1 attached hereto 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 7th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:  Councilmembers:  Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES:  Councilmembers:  None

ABSENT:  Councilmembers:  O’Bryant

ATTEST:  STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  SUSANA ALCALA WOOD, City Attorney
GOAL:
Bring Gas Tax Fund expenditures in line with current revenues and with projected revenues for Fiscal Year 2009-10.

ACTION:
This action eliminates eight (8) allocated positions in the Gas Tax Fund due to declining Gas Tax Fund revenues.

Layoffs will be effective four weeks from the date of Council action.

FISCAL IMPACT:
This action provides approximately $800,000 in benefit to the Gas Tax Fund through the expenditure reductions and the potential resale of equipment.

<table>
<thead>
<tr>
<th>Position</th>
<th>Org.</th>
<th>Savings 2008-09</th>
<th>Savings 2009-10</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineering Assistant II</td>
<td>1601</td>
<td>13,624</td>
<td>86,396</td>
</tr>
<tr>
<td>Electrician – Traffic/Buildings (2)</td>
<td>1612</td>
<td>22,424</td>
<td>142,200</td>
</tr>
<tr>
<td>Maintenance Worker II</td>
<td>4622</td>
<td>8,045</td>
<td>51,018</td>
</tr>
<tr>
<td>Maintenance Worker II (2)</td>
<td>4724</td>
<td>18,601</td>
<td>117,960</td>
</tr>
<tr>
<td>Equipment Operator (2)</td>
<td>4612</td>
<td>18,550</td>
<td>117,637</td>
</tr>
<tr>
<td><strong>Total Position Savings</strong></td>
<td></td>
<td><strong>81,244</strong></td>
<td><strong>515,211</strong></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Fleet Savings</th>
<th>Org.</th>
<th>Estimated Resale Costs</th>
<th>Replacement Cost Savings*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vehicle #40677</td>
<td>1612</td>
<td>27,848</td>
<td>18,857</td>
</tr>
<tr>
<td>Dump Truck #49703</td>
<td>4612</td>
<td>9,941</td>
<td>45,557</td>
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<td>4-Ton Roller #50138</td>
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<td>18,923</td>
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<td>Paver #79939</td>
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<td>4,200</td>
<td>0</td>
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<td>Paver Trailer #89940</td>
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<td>2,235</td>
<td>9,115</td>
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<td>Vehicle #40579</td>
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<td>10,618</td>
<td>23,564</td>
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<tr>
<td>Vehicle #40759</td>
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<td>9,499</td>
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<tr>
<td>Vehicle #40793</td>
<td>4724</td>
<td>5,687</td>
<td>7,805</td>
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<tr>
<td><strong>Total Fleet Savings</strong></td>
<td></td>
<td><strong>72,574</strong></td>
<td><strong>132,055</strong></td>
</tr>
</tbody>
</table>

SERVICE LEVEL IMPACTS:
Engineering Assistant II – This position is responsible for maintaining various maps including the speed limit map, traffic flow map, and truck flow map. This reduction will result in a reduced ability to establish radar enforceable speed limits and investigate traffic requests/complaints. The Disadvantaged Business Enterprises (DBE) Program and the drafting of detail pages in Standard Specifications will be reassigned. Activities required by Federal or State law will be reassigned to remaining staff. Other non-mandated activities will be delayed or eliminated.

Electricians (2) – These Electricians are responsible for electrical work on traffic signals and in city-owned facilities and buildings. Modesto’s ratio is currently one Electrician for every 45.8 signals, which is below the recommended ratio of 40 to 1. This reduction will increase the City’s ratio to one Electrician for every 57.3 signals and the response time for signal work would extend from the current
average of 30-45 minutes to as much as 90 minutes. It is anticipated that the focus will shift from preventive maintenance to a more reactive response model.

**Maintenance Worker II in Traffic Operations** – This position is one of five (5) employees responsible for maintaining traffic signs and pavement markings and for the collection of traffic volumes and speed data throughout the City. With this reduction, the replacement of damaged or non-functioning traffic controls will be delayed. Less current data may be available for responses to citizen concerns, and for the preparation of annual reports.

**Maintenance Worker II in Curbs, Gutters, & Sidewalks (2)** – The reduction of these positions and represents a 25% reduction in productivity in the Curb, Gutter, and Sidewalk program. This will lengthen the amount of time it takes for staff to respond to complaints about raised sidewalks, root damage and other hazards. The current backlog of repairs is estimated at five years.

**Equipment Operator in Streets (2)** – These positions are allocated to the Street Maintenance Program area. The loss of two positions represents a 12.5% reduction in productivity. This reduction will result in a priority being placed on potholing and paving, with less resources available to address alley repairs and island cleaning.
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-166

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF
JEANNIE MACDONALD FROM THE GOLF COURSES ADVISORY
COMMITTEE

WHEREAS, JEANNIE MACDONALD was appointed a member of the Golf
Courses Advisory Committee, on September 23, 2008, and

WHEREAS, JEANNIE MACDONALD has tendered her resignation from the
aforementioned committee.

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

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

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who
moved its adoption, which motion being duly seconded by Councilmember Marsh, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: 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
RESOLUTION AUTHORIZING THE MODESTO FIRE DEPARTMENT TO PARTICIPATE IN THE PURCHASE OF RADIO COMMUNICATIONS EQUIPMENT THROUGH THE SALIDA FIRE PROTECTION DISTRICT AS ADMINISTRATOR AND HOST OF THE ASSISTANCE TO FIREFIGHTERS GRANT

WHEREAS, in March of 2008, Salida Fire Protection District, as the communications contractor for the Stanislaus Regional Fire Authority, applied for and received a Department of Homeland Security Assistance to Firefighters Grant valued at $1.4 million, and

WHEREAS, the grant is specifically for county-wide radio communications equipment and requires twenty percent (20%) matching funds from the participating agencies, and

WHEREAS, the communications equipment will provide for county-wide interoperability, thus enhancing the County’s regional infrastructure insuring the safety of firefighters when involved in mutual aid operations within the County, and

WHEREAS, the need for new radio equipment is related to the narrow banding and P25 digital requirements, and

WHEREAS, although these requirements go into effect, on a Federal level, in January of 2013, California has given local agencies until January of 2010 to switch to the new standard in order to communicate with the State and Cal Fire, and

WHEREAS, communication with Cal Fire is critical on wildland strike team assignments, and
WHEREAS, by participating in the Assistance to Firefighters Grant the City will be able to purchase the communication equipment necessary to meet the new standards at twenty percent (20%) of the actual value, and

WHEREAS, the Fire Department’s current communication equipment ranges in age of up to 15 years, and

WHEREAS, with Council approval, the Fire Department intends to make two separate purchases of equipment over two fiscal years, and

WHEREAS, the first purchase would be made in May of 2009, at a cost of approximately $35,000, and

WHEREAS, the second purchase would be made in August of 2009, at a cost of approximately $20,000, and

WHEREAS, the twenty percent (20%) match funding would be paid directly to the Salida Fire Protection District, as the host agency of this grant.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Modesto Fire Department to participate in the purchase of radio communication equipment through the Salida Fire Protection District, as Administrator and host of the Assistance to Firefighters Grant.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-168

RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE MEMORANDUM OF UNDERSTANDING BETWEEN SALIDA FIRE DISTRICT, AS ADMINISTRATOR AND HOST OF THE ASSISTANCE TO FIREFIGHTERS GRANT, AND THE CITY OF MODESTO

WHEREAS, in March of 2008, the Salida Fire Protection District, as the communications contractor for the Stanislaus Regional Fire Authority, applied for and received a Department of Homeland Security Assistance to Firefighters Grant valued at $1.4 million, and

WHEREAS, the grant is specifically for county-wide radio communications equipment and requires twenty percent (20%) matching funds from the participating agencies, and

WHEREAS, the communications equipment will provide for county-wide interoperability, thus enhancing the County's regional infrastructure insuring the safety of firefighters when involved in mutual aid operations within the County, and

WHEREAS, the need for new radio equipment is related to the narrow banding and P25 digital requirements, and

WHEREAS, although these requirements go into effect, on a Federal level, in January of 2013, California has given local agencies until January of 2010 to switch to the new standard in order to communicate with the State and Cal Fire, and

WHEREAS, communication with Cal Fire is critical on wildland strike team assignments, and
WHEREAS, by participating in the Assistance to Firefighters Grant the City will be able to purchase the communication equipment necessary to meet the new standards at twenty percent (20%) of the actual value, and

WHEREAS, the Fire Department’s current communication equipment ranges in age of up to 15 years, and

WHEREAS, with Council approval, the Fire Department intends to split this purchase between two fiscal years, and

