MODESTO CITY COUNCIL
RESOLUTION NO. 2009-116

A RESOLUTION APPOINTING DONALD BORGWARDT TO THE HOUSING REHABILITATION LOAN COMMITTEE AS THE REPRESENTATIVE OF THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS

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

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

SECTION 1. DONALD BORGWARDT is hereby appointed to the Housing Rehabilitation Loan Committee, as the representative of the Housing Authority of the County of Stanislaus, with term expiration of January 1, 2013.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 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: SUSANA V. ALCAIJA, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk

03/21/2009 CM01 Pucket Item 3 1 2009-116
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-117

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF HYDROCHLORIC ACID FOR THE PUBLIC WORKS DEPARTMENT, TO BASIC CHEMICAL SOLUTIONS, LLC, SANTA FE SPRINGS, CA, FOR AN ESTIMATED ANNUAL COST NOT TO EXCEED $60,000, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE AGREEMENT FOR A PERIOD OF TWO YEARS, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED TOTAL COST OVER FIVE (5) YEARS OF $300,000

WHEREAS, on September 23, 2008, the City Council, by Resolution No. 2008-555, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of hydrochloric acid for Public Works Department, and

WHEREAS, on December 19, 2008, the Purchasing Division issued Request for Bid No. 0809-10 for the purchase of hydrochloric acid to nine (9) prospective bidders, posted the bid on the City’s web site and formally advertised as required by law, 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 hydrochloric acid for the Public Works Department conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available for fiscal year 08/09 in account 6210-480-5214-0312 for the purchase of hydrochloric acid.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of hydrochloric acid for the Public Works Department, to Basic Chemical Solutions, L.L.C, Santa Fe Springs, CA, for an estimated annual cost not to exceed $60,000.
BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue an annual purchase agreement for a period of two (2) years, with three (3) one-year extension options, at the sole discretion of the City, for an estimated total cost over five years of $300,000.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF A 4,000 GALLON WATER TRUCK FOR THE PUBLIC WORKS, FLEET SERVICES DIVISION TO DELTA TRUCK CENTER, MODESTO, CA AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL COST OF $108,348

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 4,000 gallon water truck 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. 0809-11 for the purchase of a 4,000 gallon water truck to twenty-eight (28) 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 a 4,000 gallon water truck for the Public Works Department, Fleet Services Division to Delta Truck Center, Modesto, CA and authorizing the Purchasing Manager to issue a purchase agreement for a total cost of $108,348, 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 a 4,000 gallon water truck for the Public Works Department, Fleet Services Division to Delta Truck Center, Modesto, CA. conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted in fiscal year 08/09 in the Fleet Equipment Replacement Fund (account 7210-480-5814-5852) for $108,348.

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 a 4,000 gallon water truck for the Public Works Department, Fleet Services Division to Delta Truck Center, Modesto, 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 $108,348.

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

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, 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 AMENDING THE FISCAL YEAR 2008-09 OPERATING BUDGET TO REDUCE EXPENDITURES IN ORGANIZATION 5220 (STORM DRAIN FUND 6280) BY $473,592, TO INCREASE EXPENDITURES IN ORGANIZATION 4444 (AB 939 GREEN WASTE DIVERSION FUND 0370) BY $473,592 AND RESERVES BY $89,908, AND TO ESTIMATE $563,500 IN ADDITIONAL REVENUE TO FUND 0370, AS MORE FULLY DESCRIBED ON EXHIBIT “1”

WHEREAS, on November 25, 2008, by Resolution No. 2008-650, the City Council approved the creation of an AB 939 Green Waste Diversion Fund (Fund 0370) and related fees for wastes from residential containers, commercial bins, and drop boxes, and

WHEREAS, the approved monthly fees are: $1.33 per month for wastes collected from residential containers; $2.36 per yard for wastes from commercial bins; and $8.40 per ton for wastes collected from drop boxes, and

WHEREAS, in order to fully implement the City Council-approved creation of an AB 939 Green Waste Diversion Fund and the move of pruned refuse activities from the Storm Drain Fund to this new fund, the budget needs to be adjusted to move the expenditures, as more fully described on Exhibit “1” attached hereto and incorporated herein by reference, and

WHEREAS, the increased revenue from approved AB 939 Green Waste Diversion Fees to be charged on a per ton basis on wastes collected from residential containers, commercial bins and drop boxes needs to be formally estimated, and

WHEREAS, for the remainder of FY 08-09, staff is estimating that the new revenue will be $370,000 from wastes collected from residential containers, $113,000 on wastes collected from commercial bins, and $80,000 on wastes collected from drop
boxes, as more fully described on Exhibit “1” attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2008-09 operating budget to reduce expenditures in Organization 5220 (Storm Drain Fund 6280) by $473,592, to increase expenditures in Organization 4444 (AB 939 Green Waste Diversion Fund 0370) by $473,592, and reserves by $89,908 and to estimate $563,500 in additional revenue to Fund 0370, and, as more fully described on Exhibit “1” attached hereto and incorporated herein by reference.

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

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)                          ATTEST: STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
Exhibit 1

Fund Name:
Storm Drainage Fund

Expense Account Adjustments

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<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Increase/Decrease</th>
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<tr>
<td>6280-480-5220-0184</td>
<td>Salary Adjustment-Decrease</td>
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<tr>
<td>6280-480-5220-0226</td>
<td>Laundry and Cleaning</td>
<td>($500)</td>
</tr>
<tr>
<td>6280-480-5220-0235</td>
<td>Services-Professional and Other</td>
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<tr>
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<td>Operations Tech and Info Chgs</td>
<td>($404)</td>
</tr>
<tr>
<td>6280-480-5220-0255</td>
<td>Services City Forces-Interfund</td>
<td>($52,596)</td>
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<tr>
<td>6280-480-5220-0256</td>
<td>Phones Tech and Info Chgs</td>
<td>($490)</td>
</tr>
<tr>
<td>6280-480-5220-0259</td>
<td>Services City Forces-Intrafund</td>
<td>($16,236)</td>
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<tr>
<td>6280-480-5220-0269</td>
<td>Employment Agencies-Temp</td>
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</tr>
<tr>
<td>6280-480-5220-0301</td>
<td>Office Supplies</td>
<td>($500)</td>
</tr>
<tr>
<td>6280-480-5220-0308</td>
<td>Tools, Shop and Field Supplies</td>
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<td>6280-480-5220-0415</td>
<td>Liability Insurance</td>
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Fund Name:
Green Waste Diversion AB939 Fund

Revenue Account Adjustments

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<td>0370-355-4444-4113</td>
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Expense Account Adjustments

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
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<td>0370-355-4444-0415</td>
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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-120

A RESOLUTION APPROVING AN EXTENSION OF COOPERATIVE WORK AGREEMENT NO. 10-177 WITH THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE EXTENSION TO THE COOPERATIVE AGREEMENT

WHEREAS, on March 13, 2001, the City Council, by Resolution No. 2001-115, authorized the City Manager to submit an application and negotiate an agreement with the State of California Department of Transportation (Caltrans) for the use of Transportation Enhancement Activities (TEA) funds for landscape enhancement within and near the Briggsmore/State Route 99 Interchange, and