WHEREAS, the first purchase would be made in May of 2009, at a cost of approximately $35,000, and

WHEREAS, the second purchase would be made in August of 2009, at a cost of approximately $20,000, and

WHEREAS, the twenty percent (20%) match funding would be paid directly to Salida Fire Protection District, as the host agency of this grant.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizing the City Manager to sign the Memorandum of Understanding between the Salida Fire District, as Administrator and host of Assistance to Firefighters Grant and the City of Modesto.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES:  Councilmembers:  None

ABSENT:  Councilmembers:  None

(Seal)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING AN APPLICATION IN THE AMOUNT OF $150,000 TO THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT FOR THE REMOVE II GRANT PROGRAM FOR THE CONSTRUCTION OF PHASE V OF THE VIRGINIA CORRIDOR CLASS I BIKE TRAIL

WHEREAS, the San Joaquin Valley Air Quality Control District (SJVAQCD”) has made funding available through the REMOVE II Grant Program, which provides funding for the Class I bike trails/paths, and

WHEREAS, development of the Virginia Avenue Corridor Trail Project (the “Project”) Class I bike/trail path is consistent with the SJAQCD’s requirements for the Remove II Grant, and

WHEREAS, said procedures established by the SJVAQCD require the City Council to certify by resolution the approval of the application before submission of said application to the State, and

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

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

1. Approves the filing of an application for $150,000 from the San Joaquin Valley Air Quality Control District through the Remove II Grant Program, and

2. Certifies that the application 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 agents to contract all negotiations, execute and submit all documents including, but not limited to, applications, agreements, payment requests and so on, which may be necessary for the completion of the Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: 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 APPROVING A CONTRACT WITH CALLANDER AND ASSOCIATES FOR $191,861 TO PROVIDE THE CITY OF MODESTO WITH CONSTRUCTION DOCUMENTS FOR PHASE VI OF THE VIRGINIA CORRIDOR PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY DOCUMENTS

WHEREAS, the City of Modesto has applied for, and received, a transportation grant from the State of California in the amount of $200,000 for the development of Phase VI of the Virginia Corridor, and

WHEREAS, these grant funds have been appropriated in the City’s CIP budget in account 2300-310-A087-6010 for the Virginia Corridor, and

WHEREAS, Callander Associates have the required credentials to work on this project and have agreed to create the Construction Documents for Phase VI of the Virginia Corridor Project in the amount of $191,861.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a contract with Callander Associates in the amount of $191,861 to provide the City with Construction Documents for Phase VI of the Virginia Corridor Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute all necessary documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: 
SUSANA ÁLCAÍA WOOD, City Attorney
RESOLUTION AMENDING THE FY 08-09 CAPITAL IMPROVEMENT BUDGET TO TRANSFER $200,000 IN REVENUE FROM FUND 2300-310-A087-3133 TO 2300-310-P366-3133 AND APPROPRIATING EXPENDITURES OF $200,000 TO 2300-310-P366-6010 TO REFLECT FUNDING FOR THE VIRGINIA CORRIDOR PHASE VI

WHEREAS, the City has applied for, and received, a transportation grant from the State of California in the amount of $200,000 for the development of Phase VI on the Virginia Corridor, and

WHEREAS, these grant funds have been appropriated in the City’s CIP budget in 2300-310-A087 for the Virginia Corridor, and

WHEREAS, in order to recognize the CIP revenue the revenue funds will be transferred from CIP fund 2300-310-A087-3133 to 2300-310-P366-3133, which transfers funds to Phase VI of the Virginia Corridor from the Virginia Corridor Primary Account, and

WHEREAS, expenditures of $200,000 will be appropriated to CIP fund 2300-310-P366-6010

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approved amending the FY 08-09 Capital Improvement Budget to transfer $200,000 in Virginia Corridor Funds from 2300-310-A087-3133 to Virginia Corridor Phase VI funds 2300-310-P336-3133 and appropriate expenditures of $200,000 to 2300-310-P366-6010.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: 

SUSANA ÁLCALA WOOD, City Attorney

ATTEST: 

STEPHANIE LOPEZ, City Clerk

(SEAL)
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-172

A RESOLUTION REJECTING THE LATEST COUNTER PROPOSAL FROM COVANTA STANISLAUS FOR A CONTRACT EXTENSION UNDER NEW TERMS, AUTHORIZING THE CITY MANAGER TO EXECUTE A NOTICE OF EXTENSION OF THE CONTRACT WITH COVANTA STANISLAUS FOR THE OPERATION OF THE STANISLAUS RESOURCE RECOVERY FACILITY THROUGH 2016 PURSUANT TO SECTION 11.01 OF THE SERVICE AGREEMENT, AND AUTHORIZING STAFF TO CONTINUE NEGOTIATIONS WITH COVANTA STANISLAUS

WHEREAS, the County of Stanislaus and the City of Modesto have a Service Agreement with Covanta Stanislaus for the operation of the Waste-to-Energy Facility, and

WHEREAS, the operation of this facility, which burns garbage to produce electricity, is an essential component of the City’s AB 939 plan, which required a reduction of disposal by 50% by the year 2000, and

WHEREAS, the facility accounts for 10% of the City’s diversion from disposal, and

WHEREAS, since it began operating in 1989, the facility has burned over five million tons of garbage, keeping it out of landfills and preserving landfill space, and

WHEREAS, the facility produces enough green energy each day to power approximately 20,000 homes, and

WHEREAS, the Service Agreement between Covanta Stanislaus, the City of Modesto, and the County of Stanislaus will expire on December 31, 2009, and

WHEREAS, the decisions regarding the future of the facility are highly complex and subject to fluctuations in market pricing for power as well as regulatory changes, and
WHEREAS, because of these factors, the Waste-to-Energy Financing Agency and Executive Committee directed staff to put together a group of experts to assist in the end-of-contract decision making process, and

WHEREAS, with the assistance of these experts, staff has conducted several rounds of negotiations with Covanta, but has been unable to reach an acceptable agreement among the parties, and

WHEREAS, in order to invoke their rights under Section 11.01 of the Service Agreement to extend the Agreement through 2016 under the current terms and conditions, the City and County must notify Covanta of their intent to do so by June 30, 2009, and

WHEREAS, outside legal counsel to the project has prepared a Notice of Extension for the City and County to execute, and

WHEREAS, said Notice of Extension is shown as Exhibit 1 to this resolution, and

WHEREAS, in order to proceed, the City Council and County Board of Supervisors must authorize the execution of this Notice of Extension.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby rejects the latest counter proposal from Covanta Stanislaus for a contract extension under new terms.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute a Notice of Extension of the Contract with Covanta Stanislaus for the operation of the Stanislaus Resource Recovery Facility through 2016 pursuant to Section 11.01 of the Service Agreement.
BE IT FURTHER RESOLVED that staff is hereby authorized to continue

negotiations with Covanta on a new contract.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who
moved its adoption, which motion being duly seconded by Councilmember Marsh, was
upon roll call carried and the resolution adopted by the following vote:

Mayo Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
NOTICE OF EXTENSION PURSUANT TO SECTION 11.01
OF THE SERVICE AGREEMENT

TO: Covanta Stanislaus, Inc.
(as successor to Ogden Martin Systems of Stanislaus, Inc.)
40 Lane Road
Fairfield, New Jersey 07004
Attention: President

REFERENCE IS HEREBY MADE to the Amended and Restated Agreement for the
Supply and Acceptance of Solid Waste, dated as of June 1, 1986, as amended by Amendment
No. 1 to the Agreement dated September 27, 1988, Amendment No. 2 to the Agreement dated
May 17, 1990, Amendment No. 3 to the Agreement dated February 2, 2000 and Amendment No.
4 to the Agreement dated May 21, 2001 (collectively the “Service Agreement”), among Ogden
Martin Systems of Stanislaus, Inc. as successor to the Stanislaus Waste Energy Company (the
“Company”), the County of Stanislaus (the “County”) and the City of Modesto (the “City”).

Pursuant to Section 11.01(b) of the Service Agreement, the City and County, being the
Contracting Communities, hereby give notice that they elect to extend the term of the Service
Agreement to January 1, 2016.

Date: ________________, 2009

APPROVED AS TO FORM:

COUNTY OF STANISLAUS

By: [__________], Chairman
    of the Board of Supervisors

ATTEST:

By: [__________]
    Clerk of Board of Supervisors

APPROVED AS TO FORM:

CITY OF MODESTO
ACKNOWLEDGED:

COVANTA STANISLAUS INC.