WHEREAS, in the Fall of 2002, the City was notified that non-local funding in the amount of $1,300,000 was identified for this project, and

WHEREAS, on September 2, 2003, the City Council, by Resolution No. 2003-470, authorized the City Manager to execute two Cooperative Agreements with Caltrans, and

WHEREAS, Cooperative Agreement No. 10-177 has expired as of July 30, 2008, and Caltrans has agreed to an extension through February 29, 2012, in order to complete the project and reimburse the City through the authorized TEA funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an extension of Cooperative Agreement #10-177 with the State of California Department of Transportation to provide for landscape enhancement within and near the Briggsmore/State Route 99 Interchange.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: 

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

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

WHEREAS, Section 12(2) of the City’s Service Agreements with its solid waste collectors requires that when the City makes adjustments to the collection services provided under the Agreements, any additional costs should be covered by adjustments to the maximum rates, and

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

WHEREAS, the City conducted an analysis using the audited financial statements provided by the garbage haulers, supplemental data provided by the garbage haulers, and fuel price information and forecast prices developed by the United States Department of Energy, and
WHEREAS, new maximum rates were calculated, and a recommendation for a new maximum rate schedule was developed, which included a recommendation that quarterly adjustments to the fuel component of the maximum rates be made, and

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

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on March 24, 2009, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, at which date and time a duly noticed public hearing was held at said time and place, at which time evidence, both oral and documentary, was received and considered, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Maximum Charges for Garbage Service as attached hereto, marked Exhibit “1” and incorporated herein by reference. Said Maximum Charges for Garbage Service includes twice-a-year bulky item pickup for residential customers and
all other residential services as stipulated in the Service Agreements and shall become effective April 1, 2009, and shall remain in effect until revised by Council.

BE IT FURTHER RESOLVED that any person who has prepaid garbage service charges for residential garbage service shall be entitled to receive garbage service for the balance of said prepaid period at the prepaid rates.

BE IT FURTHER RESOLVED that Resolution No. 2008-650 is hereby rescinded effective April 1, 2009.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SIGNATURE)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MAXIMUM CHARGES FOR GARBAGE SERVICE

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

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

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

1. **Standard container service** –
   a. The maximum rate for new sign ups for service or changes in service that occur after July 1, 1996, shall be **$23.27 per month** regardless of size of container. A fuel component of $0.92 per month is included in the maximum rate for the quarter beginning October 1, 2008 and ending December 31, 2008. The fuel component may be adjusted quarterly.
   b. The maximum rate for each additional garbage container shall be **$17.34 per month**, and **$9.50 per month** for each additional green waste container.

2. **60-gallon container service (grandfathered customers)** –
   a. The maximum rate for customers with 60-gallon containers who subscribed to service at an address prior to July 1, 1996 and who have not changed their service address shall be **$19.49 per month**. A fuel component of $0.92 per month is included in the maximum rate for the quarter beginning October 1, 2008 and ending December 31, 2008. The fuel component may be adjusted quarterly.
   b. The maximum rate for each additional 60-gallon garbage container shall be **$16.89 per month**.

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

<table>
<thead>
<tr>
<th>Container Size</th>
<th>NUMBER OF COLLECTIONS PER WEEK</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td>1 CY</td>
<td>$39.27</td>
</tr>
<tr>
<td>2 CY</td>
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<td>5 CY</td>
<td>$122.49</td>
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<tr>
<td>6 CY</td>
<td>$144.89</td>
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FORK Participants Container Maximum Rates

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<th>Container Size</th>
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<td>$91.87</td>
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<tr>
<td>6 CY</td>
<td>$108.67</td>
</tr>
<tr>
<td>90-gallon</td>
<td>$17.87</td>
</tr>
</tbody>
</table>

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

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

2. **Fuel Component** - A fuel component of $0.80 per cubic yard per month ($0.185 per cubic yard) for a 1 cubic yard container collected once a week is included in the maximum rate for the quarter beginning October 1, 2008 and ending December 31, 2008. The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy.

**DROP BOX CONTAINERS**

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

Front Loader Type:

<table>
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<tr>
<th>Container Size</th>
<th>NUMBER OF COLLECTIONS PER WEEK</th>
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</thead>
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<td>5 CY</td>
<td></td>
</tr>
<tr>
<td>6 CY</td>
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</tbody>
</table>

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

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

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

DETACHABLE CONTAINER ONLY
REPLACEMENT AND CLEANING SERVICE

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<th>Size</th>
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<td>$20.24</td>
<td>$25.08</td>
<td>$29.92</td>
</tr>
</tbody>
</table>

NOTATIONS
1. The above maximum rates include a $0.25 per month residential recycling fee; a $0.05 per cubic yard ($0.22/cubic yard/month) commercial recycling fee; and a $5.00 per pull ($0.25 per ton) industrial recycling fee.
2. The above residential maximum rates include a $1.33 per month per household AB 939 Green Waste Diversion Fee.
3. The above commercial bin and front-loader compactor maximum rates include an AB 939 Green Waste Diversion Fee of $2.36 per yard/month.
4. Pursuant to Section 11-6.15(c)(2) of the Modesto Municipal Code, the garbage company may require a deposit equivalent to two (2) months service charge from customers prior to beginning service. The deposit will be credited back to the customer after 18 months under specified conditions.
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-122

A RESOLUTION AMENDING THE CLASS RANGE TABLE FOR
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN
CLASSES TO CORRECT THE SALARY RANGE FOR WATER QUALITY
CONTROL OPERATIONS SUPERVISOR FROM SALARY RANGE 436 TO
SALARY RANGE 440

WHEREAS, the on December 9, 2008 the City amended Exhibit “A” of
Resolution No. 2008-504, which approved the Class Range Table for Represented
Management and Confidential Non-Sworn Classes, and

WHEREAS, the salary range for Water Quality Control Operations Supervisor
was incorrectly stated.

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2008-504 Exhibit "A"
entitled, "City of Modesto Class Range Table Represented Management and Confidential
Non-Sworn Classes Effective January 6, 2009." attached to Resolution No. 2008-504, is
hereby amended as shown on the amended Exhibit “A” entitled “City of Modesto Class
Range Table Represented Management and Confidential Non-Sworn Classes Effective
March 24, 2009.” which is attached hereto and made a part hereof as though set forth in
full herein. Said amended Exhibit “A” amends the Class Range Table for Water Quality
Control Operations Supervisor to change the salary range from 436 to salary range 440.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on
and after March 24, 2009.
The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
<table>
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<tr>
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<tbody>
<tr>
<td>407</td>
<td>Administrative Office Assistant II (Confidential)</td>
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<tr>
<td>411</td>
<td>Administrative Office Assistant III (Confidential)</td>
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<tr>
<td>412</td>
<td>Police Clerk II (Confidential)</td>
</tr>
<tr>
<td>414</td>
<td>Legal Secretary I</td>
</tr>
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</table>
| 415   | Administrative Services Technician I (Confidential)  
|       | Senior Administrative Office Assistant (Confidential) |
| 418   | Legal Secretary II  
|       | Systems Technician I |
| 419   | Administrative Services Technician II (Confidential)  
|       | Workers’ Compensation Claims Assistant |
| 420   | Deputy City Clerk  
|       | Employee Benefits Coordinator  
|       | Executive Assistant  
|       | Senior Legal Secretary |
| 422   | Office Supervisor  
|       | Systems Technician II  
|       | Workers’ Compensation Claims Examiner I |
| 423   | Custodian Supervisor  
|       | Parking Services Supervisor |
| 424   | Buyer |
| 425   | Police Facilities Coordinator  
|       | Public Information Analyst |
| 426   | Assistant Planner  
|       | Central Stores Supervisor  
|       | Senior Systems Technician |
| 427   | Administrative Analyst I  
<p>|       | Exhibit “A” |</p>
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<tr>
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<td>Police Civilian Supervisor</td>
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<td>Technology Solutions Analyst I</td>
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<td>430</td>
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<td>432</td>
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<td>Parks Project Coordinator</td>
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<td>433</td>
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<td>Systems Engineer II</td>
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<tr>
<td>435</td>
<td>Assistant Transportation Planner</td>
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<td>Rate and Fee Analyst</td>
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<td>Weed and Seed Program Coordinator</td>
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Exhibit “A”
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-123

A RESOLUTION APPROVING A SOLE SOURCE PURCHASE TO LC ACTION POLICE SUPPLY, SAN JOSE, CALIFORNIA, FOR FIREARMS UPGRADE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE PURCHASE; AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR THE FIREARMS, FOR AN ESTIMATED TOTAL COST OF $47,285

WHEREAS, on August 12, 2008, the City Council, by Resolution No. 2008-470, amended the previous Council firearms policy to allow for the sale of firearms only after City Council approval, and

WHEREAS, any sales agreement would include a condition that all firearms be sold in a single transaction as a component of a new firearm purchase/trade-in transaction, and

WHEREAS, on September 23, 2008, the City Council, by Resolution No. 2008-546, accepted the Edward Byrne Memorial Justice Assistance Grant with the U.S. Department of Justice, in the amount of $47,285, for firearms upgrade, and

WHEREAS, the Police Department’s current Sig Sauer firearms are over 12 years old, do not accommodate state-of-the-art police tools and technology, and are worn and require ongoing maintenance to keep them serviceable, and

WHEREAS, LC Action Police Supply is designated by Glock Firearms as the West Coast Distributor and was the vendor selected to facilitate the transaction, and

WHEREAS, on March 2, 2009, the Safety & Communities Committee recommended forwarding this item to the full Council for approval.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves award of a sole source purchase to I.C Action Police Supply, San Jose, California, for firearms upgrade.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 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: 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. 2009-124

A RESOLUTION APPROVING AN AGREEMENT FOR THE PURCHASE OF RETIRED CITY OF MODESTO POLICE CANINE, LEEDA, BY HER HANDLER, OFFICER PERINE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement for the purchase of retired City of Modesto Police canine, Leeda, by her handler, Officer Perine, as more fully set forth in the Modesto Police Department Canine Transfer Contract attached hereto as Exhibit “A” and incorporated herein by this reference.

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

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, 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 POLICE DEPARTMENT CANINE TRANSFER CONTRACT

This AGREEMENT made and entered into in the City of Modesto, State of California, this ____ day of ________, 200_, by and between the City of Modesto, a municipal corporation of the State of California, hereinafter referred to as “CITY”, and David Perine, canine handler for the Modesto Police Department, hereinafter referred to as “HANDLER”.

Facts:

Canine “Leeda” has been with the Modesto Police Department since February of 2002. “Leeda” has served the city for five 1/2 years. “Leeda” was born in September of 2001 and will be 8 years old in September of 2009. “Leeda” has had a long and distinguished career as a police narcotic dog. “Leeda” has reached an age where her health has begun to decline and she is slowing down. Her ability to continue to do police work at an acceptable level is no longer there and it is my recommendation she be retired from service.

This AGREEMENT is made with regard to the following recitals:

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

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

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

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

1. **HANDLER** does agree to assume ownership of the Modesto police canine named “Leeda”, and to assume any and all risks, including, but not limited to, risk of injury or death to third persons, and to hold CITY, its police department, and its employees and/or agents or volunteers harmless from any and all liability, claims, administrative proceedings or other responsibility whatsoever arising from any injuries or damages that may occur on or after the date ownership of the dog is transferred pursuant to this AGREEMENT. That date is hereby fixed by agreement by and among the parties hereto as being ____________, 2009.

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

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

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

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has caused this Agreement to be executed in duplicate by its City Manager and attested by its City Clerk under authority of Resolution No. 09-____ adopted by the City Council of the City of Modesto on the ? day of ? 2009.

NEW OWNER

________________________________________
David Perine, Handler

CITY OF MODESTO

________________________________________
Greg Nyhoff, City Manager

ATTEST:

By _______________________________________
Stephanie Lopez, City Clerk

APPROVED AS TO FORM:

By _______________________________________
Susana A. Wood, City Attorney
RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF A PAVEMENT CRACK SEALER FOR THE PUBLIC WORKS DEPARTMENT, STREET MAINTENANCE DIVISION

WHEREAS, for several years, streets maintenance crews have been focusing on major street repairs where preventative maintenance is no longer a reasonable approach, and

WHEREAS, with the decline of available funds for major street repairs, staff will now be focusing more on activities that will extend the life of the road surfaces, and

WHEREAS, purchase of a pavement crack sealer will allow staff to address both short and long-term preventive maintenance needs and seal cracks in the surfaces of the most at-risk roads, and

WHEREAS, this procedure will slow the intrusion of water through the pavement and the subsequent erosion of the road base, and

WHEREAS, funds are budgeted in an amount not to exceed $58,000 in Account 0700-160-E004-6070 for the purchase of said pavement crack sealer, 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,

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

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the purchase of pavement crack sealer for the Public Works Department, Street
Maintenance Division, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed bids are opened, they shall be tabulated and analyzed by the Purchasing Division and the Purchasing Manager shall present a request for award to Council.

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

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

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: 

APPROVED AS TO FORM:

By: 

SUSANNA CALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-126

A RESOLUTION ACCEPTING THE WORK BY ROSS CARROLL, INC. FOR THE PROJECT TITLED “SNYDER AVENUE IMPROVEMENTS BETWEEN PRESCOTT ROAD AND CARVER ROAD” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $630,836.95

WHEREAS, a report has been filed by the Public Works Director that the project titled “Snyder Avenue Improvements between Prescott Road and Carver Road” has been completed by Ross Carroll, Inc. in accordance with the contract agreement dated May 13, 2008.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “Snyder Avenue Improvements between Prescott Road and Carver Road” is hereby accepted as complete from said contractor Ross Carroll, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory periods, and that payment of amounts totaling $630,836.95 is authorized as provided in the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING AN AGREEMENT CONSENTING TO COMMON USE BETWEEN THE MODESTO IRRIGATION DISTRICT AND THE CITY OF MODESTO REGARDING THE CONSTRUCTION OF A 230,000 VOLT TRANSMISSION LINE BY THE MODESTO IRRIGATION DISTRICT FOR THE ROSEMORE SUBSTATION TO USE CERTAIN REAL PROPERTY LOCATED WITHIN APN: 007-037-010 AND 007-037-012, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Modesto Irrigation District (MID) constructed a 230,000 volt transmission line for the purpose of improving its Rosemore Substation above-ground facility, and