By: __________________________
[Name, Title]
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-173

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO CONDUCT A SOLE SOURCE PROCUREMENT OF TWENTY-FOUR (24) HADRONEX SMARTCOVER SYSTEMS, FOR A ONE-TIME PURCHASE OF $86,016 AND AN ANNUAL SERVICE FEE OF $14,400 FOR TWO YEARS FROM 3T EQUIPMENT COMPANY, SANTA ROSA, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE AGREEMENT FOR A TOTAL ESTIMATED COST OF $100,416

WHEREAS, on May 2, 2006, the State Water Resources Control Board (Regional Board) initiated Order No. 2006-0003-DWQ, which implemented a new Waste Discharge Requirement (WDR) for Wastewater Collections, and

WHEREAS, under Section D-Provisions of the WDR, it states, “the Enrollee shall take all feasible steps to eliminate Sanitary Sewer Overflows (SSOs)”, and

WHEREAS, in an effort to reduce and/or eliminate the amount of SSOs in environmentally sensitive areas, such as along Dry Creek and the Tuolumne River, staff requested authorization to purchase twenty-four (24) Hadronex SmartCover Systems, and

WHEREAS, 3T Equipment Company is the sole and exclusive dealer for Hadronex SmartCover Systems in Northern California, and

WHEREAS, staff requested authorization for a sole source purchase because unit pricing is the same throughout the United States, and

WHEREAS, staff anticipates purchasing twelve (12) SmartCover Systems for immediate installation and another twelve (12) within the next two years, 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 Hadronex SmartCover Systems for the Public Works Department, Water Quality Control Services Division, conforms to this section of the MMC.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to conduct a sole source procurement of twenty-four (24) Hadronex SmartCover Systems for a one-time purchase of $86,016, and an annual service fee of $14,400 for two years from 3T Equipment Company, Santa Rosa, CA.

BE IT FURTHER RESOLVED that the Council authorizes the Purchasing Manager to prepare a purchase agreement for the total estimated cost of $100,416.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-174

A RESOLUTION APPROVING AN AGREEMENT WITH NORTHSTAR ENGINEERING GROUP, INC. FOR THE PREPARATION OF A PRELIMINARY DESIGN REPORT FOR THE CARPENTER ROAD RELIEF TRUNK PROJECT FOR AN AMOUNT NOT TO EXCEED $576,772.60 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $57,677.00 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $634,449.60, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the scope of services to be provided under this agreement includes completing 35% design services for the Carpenter Road Relief Trunk project and summarizing the project scope and cost estimates in a Preliminary Design Report (PDR), and

WHEREAS, the purpose of the project is to construct a sewer trunk line to provide capacity relief for the Emerald Sewer Trunk, and

WHEREAS, the Emerald Sewer Trunk currently handles approximately 13% of the City’s total sewer flow and is in poor condition experiencing deterioration and capacity/overflow problems, and

WHEREAS, the 2007 City of Modesto Waste Water Master Plan (WWMP) identified the need for additional capacity for the Emerald Trunk in order to avoid potential sewer overflows, and

WHEREAS, the WWMP predicts that by constructing a relief sewer trunk, 60% of the Emerald Sewer Trunk’s flow will be diverted to the new relief trunk which would eliminate the threat of sewer overflow in the Emerald Trunk, and

WHEREAS, the new trunk would also provide additional capacity for new development such as the Gateway Commons project, and
WHEREAS, in accordance with the Public Works Department Major Scope Policy approved on September 26, 2006, all projects exceeding $1,000,000 are required to be presented at Council at the preliminary design report stage if the projected cost estimate is expected to exceed the approved project budget by more than 10%, and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants who Provide Architectural and Engineering Services for Capital Projects. Request for Qualifications (RFQs) were sent to over one hundred consultants, and

WHEREAS, City staff received twenty-eight (28) Statements of Qualifications (SOQs) for underground utilities, and

WHEREAS, fifteen (15) firms were shortlisted for the Carpenter Road Relief Trunk project based on experience with projects with similar scope and magnitude, and

WHEREAS, in October 2008, staff issued Request for Proposals (RFPs) to the prequalified consultants and received seven (7) proposals, and

WHEREAS, the proposals were reviewed by a Selection Committee comprised of Public Works’ Engineering Design staff and Mayor Ridenour, and

WHEREAS, following the consultant interviews, the Selection Committee determined that NorthStar Engineering Group, Inc. of Modesto is the most qualified consultant to prepare this PDR, and

WHEREAS, the selection committee would like to possibly award future PDR’s for sanitary sewer design to other top local consultants resulting from this proposal and interview process, pending the Public Work’s Director’s approval, and
WHEREAS, this would eliminate the need to resend Requests for Proposals (RFPs) to the same local firms for essentially the same type project, and would save time and funds for the City by not having to review new proposals and re-interview consultants, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner, and

WHEREAS, City staff recommends an agreement with NorthStar Engineering Group, Inc. as the City does not have the staffing level or subject matter expertise to complete the Preliminary Design Report for the Carpenter Road Relief Trunk 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 for Preliminary Design Report for the Carpenter Road Relief Trunk with NorthStar Engineering Group, Inc. for an amount not to exceed $576,772.60 for the identified scope of services, plus $57,677.00 for additional services (if needed), for a maximum total amount of $634,449.60 for the project titled, “Carpenter Road Relief Trunk.”

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 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE SOLICITATION OF REQUEST FOR PROPOSALS (RFP) TO PROVIDE AN AIRPORT TERMINAL ADVERTISING AND DISPLAY SERVICE CONCESSION AT THE MODESTO CITY-COUNTY AIRPORT

WHEREAS, the Modesto Airport terminal currently has one paid advertising area consisting of a back-lighted advertising board with courtesy phone connections available for advertising businesses, and

WHEREAS, there are currently only six local advertisers, yielding approximately $2,400 per year in revenue, and

WHEREAS, experienced advertising concessionaires provide services that could improve marketing options at the terminal, and increase airport advertising revenues without financial risk to the airport, and

WHEREAS, advertising concessionaires typically provide all services needed to attract advertisers and improve passenger options in the airport terminal, are responsible for soliciting and contracting with advertisers, and handling all related communications and financial transactions, and

WHEREAS, the airport is generally paid a percentage of gross revenue collected from advertisers, and sometimes a flat fee for the advertising rights,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the solicitation of Request for Proposals (RFP) to provide an airport terminal advertising and display service concession at the Modesto City-County Airport.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-176

RESOLUTION APPROVING TRANSFER OF HANGAR #6 FROM MODESTO EXECUTIVE AIR CHARTER (MEAC) TO D.C. AIR, LLC

WHEREAS, by Resolution No. 2000-387, the City Council approved a lease agreement between Modesto Executive Air Charter (MEAC) and the City of Modesto for use of airport property to build a corporate aircraft hangar at Modesto City-County Airport, and

WHEREAS, the land was leased for a term of 35 years (September 1, 2000-August 30, 2035), and

WHEREAS, at the expiration of the 35-year lease, the land, along with buildings and any improvements made on the property, was to revert back to the City of Modesto, and

WHEREAS, MEAC has not been able to secure a major tenant for this property for the past several years, and

WHEREAS, D.C. Air, LLC. is proposing to purchase Hangar #6 and base a medium-large corporate jet at Modesto Airport,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of Hangar #6 from Modesto Executive Air Charter (MEAC) to D.C. Air, LLC.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who
moved its adoption, which motion being duly seconded by Councilmember Marsh, was
upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmember:  None

ABSENT: Councilmember: None

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
RESOLUTION EXTENDING THE GROUND LEASE ON HANGAR #6 CONTINGENT UPON THE SALE OF HANGAR #6 TO D.C. AIR, LLC

WHEREAS, by Resolution No. 2000-387, the City Council approved a lease agreement between Modesto Executive Air Charter (MEAC) and the City of Modesto for use of airport property to build a corporate aircraft hangar at Modesto City-County Airport, and

WHEREAS, the land was leased for a term of 35 years (September 1, 2000-August 30, 2035), and

WHEREAS, at the expiration of the 35-year lease, the land, along with buildings and any improvements made on the property, was to revert back to the City of Modesto, and

WHEREAS, MEAC has not been able to secure a major tenant for this property for the past several years, and

WHEREAS, D.C. Air, LLC is proposing to purchase Hangar #6 and base a medium-large corporate jet at Modesto Airport, and

WHEREAS, D.C. Air, LLC is requesting a full 35-year lease term, which would extend the lease from 2009 to 2044, and

WHEREAS, the proposed new lease term extends approximately nine years past the term of the lease signed by MEAC in 2000, and

WHEREAS, extending the terms of the lease will cost the Airport nine years worth of revenue potential from this asset between years 2035-2044, and

WHEREAS, the County would receive aircraft possessory tax revenue from new aircraft brought in by the D.C. Air, LLC, and
WHEREAS, additional aircraft could also increase local aviation fuel sales and Air Traffic Control traffic counts.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the extension of the ground lease on Hangar #6 at Modesto City-County Airport contingent upon the sale of Hangar #6 to D.C. Air, L.L.C.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: ____________________________