WHEREAS, the City of Modesto is the holder of a 25 foot wide permanent sewer easement recorded on March 7, 1980, in Book 3296 of Official Records at Page 805, and

WHEREAS, MID required approximately 2,018 square feet within Assessor’s Parcel Number (APN): 007-037-010 and 007-037-012 of the City’s sewer easement, and

WHEREAS, the Agreement Consenting to Common Use allows MID use of the City’s easement for the transmission line at no cost.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement Consenting to Common Use between the Modesto Irrigation District and the City of Modesto for the 230,000 volt transmission line constructed by the Modesto Irrigation District for the Rosemore Substation to use certain real property located within APN: 007-037-010 and 007-037-012.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING A PURCHASE AGREEMENT WITH KAREN R. HABERBUSH, TRUSTEE OF THE PASO-HABERBUSH REVOCABLE FAMILY TRUST DATED AUGUST 31, 2007, FOR A 0.326-ACRE PARCEL LOCATED AT 1850 ROUSE AVENUE (APN 037-053-040), IN THE AMOUNT OF $65,000 FOR THE EMERALD TRUNK LINE REHABILITATION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the Emerald Trunk Line Rehabilitation Project is identified in the City’s 2007 Wastewater Master Plan as a high priority collection system capital improvement project, and

WHEREAS, project construction will require a permanent sewer easement along its alignment, and

WHEREAS, the new alignment is preferred because the existing line is located in the back yards of existing homes and replacing the line in this area would be very disruptive to the residents, and

WHEREAS, the property is a residential parcel located at 1850 Rouse Avenue (APN 037-053-040), without any existing buildings, and

WHEREAS, the City Council directed staff to proceed with acquiring property to facilitate the rehabilitation of the Emerald Trunk Line, and

WHEREAS, the property has been appraised and an offer to acquire the property rights at fair market value has been accepted by Karen R. Haberbush, Trustee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement for the acquisition of a 0.326-acre parcel located at 1850 Rouse Avenue, owned by Karen R. Haberbush, Trustee of the Paso-
Habershush Revocable Family Trust Dated August 31, 2007 (APN: 037-053-040), to be purchased by the City of Modesto for the Emerald Trunk Line Rehabilitation Project in the amount of $65,000.

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 24th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN AN ACCEPTANCE FORM FOR THE GRANT DEED FOR THE ACQUISITION OF A PROPERTY LOCATED AT 1850 ROUSE AVENUE, OWNED BY KAREN R. HABERBUSH, TRUSTEE OF THE PASO-HABERBUSH REVOCABLE FAMILY TRUST DATED AUGUST 31, 2007, (APN 037-053-040) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE EMERALD TRUNK LINE REHABILITATION 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 0.326-acre parcel located at 1850 Rouse Avenue, owned by Karen R. Haberbush, Trustee of the Paso-Haberbush Revocable Family Trust Dated August 31, 2007, (APN: 037-053-040) to be purchased by the City of Modesto for the Emerald Trunk Line Rehabilitation 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 at 1850 Rouse Avenue, owned by Karen R. Haberbush, Trustee of the Paso-Haberbush Revocable Family Trust Dated August 31, 2007, (APN 037-053-040) to be purchased by the City of Modesto for the Emerald Trunk Line Rehabilitation Project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-130

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE PURCHASE AGREEMENT FOR THE EMERALD TRUNK LINE REHABILITATION PROJECT, INCLUDING THE PRELIMINARY COST ESTIMATE FOR CLOSING COSTS

WHEREAS, certain budgetary transactions are necessary in the amount of $66,000, in order to fully fund the Purchase Agreement with Karen R. Haberbush, Trustee of the Paso-Haberbush Revocable Family Trust Dated August 31, 2007, for a 0.326-acre parcel located at 1850 Rouse Avenue (APN 037-053-040) for the Emerald Trunk Line Rehabilitation 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 24th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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: Increase/(Decrease)

Emerald Trunk Rehabilitation 6210-480-B808-6050 ($66,000)

Emerald Trunk Rehabilitation 6210-480-B808-6030 $66,000
RESOLUTION APPROVING THE SUBMITTAL OF A FEDERAL AIRPORT IMPROVEMENT PROGRAM (AIP) GRANT APPLICATION FOR $1,286,251 TO THE FEDERAL AVIATION ADMINISTRATION (FAA)

WHEREAS, Modesto City-County Airport is a commercial service report that is a part of the federal airport system and eligible for federal funding, and

WHEREAS, as airport sponsor, the City is eligible each year for entitlement and discretionary funds from the Airport Improvement Program (AIP), and

WHEREAS, the Federal Aviation Administration (FAA) requests that the City submit a new funding application annually for Modesto City-County Airport capital funding, along with a revised Airport Capital Improvement Plan (ACIP), and

WHEREAS, the local 5% match required for these grants will be paid from Passenger Facility Charges (PFCs) collected by the airlines from enplaning passengers, or from Airport Reserves,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of a Federal Airport Improvement Program (AIP) Grant application for $1,286,251 to the Federal Aviation Administration (FAA).
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING THE SUBMITTAL OF THE PASSENGER FACILITY CHARGES (PFC) APPLICATION UPDATE TO THE FEDERAL AVIATION ADMINISTRATION (FAA) TO CONTINUE COLLECTING PFC FUNDING FOR THE MODESTO CITY-COUNTY AIRPORT

WHEREAS, the Passenger Facility Charges (PFC) Program, administered by the Federal Aviation Administration (FAA), allows the collection of PFC fees for every enplaned passenger at commercial airports controlled by public agencies, and

WHEREAS, airports use these fees to fund FAA-approved projects that enhance safety, security or capacity; reduce noise, or increase air carrier competition, and

WHEREAS, in order to continue collecting the PFC payments for use by the airport, a PFC Application Update must be submitted and approved by the FAA,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of the Passenger Facility Charges (PFC) Application Update to the Federal Aviation Administration (FAA) to continue collection PFC funding for 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 24th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: None

(Seal)

ATTEST: STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING LETTERS OF AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO FIRE FIGHTERS' ASSOCIATION (MCFFA), AND THE MODESTO CITY EMPLOYEES' ASSOCIATION (MCEA); AUTHORIZING THE CITY TO EXTEND THE RETIREMENT INCENTIVE PROGRAM, VOLUNTARY SEPARATION PROGRAM AND SEVERANCE PACKAGE UPON LAYOFF TO ALL REPRESENTED EMPLOYEES AND AUTHORIZING THE CITY MANAGER TO SIGN IMPLEMENTATION DOCUMENTS

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 MCFFA and MCEA have reached agreements pertaining to furloughs for FY 08-09, and

WHEREAS, MCFFA, MCEA, Modesto Police Non-Sworn Association (MPNSA), Modesto Police Management Association (MPMA), Modesto Police Officers' Association (MPOA) and Modesto Confidential and Management Association (MCMA) have authorized the City to extend Retirement Incentive Program, Voluntary Separation Program and Severance Package upon layoff to employees in their respective bargaining units,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that agreements are attached hereto as Letters of Agreement and are hereby approved:

MCFFA (Attachment 1) and MCEA (Attachment 2). Said Letters of Agreement shall be on file in the City Clerk's Office following final execution by the parties.