(Seal)

APPROVED AS TO FORM:

By: ________________________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-178

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE 2009 SANITARY LIFT STATION REHABILITATION PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH BRC CONSTRUCTION, INC. IN THE AMOUNT OF $447,700, FOR THE 2009 SANITARY LIFT STATION REHABILITATION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the 2009 Sanitary Lift Station Rehabilitation Project and City staff recommends approval by the City Council. and

WHEREAS, the bids received for the 2009 Sanitary Lift Station Rehabilitation Project were opened at 11:00 a.m. on March 17, 2009, and later tabulated by the Public Works Director for the consideration of the Council. and

WHEREAS, the Public Works Director has recommended that the bid of $447,700.00 received from BRC Construction, Inc. be accepted as the lowest responsible bid and the contract be awarded to BRC Construction, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the 2009 Sanitary Lift Station Rehabilitation Project, accepts the bid of BRC Construction, Inc. in the amount of $447,700.00, and awards BRC Construction, Inc. the contract for the 2009 Sanitary Lift Station Rehabilitation Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with BRC Construction, Inc., in the amount of $447,700.00, for the 2009 Sanitary Lift Station Rehabilitation Project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: 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. 2009-179

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO WASTEWATER MASTER PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH No. 2006052076): JEFFERSON LIFT STATION IMPROVEMENTS

WHEREAS, on May 27, 1997, the City Council, by Resolution No. 97-290 certified the Master Environmental Impact Report (“EIR”) for the Modesto Wastewater Master Plan (SCH No. 2006052076), and

WHEREAS, the City of Modesto proposes to construct Jefferson Lift Station Improvements as identified on the adopted Wastewater Collection System Master Plan and in the Wastewater Master Plan Master EIR, and

WHEREAS, Section 15177 of the CEQA Guidelines, relating to reviewing subsequent projects within the scope of a Master EIR, states that the lead agency shall prepare an initial study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR, whether any new additional mitigation measures or alternatives will be required in conjunction with the project, and whether the subsequent project was described in the Master EIR as being within the scope of the project, and

WHEREAS, the City’s Public Works Department by Environmental Assessment Initial Study EA/PW 2009-02 reviewed the proposed Jefferson Lift Station Improvements project to determine whether the project is within the scope of the project covered by the Wastewater Master Plan Master EIR, and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR and, further, that no new or additional mitigation measures
or alternatives are required, and that therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines on February 17, 2009, the City caused to be published a 30-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a regular meeting on April 28, 2009, at 5:30 p.m., in the Tenth Street Place Chambers, 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it has reviewed and considered the Initial Study prepared for the proposed Project, a copy of which it attached hereto as Exhibit “A” and incorporated herein by reference. and based on the substantial evidence included in said Initial Study makes the following findings:

1. The type of Project under consideration is described in the Master EIR (MEIR).

2. All applicable policies, regulations, and mitigation measures identified in the MEIR have been applied to the project.

3. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR. It has been determined that the project was described in the MEIR and is within the scope of the MEIR (SC1 No. 2006052076). which analyzed the potential impacts of build out of the Wastewater Master Plan.

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

   a. That the proposed subsequent project will have no additional significant effect that was not identified in the MEIR.
   b. That no new or additional mitigation measures or alternatives are required.

5. The Initial Study, Environmental Assessment No. EA/PW 2009-02, provides the substantial evidence to support findings 1 through 4, above.
BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Public Works Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk, pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SIGNATURE)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
Exhibit "A"

INITIAL STUDY
EA/PW 2009-02
Finding of Conformance to
Wastewater Master Plan Update Master EIR

Initial Study Environmental Checklist
PW No. 2009-02

For the proposed:
Jefferson Lift Station Improvements

Prepared by:
City of Modesto
Public Works Department
Capital Improvement Services Division

February, 2009
City of Modesto  
Wastewater Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City’s Wastewater Master Plan Master EIR. This Initial Study Environmental Checklist (“Initial Study”) is used in determining whether a subsequent project is “within the scope” of the project analyzed in the Modesto Wastewater Master Plan Master EIR (SCI# 2006052076) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

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

1. It will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. No new or additional mitigation measures or alternatives are required.

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

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

City staff consulted with appropriate Responsible Agencies and City Departments regarding potential environmental impacts associated with this project. Any significant comments and conditions are incorporated into this Initial Study. The City’s Wastewater Master Plan MEIR (SCI# 2006052076) was also consulted which lists mitigation measures for each area of environmental study.

II. PROJECT DESCRIPTION

A. Title: Jefferson Lift Station Improvements

B. Address or Location: corner of Jefferson St. and 8th St., Modesto, Stanislaus County, CA. Lat 37.64 N, Long 121.01 W

Applicant: Capital Improvement Services Division  
Public Works Department  
1010 Tenth Street  
P. O. Box 642  
Modesto, CA  95353

D. City Contact Person: Rich Ulm, Deputy Director/William Wong, Senior Civil Engineer

Project Manager: William Wong, Senior Civil Engineer  
Department: Public Works Department

City of Modesto Finding of Conformance  
Wastewater Master Plan Master EIR  
Initial Study  
EA PW-2008-21  
November 2008
E. Current General Plan Designation(s): Redevelopment District

F. Current Zoning Classification(s): C-M

G. Surrounding Land Uses: the site is surrounded by light industrial uses including the City’s Corporation Yard and Bus Maintenance facilities.

H. Project Description (Attach additional maps/support materials as needed for complete record):

   The project consists of the rehabilitation and upgrade of the Jefferson Lift Station to replace pumps, valves, and piping, and to minimize confined space entries by removing elevator access. The dry pit pumps will be replaced with wet pit, slide rail submersible pumps. The project will increase pump capacity in conformance with capacity identified and planned for in the Wastewater Collection System Master Plan and associated MEIR, all within the confines of the existing wet pit within the lift station. All work will be within the existing developed area back of curb. Bollards will be installed to protect the facility. See Figure 1 for location map.

I. Other Public Agencies Whose Approval is Required: none
Figure 1.
III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

   [Signature]

   William S. Wong
   Project Manager
   2/13/09

   Senior Civil Engineer
   Title
   Date

City of Modesto Finding of Conformance
Wastewater Master Plan Master EIR 4

Initial Study
EA PW-2009-02
February 2009
4. Within the Scope Analysis of this Document:

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

YES NO

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

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

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

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

(5) The project will occur within the boundaries of the planning area as established in the Wastewater Master Plan.

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

5. Currency of the Master EIR Document

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

YES NO

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

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

(3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.

(4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.
IV. ENVIRONMENTAL ANALYSIS

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

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

All environmental effects cited reflect buildout of the project as identified in the MEIR.

The Master EIR for the Wastewater Master Plan organizes its analysis of environmental impacts into eleven subject areas plus Effects Found Not to be Significant (and additional five topics). The following analysis is based on the impact analyses contained in Chapter IV of the Master EIR.

1. AESTHETICS (Visual Resources)

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. At that level of detail, no significant effects on Visual Resources were identified. This topic is discussed in Chapter 4.I of the MEIR.

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

No mitigation measures for this topic are identified in the MEIR. Any new mitigation to be incorporated into or made conditions of approval of this project is listed in Section V. Mitigation Applied to Project.

c. Project-Specific Effects

Section IV.1 of the MEIR provides analysis of Visual Resources impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

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1. The project is inconsistent with the Modesto Wastewater Master Plan.
2. The project would have a substantial adverse effect on a scenic vista or scenic resources.
3. The project would substantially degrade the existing visual character or quality of the project site and its surroundings.
4. The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.
Discussion:

(1) The project is specifically provided for in the Modesto Wastewater Master Plan.

(2) The project is rehabilitation of a lift station. The project is entirely within an existing fenced and paved area.

(3) The project is rehabilitation of a lift station. The project is entirely within an existing fenced and paved area.

(4) No new lighting will be included with this project.

2. AGRICULTURAL RESOURCES

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.B of the MEIR.

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

Effect: Construction of the Phase 1A tertiary treatment facilities at the Secondary Plant would directly result in the permanent loss of Prime Farmland (Significant and Unavoidable).

Effect: Construction of the proposed project components within the Planned Urbanizing Area would result in the cumulative loss of Prime Farmland (Significant and Unavoidable).

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

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages IV.B.8 and IV.B.11 of the MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V. Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

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

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

YES NO
The project is inconsistent with the Modesto Urban Area General Plan and/or the Modesto Wastewater Master Plan.

The project will directly result in the development of land outside the Modesto Urban Area General Plan planning area boundaries.