BE IT FURTHER RESOLVED, that the City is hereby authorized to extend Retirement Incentive Program, Voluntary Separation Program and Severance Package upon layoff to all represented employees as outlined in Attachment 3.
BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to sign implementation documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2009, by Councilmember O’Bryant, 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
Letter of Agreement
Between
City of Modesto
And
Modesto City Fire Fighters' Association

The City and Modesto City Fire Fighters' Association (MCFFA) have met and conferred and have agreed to the following:

A. Furloughs

The City and MCFFA have agreed to implement four (4) days of furloughs (equivalent to 44.8 hours per Fire Department shift employee) to be taken off between March 17, 2009 and June 30, 2009, as follows:

1. Effective the pay period beginning March 17, 2009, and for a total of seven (7) pay periods, each member shall have 6.4 unpaid furlough hours deducted from his/her paycheck. This translates to 6 hours and 24 minutes per pay period (6:24) and is calculated by dividing forty-four and eight-tenths (44.8) hours by seven (7) pay periods. Non-shift employees shall have a thirty-two (32) hour furlough requirement, with 4 hours and 34 minutes (4:34) unpaid furlough hours deducted in each of the seven (7) pay periods.

2. During this designated furlough period through June 30, 2009, the City will continue to report each employee's full base pay rate to CalPERS each payperiod. In addition, the City will continue to pay each employee's special incentive pays (EMT, Paramedic, Haz Mat, Educational Incentive, etc.) based on 112 hours per payperiod (or 80 hours per payperiod for non-shift employees). These fully paid special incentive pays will not be impacted by the 6 hours 34 minutes per payperiod furlough deduction and will be fully reported to CalPERS.

3. On any day that the employee takes a furlough, the employee will not be permitted to work any overtime. Furlough deductions shall be considered time worked for purposes of calculating FLSA overtime for 24-hour shift employees.

4. The actual furlough shifts to be taken as time off by each employee (two 24-hour shifts) shall be scheduled by the department.

5. The parties agree that during the furlough period from March 17, 2009 through June 30, 2009, constant staffing shall be reduced to thirty-six (36) positions.

B. Retirement Incentive Program

The following agreement has been reached with respect to a Retirement Incentive Program:

1. Any employee who voluntary retires from the City between April 15, 2009 and June 1, 2009 shall receive a cash Incentive based on years of service with the City.

ATTACHMENT 1
to a maximum of $30,000. The employee’s last day on payroll shall be on or after April 15, 2009 and no later than June 1, 2009.

2. The employee must notify the Human Resources Department, in writing, on or after March 25, 2009 and no later than April 10, 2009, of his/her election to take this option. Employees electing this option shall have seven (7) calendar days to rescind their election. Thereafter, the election is irrevocable.

3. The City Manager is authorized to accept or reject these elections, based on the needs of the City. There is no appeal of the City Manager’s decision.

4. The employee must have a minimum of five (5) years of continuous service with the City of Modesto in a regular position.

5. The actual Incentive amount shall be calculated by multiplying the employee’s number of completed years of continuous City of Modesto service, as of the employee's retirement effective date, by the employee’s base hourly rate multiplied by fifty-six (56) hours, or multiplied by forty (40) hours for non-shift employees. Only years of service in regular benefited positions will be qualifying. In no event shall the Incentive amount exceed $30,000.

6. The method of distributing the Incentive must be on a bargaining unit-wide basis. No individual employee elections regarding the method of distribution will be permitted. If no method of distribution is designated by MCFFA, the distribution shall be in cash and subject to all applicable taxes.

7. Distribution options may include Health Reimbursement Arrangements (HRA’s), deferred compensation (if allowable under the Internal Revenue Code and ICMA-RC) or cash. If it is later determined that distributions into deferred compensation or HRA accounts do not meet the non-discrimination requirements of the Internal Revenue Code, any such distributions shall revert to the employees as taxable cash.

8. The City Manager is authorized to extend an employee’s retirement date under the Incentive Program, with the employee's agreement, to meet the needs of the City.

9. Any employee who receives this Incentive and is currently "opting out" of health coverage will have a one-time opportunity to enroll in the City’s Dental and Vision plans upon retirement and may enroll in a PERS Health Plan within sixty (60) days of retirement or during any PERS Health open enrollment period.

C. Voluntary Separation Program

The following agreement has been reached with respect to a Voluntary Separation Program:

1. The Voluntary Separation Program provides the same maximum $30,000 Incentive, formula, time frames and selection process as provided in the Section B – Retirement Incentive Program.

2. The employee must have a minimum of five (5) years of continuous service with the City of Modesto in a regular position.
3. The employee shall waive his/her unemployment insurance benefit, as this is a voluntary separation.

4. The employee may not submit an application for City employment within the first 12 months following the effective date of the resignation.

5. The employee shall complete a waiver of any and all liability claims.

6. There is no appeal of the City Manager’s decision.

7. Employee severs any and all rights to City employment including but not limited to seniority, layoff, bumping and/or recall rights, re-employment rights and any rights to appeal loss of property interests in employment.

D. Severance Package Upon Layoff

The following agreement has been reached with respect to a Severance Package Upon Layoff:

1. The Severance Package upon layoff is available to employees subject to layoff due to an authorized reduction in the workforce, for the period of March 25, 2009 through June 30, 2010.

2. Severance pay shall be based on completed years of continuous City of Modesto service as follows:

   0-5 years of service  
   224 hours (4 weeks) multiplied by the employee’s present base hourly rate.

   6-8 years of service  
   280 hours (5 weeks) multiplied by the employee’s present base hourly rate.

   9-11 years of service  
   336 hours (6 weeks) multiplied by the employee’s present base hourly rate.

   12-14 years of service  
   392 hours (7 weeks) multiplied by the employee’s present base hourly rate.

   15 or more years of service  
   448 hours (8 weeks) multiplied by the employee’s present base hourly rate.

   For non-shift employees, severance pay shall be calculated based upon forty (40) hours per week multiplied by the applicable number of weeks as designated above, multiplied by the employee’s present base hourly rate of pay.

3. City will continue the City’s contribution to employee’s health, dental and vision benefits for the same number of weeks as the employee’s severance pay, excluding any contribution to in-lieu deferred compensation.

4. Counseling benefits under the City’s Employee Assistance Program shall be available for a six month period following the effective date of the layoff.

5. City will provide paid interview leave prior to layoff, to a maximum of fifteen (15) hours for employees notified by their Department Director that they may be laid off.
6. The City Manager may authorize an employee who volunteers to be laid off, to be laid off with rights to receive severance pay, health contributions and interview leave.

E. The Fire Chief and MCFFA will meet when necessary to ensure an open dialogue relative to the development of the FY 09-10 budget.