The project will conflict with existing zoning for agricultural use, or a Williamson Act contract.

The project will involve other changes in the existing environment which, due to their location or nature, could result in additional conversion of Farmland to non-agricultural use.

Discussion:

(1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan.

(2) The project is rehabilitation of an existing lift station, with no direct development of additional land.

(3) The project is rehabilitation of a lift station, on a site not zoned for agricultural use.

(4) The project is rehabilitation of a lift station, as provided for in the Modesto Wastewater Master Plan.

3. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.G of the MEIR.

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

Effect: Emissions of criteria pollutants during construction of wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region (Significant and Unavoidable).

Effect: Emissions of criteria pollutants during the operation of the proposed wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region (Significant and Unavoidable).

Effect: The Wastewater Master Plan Update would accommodate growth that would cause direct and cumulatively considerable air quality impacts identified in the Modesto Urban Area General Plan (Significant and Unavoidable).

Effect: The wastewater treatment facilities would cause a cumulatively considerable net increase of pollutants for which the San Joaquin Valley is designated as nonattainment (Significant and Unavoidable).
b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages IV.G.16 through IV.G.28 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

Mitigation Measure G.1 in the MEIR shall be made a part of the proposed project to reduce the impacts of construction related PM_{10} and impacts of ozone precursors from construction equipment exhaust to the extent possible.

c. Project-Specific Effects

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

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

YES NO

- (1) The project does not incorporate the best management practices for air pollutant reduction established by the SJVUAPCD.
- (2) The project does not comply with the air quality policies of the Modesto Urban Area General Plan.
- (4) The project would expose sensitive receptors to substantial pollutant concentrations.
- (5) The project would create objectionable odors affecting a substantial number of people.

Discussion:

- (1) Best management practices for air pollutant reduction established by the SJVUAPCD will be incorporated into the construction of the project.
- (2) The project is rehabilitation of an existing lift station, and will not increase air pollutant emissions when in operation.
- (3) The project is rehabilitation of an existing lift station, and will not increase air pollutant emissions when in operation. The project site is in a commercial-industrial area not adjacent to sensitive receptors.
- (4) The project is rehabilitation of an existing lift station, and will not increase air pollutant emissions when in operation. The project site is in a commercial-industrial area not adjacent to substantial populations.
4. BIOLOGICAL RESOURCES

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.E of the MEIR.

The Master EIR identified the following significant environmental impacts relative to Biological Resources.

**Effect:** Construction of project facilities along the Tuolumne River adjacent to the Primary Plant, or in other riparian areas, could damage the habitat of the Valley Elderberry Longhorn Beetle (Less than Significant with Mitigation).

**Effect:** Construction of project facilities could cause loss of occupied Burrowing Owl habitat (Less than Significant with Mitigation).

**Effect:** Construction of project facilities could cause disturbance of nesting raptors (Less than Significant with Mitigation).

**Effect:** Construction of project facilities could cause impacts to biological resources and regulated habitats of Dry Creek (Beard Brook and of the Tuolumne River (Less than Significant with Mitigation).

**Effect:** Construction of project facilities or development facilitated by construction of project facilities could cause loss of Swainson’s Hawk foraging habitat (Less than Significant with Mitigation).

**Effect:** Construction during the Swainson’s Hawk breeding season could result in the accidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment (Less than Significant with Mitigation).

**Effect:** Construction of improvements to the Secondary Plant may cause impacts to regulated habitats (Less than Significant with Mitigation).

**Effect:** Microtunneling could cause impacts to riparian habitats under the jurisdiction of the California Department of Fish and Game and/or the U.S. Army Corps of Engineers (Less than Significant with Mitigation).

**Effect:** Growth facilitated by the project would result in cumulative loss of Swainson’s Hawk and Burrowing Owl habitat (Less than Significant with Mitigation).

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

Biological Resources mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages IV.E.25 through IV.E.37. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

**Discussion:**

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.
c. Project-Specific Effects

Section IV.E of the MEIR provides analysis of Biological Resources impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

YES  NO

1. The project is inconsistent with the Modesto Wastewater Master Plan. ☐ ☒
2. Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species. ☐ ☒
3. The project would conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. ☐ ☒

Discussion:

1. The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan.
2. The project is rehabilitation of an existing lift station, and will not have any new effects on wildlife. All work will be confined to an already-developed site.
3. The project is rehabilitation of an existing lift station. No local policies or ordinances will be affected.

5. CULTURAL RESOURCES

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.L (pp. IV.L.10-13) of the MEIR.

The Master EIR identified no significant environmental impacts relative to Cultural Resources.

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

No Cultural Resources mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V. Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.
c. Project-Specific Effects

Section IV.L (pp. IV.L.10-12) of the MEIR provides analysis of Cultural Resources impacts of development of the Wastewater Master Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

YES NO

1. The project is inconsistent with the Modesto Wastewater Master Plan.
2. The project would adversely affect a cultural (historical or archaeological) resource pursuant to § 15064.5.
3. The project would directly or indirectly destroy a unique paleontological resource or site, or disturb any human remains, including those interred outside of formal cemeteries.

Discussion:

1. The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan.
2. The project is rehabilitation of an existing lift station, and will not have any new effects on cultural resources.
3. The project is rehabilitation of an existing lift station, and will not have any new effects on paleontological resources or human remains.

6. GEOLOGY AND SOILS

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.L of the MEIR.

The Master EIR identified no significant environmental impacts relative to Geology and Soils.

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

No Geology and Soils mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.
c. Project-Specific Effects

Section IV.L (pp. IV.L.7-9) of the MEIR provides analysis of Cultural Resources impacts of development of the Wastewater Master Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

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

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

Discussion:
(1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan.
(2) The project is rehabilitation of an existing lift station, and will not have any new effects in relation to unstable soils.

7. HAZARDS AND HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.J and IV.K of the MEIR.

The Master EIR identified no significant environmental impacts relative to hazardous materials.

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

Hazard and Hazardous Materials mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages IV.K.11 through IV.K.15. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V. Mitigation Measures Applied to Project.

Discussion:
No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Section IV.J and IV.K of the MEIR provides analysis of hazardous materials and contaminated soils and Demolition impacts of development of the Master Plan, the following is an analysis of whether the
The proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

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

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Discussion:

1. The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan.
2. The project is rehabilitation of an existing lift station. No hazardous materials will be stored in conjunction with the facility.
3. The project is rehabilitation of an existing lift station, with no impact on contaminated sites.
4. The project is rehabilitation of an existing lift station. No hazardous materials or emissions will be associated with this facility. The site is not listed on the Envirostor database.
5. The project is rehabilitation of an existing lift station, with no impact on contaminated sites.

8. HYDROLOGY AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.D of the MEIR.

The Master EIR identified the following significant environmental impacts relative to Hydrology and Water Quality:

Effect: Excavation and construction activities could cause erosion and/or result in chemical releases causing degradation of water quality in nearby surface water and/or groundwater bodies (Less than Significant with Mitigation).

Effect: Elimination of the cross-connections between the stormwater drainage system and the wastewater collection system could result in localized flooding (Less than Significant with Mitigation).
Effect: Implementation of the proposed project at a rate that does not match projected growth may result in an incremental increase in operation-period surface water quality degradation due to the deficient effluent disposal system (Significant and Unavoidable).

Effect: Implementation of the proposed project may result in operation-period surface water degradation due to pollutant loading associated with treated wastewater discharges (Significant and Unavoidable).

Effect: Implementation of the proposed project may result in operation-period surface water degradation during daily operations and/or during flooding of the Primary Plant and sludge drying area (Significant).

Effect: The project would include construction activities within the San Joaquin River channel and on nearby levees and would include placement of a permanent structure in the San Joaquin River channel. These activities could affect river flow patterns and degrade water quality (Less than Significant with Mitigation).

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

Hydrology and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages IV.D.26 through IV.D.41 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V. Mitigation Applied to Project:

Discussion:

Mitigation Measure D.1 in the MEIR shall be made a part of the proposed project to reduce the impacts to surface water quality through the construction period.

c. Project-Specific Effects

Section IV.D of the MEIR provides analysis of Hydrology and Water Quality impacts of development of the Master Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

| (1) | The project is inconsistent with the Modesto Wastewater Master Plan. |
| (2) | The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act. |
| (3) | The project does not comply with Modesto’s Guidance Manual for New Development Storm water Quality Control Measures. |
| (4) | The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. |

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
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<td>✗</td>
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<tr>
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<tr>
<td>☒</td>
<td>✗</td>
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<tr>
<td>☒</td>
<td>✗</td>
</tr>
</tbody>
</table>
Discussion:

(1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan.

(2) Construction of the project will comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act as applicable.

(3) Construction of the project will comply with Modesto’s Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project is rehabilitation of an existing lift station. No additional runoff will be created.

9. LAND USE AND PLANNING (Land Use, Plans, and Policies)

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.A of the MEIR.

The Master EIR identified no significant environmental impacts relative to Land Use and Planning.

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

No Land Use and Planning mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V. Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

a. Project-Specific Effects

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

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

Discussion:

(1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan.

(2) The Project involves no amendment to any Plan.
(3) The project is rehabilitation of an existing lift station, and will not physically divide an established community.

10. **MINERAL RESOURCES**

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

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.1, (p. IV.1.8) of the MEIR.

The Master EIR identified no significant environmental impacts relative to Land Use and Planning.

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

No Mineral resources mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

**Discussion:**

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

a. **Project-Specific Effects**

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

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

(1) The project is inconsistent with the Modesto Wastewater Master Plan.

(2) The project would result in the loss of availability of a known mineral resource, either locally important or of regional/statewide significance.

**Discussion:**

(1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan.

(2) The project is rehabilitation of an existing lift station, and will have no effect on the availability of any mineral resource.
11. **NOISE**

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

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.H of the MEIR.

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

**Effect:** Construction of the proposed project facilities could cause substantial, though intermittent and short-term, increases in noise levels, which would add to noise levels predicted by the City’s General Plan MEIR and the County General Plan (Less than Significant with Mitigation).

**Effect:** The proposed project would support cumulative development that could increase noise levels in areas where noise levels exceed, or would exceed, the noise and land use compatibility guidelines adopted by the City of Modesto and/or Stanislaus County, or the noise performance standards set by the City and County (Significant and Unavoidable).

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

Noise mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages IV.11.9 through IV.11.13 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V. Mitigation Applied to Project.

**Discussion:**

No sensitive receptors are located in proximity to the project.

c. **Project-Specific Effects**

Section IV.H of the MEIR provides analysis of noise impacts of development of the Master Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance. □ ☒</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>The project will exceed the noise policies of the Modesto Urban Area General Plan. □ ☒</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? □ ☒</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. □ ☒</td>
<td></td>
</tr>
</tbody>
</table>
Discussion:

(1) The project is rehabilitation of an existing lift station. During the construction phase, construction activities will be subject to the provisions of the Modesto noise ordinance.

(2) The project is rehabilitation of an existing lift station. During the construction phase, construction activities will be subject to the provisions of the Modesto Urban Area General Plan.

(3) The project is rehabilitation of an existing lift station and will not result in any permanent increase in ambient noise levels.

(4) The project is rehabilitation of an existing lift station. During the construction phase, construction activities will be subject to the provisions of the Modesto noise ordinance and the project will not result in substantial temporary or periodic increase in ambient noise levels.

12. POPULATION AND HOUSING

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.I. (p. IV.I.13) of the MEIR.

The Master EIR identified no significant environmental impacts relative to population and Housing.

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

No Population and Housing mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V. Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

a. Project-Specific Effects

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

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

(1) The project is inconsistent with the Modesto Wastewater Master Plan and/or the Modesto Urban Area General Plan.

Discussion:

(1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan and serving the area of the Modesto Urban Area General Plan.
13. COMMUNITY SERVICES: PARKS, SCHOOLS, POLICE, AND FIRE

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.C and IV.L (p. IV.L.1-5) of the MEIR.

The Master EIR identified no significant environmental impacts relative to Community Services.

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

No Community Services mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

a. Project-Specific Effects

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

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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</thead>
<tbody>
<tr>
<td>☐</td>
<td>☒</td>
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</tbody>
</table>

1. The project is inconsistent with the Modesto Wastewater Master Plan and/or the Modesto Urban Area General Plan.

Discussion:

1. The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan and serving the area of the Modesto Urban Area General Plan.

14. TRANSPORTATION/TRAFFIC (Transportation)

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.F of the MEIR.

The Master EIR identified the following significant and unavoidable traffic impacts:

Effect: The Wastewater Master Plan Update would accommodate growth that would cause direct and cumulatively considerable traffic impacts identified in the Modesto Urban Area General Plan (Significant and Unavoidable).
b. **Master EIR and/or New Mitigation Measures Applied to the Project**

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages IV.F.12. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V. Mitigation Applied to Project.

**Discussion:**

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. **Project-Specific Effects**

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

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

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Wastewater Master Plan and/or the Modesto Urban Area General Plan.</td>
<td>☐ ☒</td>
</tr>
<tr>
<td>(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).</td>
<td>☐ ☒</td>
</tr>
<tr>
<td>(3) Result in inadequate emergency access.</td>
<td>☐ ☒</td>
</tr>
</tbody>
</table>

**Discussion:**

(1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan and serving the area of the Modesto Urban Area General Plan.

(2) The project is rehabilitation of an existing lift station, and will have no effect on traffic design.

(3) The project is rehabilitation of an existing lift station, and will have no effect on emergency access.

15. **UTILITIES AND SERVICES SYSTEMS: WATER SUPPLY, SANITARY SEWER, STORM DRAINAGE, SOLID WASTE, ENERGY**

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

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.L (p. IV.L.5, 9-10) of the MEIR.

The Master EIR identified no significant environmental impacts relative to Community Services.
b. Master EIR and/or New Mitigation Measures Applied to the Project

No Community Services mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V. Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

a. Project-Specific Effects

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

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

Discussion:

(1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan and serving the area of the Modesto Urban Area General Plan.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

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

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project’s effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study.

No new or additional mitigation measures are required for this project. The following measures from the Wastewater Master Plan Master EIR shall be applied to the project:

City of Modesto Finding of Conformance
Wastewater Master Plan Master EIR 22

Initial Study
EIR PW-2009-02
February 2009
Aesthetics/Visual Resources Measures:
None.

Agricultural Resources Measures:
None.

Air Quality Measures:
Wastewater Master Plan EIR Mitigation Measure G.1

Biological Resources Measures:
None.

Cultural Resources Measures:
None.

Geology and Soils Measures:
None.

Hazard and Hazardous Materials Measures:
None.

Hydrology and Water Quality Measures:
Wastewater Master Plan EIR Mitigation Measure D.1

Land Use and Planning Measures:
None.

Mineral Resources Measures:
None.

Noise Measures:
None.

Community Services Measures:
None.
Transportation/Traffic Measures:
None.

Utility and Service System Measures:
None.
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-180

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 CAPITAL IMPROVEMENT PROGRAM BUDGET, IN ORDER TO FULLY FUND THE 2009 SANITARY LIFT STATION REHABILITATION PROJECT

WHEREAS, certain budgetary transactions are necessary in the amount of $282,057, in order to provide funding necessary for construction, contingencies, and construction administration for the 2009 Sanitary Lift Station Rehabilitation project, and

WHEREAS, the Fiscal Year 2008-2009 Capital Improvement Program budget must be amended 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 the amendment of the Fiscal Year 2008-2009 Capital Improvement Program budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: 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
**Exhibit A**

**FUND:**

Wastewater Fund

**EXPENDITURES:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chemical Coating Program</td>
<td>6210-430-B154-6010</td>
<td>($100,000)</td>
</tr>
<tr>
<td>Chemical Coating Program</td>
<td>6210-430-B154-6040</td>
<td>($164,000)</td>
</tr>
<tr>
<td>Jefferson Lift Station</td>
<td>6210-480-B437-6050</td>
<td>($638)</td>
</tr>
<tr>
<td>Coffee Lift Station</td>
<td>6210-480-B446-6050</td>
<td>($14,092)</td>
</tr>
<tr>
<td>Coffee Lift Station</td>
<td>6210-480-B446-6060</td>
<td>($3,327)</td>
</tr>
<tr>
<td>Jefferson Lift Station</td>
<td>6210-480-B437-6010</td>
<td>$3,729</td>
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<tr>
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<td>$71,078</td>
</tr>
</tbody>
</table>
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-181

A RESOLUTION ACCEPTING THE CALIFORNIA GANG REDUCTION, INTERVENTION AND PREVENTION (CALGRIP) GRANT, FROM THE GOVERNOR’S OFFICE OF EMERGENCY SERVICES (OES) FOR $383,423 TO COMBAT GANG VIOLENCE; AND AUTHORIZING THE CITY MANAGER, OR HIS AUTHORIZED DESIGNEE, TO EXECUTE THE NECESSARY AWARD DOCUMENTS

WHEREAS, on October 20, 2008, the Governor’s Office of Emergency Services (OES) announced to all California cities that it was accepting Request for Proposals (RFP) for the California Gang Reduction, Intervention and Prevention (CalGRIP) program, and