For the City of Modesto:

James Miguel, Fire Chief
Robin Renwick, Director of Human Resources
Greg Nyhoff, City Manager
Judith Ray, Deputy City Manager

For Modesto City Fire Fighters’ Association:

Cecil Ridge, President
Robert Berbena, Fire Captain
Mike Shockey, Fire Captain
Jason Fritz, Fire Engineer

Dated: ___________________
Letter of Agreement  
Between  
City of Modesto  
And  
Modesto City Employees’ Association  

The City of Modesto and Modesto City Employees’ Association (MCEA) have met and conferred and have agreed to the following regarding Furloughs and regarding Performance Evaluations:  

A. Furloughs  
The City and MCEA have agreed to implement 32 hours of furloughs to be taken off between March 17, 2009 and June 30, 2009, as follows:  

1. Effective the pay period beginning March 17, 2009, and for a total of seven (7) pay periods, each member shall have 4.57 unpaid furlough hours deducted from his/her paycheck. This translates to 4 hours and 34 minutes per pay period (4:34) and is calculated by dividing thirty-two (32) hours by seven (7) pay periods.  

2. On the pay period ending March 30, 2009 the City shall create for each member a furlough bank of 32 hours. Between March 17, 2009 and June 30, 2009 the appropriate Department Director 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. Employees who have already taken voluntary unpaid furloughs during FY 08/09 may credit those voluntary furlough hours against this 32-hour requirement. These employees will be required to take the remaining hours, if any, to total 32 hours of voluntary and mandatory furlough time. Employees who have taken voluntary furloughs shall not have the leave deduction taken each payperiod nor will they have the furlough bank established. Mandatory furlough time for these employees shall be coded on the employee’s timesheet as unpaid furlough leave at the time the mandatory furlough hours are taken off.  

4. During this designated furlough period through June 30, 2009, the City will continue to report each employee’s full base pay rate to CalPERS each payperiod. 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.
5. Employees who regularly work a reduced work schedule, will have the 32-hour furlough requirement reduced in proportion to their reduced work schedule.

6. 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. Furlough hours taken off are not considered hours worked for purposes of calculating overtime because furlough hours are unpaid.

7. Employee furloughs shall not alter any existing standby or call duty rosters and employees shall be eligible for standby and call duty compensation during a furlough week as if the employee was in fully paid status.

B. MCEA MOU ARTICLE 39; Section 39.F shall be amended as follows:

To determine the level of performance evaluation, the most recent annual or probationary evaluation shall be used. Each overall rating of "does not meet standard" shall reduce the employee’s continuous years of service by one (1) year. An overall rating of meets standard or exceeds standard shall not reduce the employee’s overall years of service.

For the City of Modesto:  
Greg Nyhoff, City Manager  
Robin Renwick, Director of Human Resources  
Judith Ray, Deputy City Manager  
Barbara Santos, Deputy Director of Human Resources

For Modesto City Employees’ Assoc:  
Tom McCarthy, President  
Ron Flood, Vice President  
Mona Mount, Treasurer  
Joe Rose, Attorney

ATTACHMENT 2
City of Modesto

Retirement Incentive Program, Voluntary Separation Program and Severance Package

A. Retirement Incentive Program

1. Any employee who voluntarily retires from the City between April 15, 2009 and June 1, 2009 shall receive a cash Incentive based on years of service with the City to a maximum of $30,000. The employee's last day on payroll shall be on or after April 15, 2009 and no later than June 1, 2009.

2. The employee must notify the Human Resources Department, in writing, on or after March 25, 2009, and no later than 4:30 p.m. on April 10, 2009, of his/her election to take this option. Employees electing this option shall have seven (7) calendar days to rescind their election. Thereafter, the election shall be irrevocable.

3. The City Manager is authorized to accept or reject these elections, based on the needs of the City. There is no appeal of the City Manager’s decision, nor is the City Manager’s decision subject to the Grievance Procedure.

4. The employee must have a minimum of five (5) years of continuous service with the City of Modesto in a regular position.

5. The actual Incentive amount shall be calculated by multiplying the employee’s number of completed years of continuous City of Modesto service, as of the employee’s retirement effective date, by the employee’s base hourly rate multiplied by forty (40) hours or fifty-six (56) hours for Fire Department shift employees. For employees whose regular work schedule is less than 40 hours, the 40 hour calculation shall be reduced proportionally. Only years of service in regular benefited positions will be qualifying. In no event shall the Incentive amount exceed $30,000.

6. The method of distributing the Incentive must be on a bargaining unit-wide basis. No individual employee elections regarding the method of distribution will be permitted. (The City Manager shall determine the method of distribution for the Unrepresented group.) If no method of distribution is designated by any given employee Association, the distribution for that Association’s bargaining unit shall be in cash and subject to all applicable taxes.

7. Distribution options may include Health Reimbursement Arrangements (HRA’s), deferred compensation (if allowable under the Internal Revenue Code and ICMA-RC) or cash. If it is later determined that distributions into deferred compensation or HRA accounts do not meet the non-
discrimination requirements of the Internal Revenue Code, any such distributions shall revert to the employees as taxable cash.

8. The City Manager is authorized to extend an employee's retirement date under the Incentive Program, with the employee's agreement, to meet the needs of the City.

9. The employee shall complete a waiver of any and all liability claims.

10. Any employee who receives this Incentive and is currently "opting out" of health coverage will have a one-time opportunity to opt-in during open enrollment, with coverage effective August 1, 2009.

B. **Voluntary Separation Program**

1. The Voluntary Separation Program provides the same maximum $30,000 Incentive, formula, time frames and selection process as provided in the Section B – Retirement Incentive Program.

2. The employee must have a minimum of five (5) years of continuous service with the City of Modesto in a regular position.

3. The employee shall waive his/her unemployment insurance benefits, as this is a voluntary separation.

4. The employee may not submit an application for City employment within the first 12 months following the effective date of the resignation.

5. The employee shall complete a waiver of any and all liability claims.

6. There is no appeal of the City Manager’s decision, nor is the City Manager’s decision subject to the Grievance Procedure.

7. Employee severs any and all rights to City employment including but not limited to seniority, layoff, bumping and/or recall rights, re-employment rights and any rights to appeal loss of property interests in employment.

C. **Severance Package Upon Layoff**

1. The Severance Package upon layoff is available to employees subject to layoff due to an authorized reduction in the work force, for the period of March 25, 2009 through June 30, 2010.

2. Severance pay shall be based on the employee's base rate of pay and completed years of continuous service as follows:

   - 0-5 years of service 160 hours (4 weeks) multiplied by the employee’s present base hourly rate.
   - 6-8 years of service 200 hours (5 weeks) multiplied by the employee’s present base hourly rate.

ATTACHMENT 3
9-11 years of service 240 hours (6 weeks) multiplied by the employee's present base hourly rate.

12-14 years of service 280 hours (7 weeks) multiplied by the employee’s present base hourly rate.

15 or more years of service 320 hours (8 weeks) multiplied by the employee’s present base hourly rate.

For shift employees in the Fire Department, Severance pay shall be calculated based upon fifty-six (56) hours per week multiplied by the applicable number of weeks as designated above, multiplied by the employee's present base hourly rate of pay.

For employees whose regular work schedule is less than full time, the hours used to calculate severance pay shall be prorated.

3. City will continue the City’s contribution to employee’s health, dental and vision benefits for the same number of weeks as the employee's severance pay, excluding any contribution to in-lieu deferred compensation.