WHEREAS, the purpose of the CalGRIP program is to assist selected cities with gang prevention, intervention, and suppression, and to promote re-entry, education, job training and skills development, and family and community services, and

WHEREAS, the City of Modesto Police Department submitted a proposal and on March 26, 2009, the City of Modesto was awarded $383,423 in CalGRIP funds, and

WHEREAS, in addition to funding received under the CalGRIP program, three California foundations have pooled $1,000,000 in order to provide technical assistance to five CalGRIP awarded cities, and

WHEREAS, the City of Modesto was one of five cities chosen to receive technical assistance, and

WHEREAS, the existing Gang Coordinator and Criminal Intelligence Analyst are making up the City of Modesto’s required match of $383,423 for this grant.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes acceptance of the California Gang Reduction, Intervention and
Prevention (CalGRIP) Grant, from the Governor's Office of Emergency Services (OES) for $383,423 to combat gang violence.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Marsh, 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: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-182

A RESOLUTION AMENDING THE CITY’S MULTI-YEAR AND SINGLE YEAR OPERATING BUDGET TO RECOGNIZE ANTICIPATED REVENUES AND EXPENSES RELATED TO THE CALIFORNIA GANG REDUCTION, INTERVENTION AND PREVENTION (CALGRIP) GRANT TO COMBAT GANG VIOLENCE

WHEREAS, on October 20, 2008, the Governor’s Office of Emergency Services (OES) announced to all California cities that it was accepting Request for Proposals (RFP) for the California Gang Reduction, Intervention and Prevention (CalGRIP) program, and

WHEREAS, the purpose of the CalGRIP program is to assist selected cities with gang prevention, intervention, and suppression, and to promote re-entry, education, job training and skills development, and family and community services, and

WHEREAS, the City of Modesto Police Department submitted a proposal and on March 26, 2009, the City of Modesto was awarded $383,423 in CalGRIP funds, and

WHEREAS, in addition to funding received under the CalGRIP program, three California foundations have pooled $1,000,000 in order to provide technical assistance to five CAGRIP awarded cities, and

WHEREAS, this additional assistance will promote the development of evidence-based strategies that reduce gang and youth gun violence through focused deterrence and employment, and

WHEREAS, the City of Modesto was one of five cities chosen to receive technical assistance, and

WHEREAS, the existing Gang Coordinator and Criminal Intelligence Analyst are making up the City of Modesto’s required match of $383,423 for this grant, and
WHEREAS, the grant’s two-year term will be from April 1, 2009 through March 31, 2011.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Multi-Year and Single Year Operating Budget is hereby amended as indicated in Attachment A1 and A2, which are 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 upon award of grant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Marsh, 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: 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
**Attachment A1: Budget Adjustment for FY 08/09**

**Fund 0410:**

### Expense:

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<th>Description</th>
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<tr>
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<td>112,608</td>
<td>Overtime</td>
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<td>Training/Conferences</td>
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<td>62,400</td>
<td>Consultant service</td>
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<td>0410-190-2911-0235</td>
<td>5,000</td>
<td>Grant Audit</td>
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<tr>
<td>0410-190-2911-0240</td>
<td>383,423</td>
<td>Intergov’tal Svs (InKind)</td>
</tr>
<tr>
<td>0410-190-2911-0255</td>
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<td>Indirect Admin Costs</td>
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<tr>
<td>0410-190-2911-5000</td>
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<td>Laptop, license, etc</td>
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### Revenue:

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<tr>
<td>State Grant</td>
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<table>
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<tr>
<td>0410-190-2911-3490</td>
<td>383,423</td>
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<tr>
<td>In Kind Revenue</td>
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Attachment A2: Budget Adjustment for FY 09/10

Budget Transfer:
To: 0100-700-1942-9041 63,011
From: 0410-700-2911-7010 63,011
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-183

A RESOLUTION RATIFYING THE MEMORANDUM OF AGREEMENT BETWEEN THE COUNTY OF STANISLAUS AND THE CITY OF MODESTO FOR THE RECOVERY ACT: EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FORMULA PROGRAM: LOCAL SOLICITATION AWARD AUTHORIZING A JOINT APPLICATION WITH THE COUNTY OF STANISLAUS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT APPLICATION UPON AWARD

WHEREAS, the allocation of Edward Byrne Memorial Justice Assistance Grants (JAG) is based on a formula of population and violent crime statistics, in combination with a minimum allocation to ensure that each state and territory receives an appropriate share of funding, and

WHEREAS, the JAG Program allows states, tribes and local governments to support a broad range of activities to prevent and control crime based on their own local needs and conditions, and

WHEREAS, the City of Modesto Police Department is eligible to apply for $669,436 and Stanislaus County is eligible to apply for $413,009, and

WHEREAS, the City of Modesto Police Department is a “disparate” allocation because the City is receiving one and one-half times (150 percent) more than a county with concurrent jurisdiction, and

WHEREAS, the Modesto Police Department and Stanislaus County are required to submit a joint application for the total eligible allocation of $1,082,445, and

WHEREAS, recommended distribution of the 2009 JAG funds is as follows:

<table>
<thead>
<tr>
<th></th>
<th>Amount</th>
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<tbody>
<tr>
<td>District Attorney</td>
<td>$170,309</td>
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<tr>
<td>Probation</td>
<td>$170,309</td>
</tr>
<tr>
<td>Sheriff</td>
<td>$60,000</td>
</tr>
<tr>
<td>Sheriff (Administrative Fee)</td>
<td>$32,474</td>
</tr>
</tbody>
</table>
Modesto Police Department $649,353

WHEREAS, the City of Modesto will use its allocation to fund three police officer positions for two years, which would otherwise be eliminated due to lack of funding, and the remaining funds will be utilized for technology upgrades, and

WHEREAS, there is no match required for this grant, and

WHEREAS, the awards are made in the first fiscal year of the appropriation and may be expended during the following three years for a total of four years, and

WHEREAS, Stanislaus County will be the fiscal agent for this grant, and

WHEREAS, the County will charge the City a three percent (3%) administrative fee in the amount of $20,083 to cover the reporting costs associated with the grant, and

WHEREAS, the administrative fee reduces the City’s total projected grant award to $649,353 ($669,436 less the 3% administrative fee of $20,083), and

WHEREAS, the grant requires that a trust fund be established for fund deposits, and funds from any award under this Recovery Act solicitation cannot be commingled with funds from any other source, and

WHEREAS, the Agreement states that the City agrees to provide the County a quarterly financial and programmatic report not later than five calendar days after the end of the quarter, and

WHEREAS, grant eligibility deadlines required the City Manager to sign the Agreement prior to the opportunity for formal Council action, which the City Manager did based on general direction provided to the City Manager by the City Council to fully pursue all available federal funding available under the Recovery Act, and
WHEREAS, by taking this action, the Council ratifies and formally approves the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby ratifying the Memorandum of Agreement between the County of Stanislaus and the City of Modesto for the Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) Formula Program: Local Solicitation Award authorizing a joint application with the County of Stanislaus.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the grant application upon award.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Marsh, 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: 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 APPROVING A FIVE-YEAR AGREEMENT BETWEEN VALLEYCREST AND THE CITY OF MODESTO TO PROVIDE GOLF COURSE MAINTENANCE SERVICES AT THE CITY’S THREE MUNICIPAL GOLF COURSES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City owns, operates and manages the Municipal Golf Course (“Municipal Course”), Dryden Park Municipal Golf Course (“Dryden Course”), and Creekside Municipal Golf Course (“Creekside Course”), and

WHEREAS, on December 11, 2003, the City Council, by Resolution No. 2003-647, approved a five-year Agreement between the City of Modesto and ValleyCrest to provide maintenance services at the City’s three golf courses, and

WHEREAS, this contract is due to expire on June 30, 2009, and the City of Modesto wishes to renew the contract which includes ValleyCrest increase funding for capital projects at the golf courses, and

WHEREAS, on June 3, 2008, by Resolution No. 2008-324, the City Council authorized City staff to enter into negotiations with ValleyCrest.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year agreement between ValleyCrest and the City of Modesto to provide golf course maintenance services at the City’s three municipal golf courses.