4. Counseling benefits under the City’s Employee Assistance Program (or Police Department Counseling Program) shall be available for a six month period following the effective date of the layoff.

5. City will provide paid interview leave prior to layoff, to a maximum of fifteen (15) hours for employees notified by their Department Director that they may be laid off.

6. The City Manager may authorize an employee who volunteers to be laid off, to be laid off with rights to receive severance pay, health contributions and interview leave.

ATTACHMENT 3
RESOLUTION SUPPORTING SB 295 (THE AB 32 REGULATORY TIMELINE BILL)

WHEREAS, California’s budget crisis is already causing severe financial hardships to local governments that must fund state and federally mandated services, with hundreds of millions in back payments owed by the state to local governments and agencies; and

WHEREAS, the mortgage crisis and record high unemployment compound the problem by reducing property tax and sales tax revenues that our cities and counties depend on; and

WHEREAS, the state is proposing to add billions in new costs to implement AB 32 – the Global Warming Solutions Act – despite warnings by the Legislative Analyst’s Office and well-respected peer reviewers that carbon reduction costs have been grossly underestimated and the California Air Resources Board’s (CARB) AB 32 plan will have major economic consequences for our state; and

WHEREAS, CARB’s AB 32 Scoping Plan makes it clear that local government will be an “essential partner” in reducing carbon emissions; and

WHEREAS, The cost of reducing emissions from municipal buildings, facilities, vehicles, wastewater, landfills and other government operations will require enormous expenditures by local governments that are already being forced to cut back services and lay off essential personnel; and

THEREFORE be it resolved that the City of Modesto supports SB 295 (Dutton) which will adjust the timeline for implementing AB 32 to allow the state to conduct the
financial due diligence not only required by law but critically needed to responsibly protect California’s local governments, families and businesses from severe economic burdens that irresponsible rulemaking will impose.

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, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: Marsh

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

(SEAL)

STEPHANIE LOPEZ, City Clerk
A RESOLUTION DIRECTING STAFF TO PREPARE AND FILE AN ANNUAL REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1-6

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there being no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 1-6, the City Engineer, the person designated by this Council as the Engineer of Work for Assessment District No. 1, is hereby directed to prepare and file an annual report in accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 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. 2009-136

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

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

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

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

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

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 ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-137

A RESOLUTION EXTENDING THE CURRENT CONTRACT FOR HVAC
SERVICE AND REPAIRS FOR THE MODESTO CENTRE PLAZA WITH
AMERICAN CHILLER CO., MODESTO, CA, FOR TWO (2) ADDITIONAL
YEARS AT THE CURRENT CONTRACT TERMS, FOR AN ESTIMATED
ANNUAL COST OF $30,000, AND OVER TWO YEARS $60,000

WHEREAS, on July 13, 2004, the City Council, by Resolution No. 2004-352,
authorized the award of bid and contract for the furnishing of HVAC service and repairs
for the Modesto Centre Plaza, to American Chiller Co., Modesto, CA, for a three (3) year
agreement with two (2) one-year extension options, and

WHEREAS, the annual agreement for their service and repairs is due to expire on
July 12, 2009, and

WHEREAS, because of these difficult economic times, City staff proposed
extending the current agreement for two (2) additional years at the current contract terms,
and

WHEREAS, the contractor accepted the City’s proposal, and

WHEREAS, the contract extension will take effect on July 13, 2009, and
conclude on July 12, 2011, and

WHEREAS, funds will be budgeted in Fiscal Year 2009-10 and made available in
account 6710-340-3420, for the furnishing of HVAC services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby authorizes the award for a two (2) year contract extension at the current
contract terms, for the furnishing of HVAC service and repairs for the Modesto Centre
Plaza, to American Chiller Co., Modesto, CA.
BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue an agreement extension, for two (2) additional years at the current contract terms, for an estimated annual cost of $30,000, and over two years $60,000.

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

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF STREET SWEEPING MATERIAL RECEIVING SERVICES FOR THE PUBLIC WORKS DEPARTMENT, TRANSPORTATION SERVICES DIVISION, URBAN FORESTRY SECTION, TO GILTON RESOURCE RECOVERY/TRANSFER FACILITY, INC., OAKDALE, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE AGREEMENT FOR TWO (2) YEARS, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST NOT TO EXCEED $60,000

WHEREAS, August 6, 2008, the City Council, by Resolution No. 2008-448, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of street sweeping material receiving services for the Public Works Department, Transportation Services Division, Urban Forestry Section, and

WHEREAS, on February 3, 2009, the Purchasing Division issued RFB No. 0809-07 for the purchase of street sweeping material receiving services to five (5) prospective bidders, none of which were local companies, posted the bid on the City’s web site, and formally advertised as required by law, and

WHEREAS, on March 3, 2009, RFB’s were formally opened in the City Clerk’s office. Of the five (5) prospective bidders, two (2) companies chose to respond, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of street sweeping material receiving services for the Public Works Department, Transportation Services Division, Urban Forestry Section, to Gilton Resource Recovery/Transfer Facility, Inc., Oakdale, CA, 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. The award of bid and contract for the purchase of street sweeping material receiving services for the Public Works Department, Transportation Services Division, Urban Forestry Section, conforms to the Modesto Municipal Code, and

WHEREAS, Funds are budgeted in the amount of $60,000, in the Storm Drainage Fund Account 6280-480-5313-0235,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of street sweeping material receiving services for the Public Works Department, Transportation Services Division, Urban Forestry Section, to Gilton Resource Recovery/Transfer Facility, Inc., Oakdale, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for two (2) years, with three (3) one-year extension options, at the sole discretion of the City, for an estimated annual cost not to exceed $60,000.00.
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,

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for Fiscal Year 2008-2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2008-2009 budget have been adjusted as shown in Exhibit A, which is incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 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 votes:

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

ATTEST: STEPHANIE LOPEZ, City Clerk
EXHIBIT A

ATTACHMENT 1 – FINANCE

This budget adjustment recognizes unbudgeted revenue in the 1998 and 2007 Lease Revenue Bond funds, 9450-120-DS25 and 9450-120-DS26; and reflects 2008 Lease Revenue Bonds additional Cost of Issuance charges for Title Insurance in fund 9450-120-DS27-0454.

REVENUE

FROM:
9450-120-DS25-6102 Trustee Interest 5,220
9450-120-DS26-6102 Trustee Interest 5,582

APPROPRIATIONS

FROM:
0100-800-8000-8003 General Fund Reserves (49,568)

TO:
9450-120-DS27-0454 Cost of Issuance 60,370

TRANSFER BETWEEN FUNDS

FROM:
0100-700-7000-7945 Transfer Out to Public Finance Authority (60,370)

TO:
9450-700-7000-9010 Transfer In from General Fund Reserves 60,370

This budget adjustment records the issuance of the 2008 Lease Revenue Bonds in fund 9450-120-DS27-8301.

REVENUES

TO:
9450-120-DS27-8301 Other Financing Source 65,170,000

APPROPRIATIONS

TO:
9450-120-DS27-0454 Cost of Issuance 492,300
9450-120-DS27-0468 Remarketing Fees 113,034
9450-120-DS25-0448 Other Financing Use 3,355,942
9450-120-DS26-0448 Other Financing Use 61,200,000
9450-800-8000-8003 Contingency Reserve 8,724
This budget adjustment recognizes unbudgeted revenue in the Stores Inventory Fund, 7110-120-1272-4909R, and appropriates these revenues to Stores Inventory - Temp Labor, 7110-120-1272-0269 for a temporary employee that is backfilling for a permanent employee who is on a temporary assignment in Purchasing.