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 28th day of April, 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

(Seal)

APPROVED AS TO FORM:

By: STEPHANIE LOPEZ, City Clerk

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-185

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND FM GOLF, TO PROVIDE GOLF PROFESSIONAL SERVICES AT THE THREE MUNICIPAL GOLF COURSES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto owns, operates and manages the Municipal Golf Course (“Municipal Course”), Dryden Park Municipal Golf Course (“Dryden Course”), Dryden Park Municipal Golf Course Driving Range (“Dryden Range”), Creekside Municipal Golf Course (“Creekside Course”) and Creekside Municipal Golf Course Driving Range (“Creekside Range”), and

WHEREAS, on November 13, 2003, the City Council, by Resolution No. 2003-606, approved an agreement between the City of Modesto and FM Golf retaining FM Golf as golf course professional to provide golf professional services at Municipal Course, Dryden Course, Dryden Range, Creekside Course, and Creekside Range, and

WHEREAS, on November 13, 2003, the City Council, by Resolution No. 2003-606, retained FM Golf to provide food and beverage concession services at Municipal Course and Dryden Course Clubhouse, and

WHEREAS, on May 25, 2004, the City Council, by Resolution No. 2004-274, approved an amendment to the Agreement with FM Golf for FM Golf to provide food and beverage concession services at Creekside Municipal Golf Course, and

WHEREAS, on June 3, 2008, the City Council, by Resolution 2008-324, authorized staff to enter into negotiations with FM Golf and to exercise the City of Modesto’s right to offer contract extensions to FM Golf as of June 20, 2008, and

WHEREAS, at its March 23, 2009 meeting, the Finance Committee
recommended exercising the City’s extension option and entering into a five-year agreement with FM Golf.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves extending the Agreement with FM Golf to provide golf professional services at Municipal Course, Dryden Course, Dryden Range, Creekside Course, Creekside Range, and to provide concession services at Municipal Course, Dryden Course Clubhouse, and Creekside Clubhouse for a five-year period commencing on July 1, 2009, and terminating on June 30, 2014, with the option to extend the Agreement for two additional five-year periods.

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 28th day of April, 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’Brien, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: SUSANÁ ALCALÁ WOOD, City Attorney
A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN AND FILE, FOR AND ON BEHALF OF THE CITY OF MODESTO, A FINANCIAL ASSISTANCE APPLICATION, TO CERTIFY THAT THE CITY OF MODESTO HAS AND WILL COMPLY WITH ALL APPLICABLE STATE AND FEDERAL STATUTORY AND REGULATORY REQUIREMENTS, AND TO NEGOTIATE AND EXECUTE A FINANCIAL ASSISTANCE AGREEMENT FROM THE STATE WATER RESOURCES CONTROL BOARD, AND ANY AMENDMENTS OR CHANGE ORDERS THERETO, AND CERTIFY FINANCING AGREEMENT DISBURSEMENTS ON BEHALF OF THE CITY OF MODESTO

WHEREAS, the City of Modesto has the authority to construct, operate, and maintain the City of Modesto Wastewater Collection and Treatment System, and

WHEREAS, the City of Modesto desires to address water quality problems and to prevent pollution of the waters of the State.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes and directs the City Manager, or his designee, to sign and file, for and on behalf of the City of Modesto, a Financial Assistance Application for a financing agreement from the State Water Resources Control Board for the planning, design, and construction of the wastewater infrastructure projects.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it agrees and authorizes the City Manager, or his designee, to certify that the City of Modesto has and will comply with all applicable state and federal statutory and regulatory requirements related to any financing or financial assistance received from the State Water Resources Control Board.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to negotiate and execute a financial assistance agreement from the State Water Resources Control Board.
Resources Control Board and any amendments or change orders thereto, and certify financing agreement disbursements on behalf of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 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:  

(SIGNATURE)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-187

A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION TO
THE STATE OF CALIFORNIA DEPARTMENT OF PUBLIC HEALTH FOR
FUNDING, AND AUTHORIZING AND DIRECTING THE CITY MANAGER,
OR HIS DESIGNEE, TO CAUSE THE NECESSARY DATA TO BE PREPARED,
AND APPLICATION TO BE SIGNED AND FILED WITH THE STATE OF
CALIFORNIA DEPARTMENT OF PUBLIC HEALTH

WHEREAS, the City of Modesto has the authority to construct, operate, and
maintain the City of Modesto Water System, and

WHEREAS, the City of Modesto desires to enhance the provision and protection
of the drinking water supplied to the consumers of the City of Modesto Water System.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that, pursuant and subject to all of the terms and provisions of the American Recovery
and Reinvestment Act (ARRA) and amendments thereto, it hereby authorized submittal
of an application to the State of California Department of Public Health for funding.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby
authorized and directed to cause the necessary data to be prepared and application to be
signed and filed with the State of California Department of Public Health.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 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

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
MOGDESTO CITY COUNCIL
RESOLUTION NO. 2009-188

RESOLUTION APPROVING A PURCHASE AGREEMENT WITH BEARD LAND IMPROVEMENT COMPANY, FOR A 5.3-ACRE PARCEL LOCATED BETWEEN 415 AND 555 CODONI AVENUE (APN 009-018-054), IN THE AMOUNT OF $1,619,000 FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS, TIER 2-INDUSTRIAL TANK PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the City Council of the City of Modesto previously resolved to proceed with the expansion of the City’s water distribution system, and

WHEREAS, as part of the expansion, aboveground water storage tanks must be constructed to support increased water flow, and

WHEREAS, a 4-million gallon water storage tank is required to be located in the South Modesto / Industrial area, and

WHEREAS, staff identified a 5.3-acre parcel of land (subject property) owned by Beard Land Improvement Company (APN 009-018-054) located between 415 and 555 Codoni Avenue, and

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with Beard Land Improvement Company to purchase the subject property for the Downstream Water System Improvements, Tier 2-Industrial Tank Project, and

WHEREAS, the subject property needs to be acquired for this water tank project, and

WHEREAS, an Agreement is needed for the acquisition of the subject property, and
WHEREAS, a Phase I environmental review has been completed on the subject property which indicates no known contamination, and

WHEREAS, the City Council, on July 12, 2005, by Resolution No. 2005-378, certified the Subsequent Environmental Impact Report (“SEIR”) (SCH No. 2004022013), and

WHEREAS, it has been determined that, pursuant to Sections 15168 (c) and 15182 of the California Environmental Quality Act Guidelines (“CEQA”), this project is within the scope of the SEIR for the Modesto Regional Water Treatment Plant Phase Two Expansion and the City of Modesto Downstream Water System Improvements, and

WHEREAS, the property has been appraised and an offer to acquire the property rights at fair market value has been accepted by Beard Land Improvement Company.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Purchase Agreement for the acquisition of 5.3 acres of the subject property located between 415 and 555 Codoni Avenue, owned by Beard Land Improvement Company (APN 009-018-054), to be purchased by the City of Modesto for the Downstream Water System Improvements, Tier 2–Industrial Tank Project in the amount of $1,619,000.

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 28th day of April, 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

(SEEAL)

APPROVED AS TO FORM:

By: ____________________________
SUSANA ALCALA WOOD, City Attorney

ATTEST: ____________________________
STEPHANIE LOPEZ, City Clerk

2009-188
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-189

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN AN ACCEPTANCE FORM FOR THE GRANT DEED FOR THE ACQUISITION OF THE PROPERTY LOCATED BETWEEN 415 AND 555 CODONI AVENUE, OWNED BY BEARD LAND IMPROVEMENT COMPANY (APN: 009-018-054) FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS, TIER 2-INDUSTRIAL TANK 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 5.3-acre parcel of land located between 415 and 555 Codoni Avenue, owned by Beard Land Improvement Company (APN 009-018-054), to be purchased by the City of Modesto for the Downstream Water System Improvements, Tier 2-Industrial Tank 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 sign an acceptance form on behalf of the City of Modesto for one (1) Grant Deed for the acquisition of a property located between 415 and 555 Codoni Avenue, owned by Beard Land Improvement Company (APN 009-018-054), to be purchased by the City of Modesto for the Downstream Water System Improvements, Tier 2-Industrial Tank Project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 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: [Signature]

(Approve as to form)

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE PURCHASE AGREEMENT FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS, TIER 2-INDUSTRIAL TANK PROJECT, INCLUDING THE PRELIMINARY COST ESTIMATE FOR CLOSING COSTS

WHEREAS, certain budgetary transactions are necessary in the amount of $129,052, in order to fully fund the Purchase Agreement with Beard Land Improvement Company, for a 5.3-acre parcel located between 415 and 555 Codoni Avenue (APN 009-018-054) for the Downstream Water System Improvements, Tier 2-Industrial Tank Project, including preliminary cost estimate for closing costs, and

WHEREAS, the Fiscal Year 2008-2009 Capital Improvement Program budget must be amended 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 the amendment of the Fiscal Year 2008-2009 Capital Improvement Program budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April 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'Bryan, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: ________________
SUSANA ALCALA WOOD, City Attorney
Exhibit A

FUND:
Water Fund - CIP

EXPENDITURES:  
Increase/(Decrease)

Downstream Improvements Industrial Tank/Pipelines 6180-430-W003-6010 ($129,052)

Downstream Improvements Industrial Tank/Pipelines 6180-430-W003-6030 $129,052