**REVENUES**

<table>
<thead>
<tr>
<th>TO: 7110-120-1272-4909R</th>
<th>Interfund City Service</th>
<th>52,602</th>
</tr>
</thead>
<tbody>
<tr>
<td>FROM: 7110-120-1272-4909R</td>
<td>Interfund City Service</td>
<td>(32,736)</td>
</tr>
</tbody>
</table>

**APPROPRIATIONS**

| TO: 7110-120-1272-0269 | Temp Services | 32,736 |
ATTACHMENT 2 – INFORMATION TECHNOLOGY
This budget adjustment reduces budgeted revenue in the Cable TV Franchise Fee account, 0320-070-0703-1301R, due to a decision to not implement a $.75 Public Education Government (PEG) Fee. This adjustment also reallocates funds from IT Reserves, 7130-800-8000-8003, to Access Modesto/Partnership, 0320-070-0703-8145R, for contractual costs of the PEG program for FY 2008-09.

**REVENUES**

| FROM: 0320-070-0703-1301R | Cable TV Franchise Fees | (150,000) |
| TO: 0320-070-0703-8145R | Access Modesto/Partnership | 131,500 |

**APPROPRIATIONS**

| FROM: 7130-800-8000-8003 | IT Reserves | (131,500) |
ATTACHMENT 3 - PARKS, RECREATION & NEIGHBORHOODS

This budget adjustment recognizes unbudgeted revenue in the HOME Carry Over account, 1170-320-3260-3512, and reallocates these funds to Direct Loans, 1170-320-3260-0497, for the funding of additional American Dream Down Payment Initiative Program loans in Modesto.

**REVENUE**

**TO:**
1170-320-3260-3512 HOME Carry Over 164,660

**APPROPRIATIONS**

**TO:**
1170-320-3260-0497 Direct Loans 164,660

This budget adjustment recognizes unbudgeted revenue and expense between Parks Services Organization 3522 and Carpenter Road Landfill Organization 4403 for a service credit agreement that was not entered into the FY 2008-09 budget.

**REVENUE**

**TO:**
0100-350-3522-4909R Interfund Labor 21,888

**APPROPRIATIONS**

**TO:**
0360-355-4403-0255 Services City Forces 21,888
0360-355-4403-0308 Too/Shop/Field Supplies 5,203
ATTACHMENT 4 – PUBLIC WORKS
This budget adjustment recognizes the change in expected revenues for the Modesto Airport Operating Program. The decrease in revenue will be absorbed by the Airport Reserves.

REVENUES

FROM:

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6310-440-5412-4401</td>
<td>Special Concessions</td>
<td>1,222</td>
</tr>
<tr>
<td>6310-440-5412-4404</td>
<td>Gallonage</td>
<td>21,162</td>
</tr>
<tr>
<td>6310-440-5412-4419</td>
<td>Aircraft Tie Down Fees</td>
<td>2,652</td>
</tr>
</tbody>
</table>

TO:

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6310-440-5412-1401</td>
<td>Business License Registration</td>
<td>50</td>
</tr>
<tr>
<td>6310-440-5412-1404</td>
<td>Business License Mill Tax</td>
<td>3,827</td>
</tr>
<tr>
<td>6310-440-5412-4402</td>
<td>Airport Key Rental</td>
<td>250</td>
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<tr>
<td>6310-440-5412-4416</td>
<td>Airport Landing Fees</td>
<td>8,638</td>
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<tr>
<td>6310-440-5412-6225</td>
<td>City Bldg Rental</td>
<td>2,800</td>
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</table>

Total: 25,036

REVENUES

FROM:

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6310-800-8000-8003</td>
<td>Airport Reserves</td>
<td>9,471</td>
</tr>
</tbody>
</table>

This budget adjustment recognizes additional revenue from Stanislaus County Property Tax Share, 6330-440-5414-3404. In addition, the transfer between the Special Revenue Fund 6330 and the Capital Fund is being decreased since less is needed. Finally, all remaining tax revenue is being moved to the Operating Account Fund 6310.

REVENUES

TO:

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6330-440-5414-3404</td>
<td>County Share of Property Tax</td>
<td>14,000</td>
</tr>
</tbody>
</table>

TRANSFER BETWEEN FUNDS

FROM:

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6330-700-7000-7632</td>
<td>Transfer from Fund 6330 to Fund 6320</td>
<td>30,825</td>
</tr>
<tr>
<td>6330-700-7000-7631</td>
<td>Transfer from Fund 6330 to Fund 6310</td>
<td>39,103</td>
</tr>
</tbody>
</table>

TO:

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6320-700-7000-9633</td>
<td>Transfer from Fund 6330 to Fund 6320</td>
<td>30,825</td>
</tr>
<tr>
<td>6310-700-7000-9633</td>
<td>Transfer from Fund 6330 to Fund 6310</td>
<td>39,103</td>
</tr>
</tbody>
</table>
Capital Improvement Project (CIP) A015-Airport Security Fence, 6320-440-A015-3613, has been postponed until FY 2009-10. This budget adjustment also eliminates this capital project in the FY 2008-09 budget.

**REVENUES**

**FROM:**
MY-6320-440-A015-3613 Airport Security Fence (32,300)

**TRANSFER BETWEEN FUNDS**

**FROM:**
MY-6330-700-A015-7632 Transfer from Fund 6330 to Fund 6320 (1,700)

**TO:**
MY-6320-700-A015-9633 Transfer from Fund 6330 to Fund 6320 (1,700)

Capital Improvement Project #A803, Airport Noise Study, is currently under budgeted. A transfer from the Airport Special Revenue Fund is necessary to mitigate this shortfall.

**TRANSFER BETWEEN FUNDS**

**FROM:**
MY-6330-700-A803-7632 Transfer to Fund 6320 61

**TO:**
MY-6320-700-A803-9633 Transfer from Fund 6330 61

This budget adjustment reconciles expenses and revenues, and closes out the budget for Capital Improvement Project #A008, Airport Parking Lot. This adjustment also transfers the unused balance in Fund 6330, County Aircraft Tax, to the Airport Capital Project Fund 6320 for use in future projects. In addition, this action adjusts the revenue budget to equal the amounts received from the FAA Grant and the Passenger Facility Charges.

**REVENUES**

**TO:**
MY6320-440-A008-3613 FAA Capital Grant 561,181
MY6320-440-A008-4405 Passenger Facility Charges 82,667

**APPROPRIATIONS**

**FROM:**
MY6320-440-A008-8014 Airport Parking Lot Project Closeout (97,027)
TRANSFER BETWEEN FUNDS

FROM:
MY6330-700-A008-7632 Transfer Out to Fund 6320 (61,095)

TO:
MY6320-700-A008-9633 Transfer In from Fund 6330 (61,095)

Capital Improvement Project A804, Airport Drainage/Signage/Taxilane, has been completed and the final invoices have been paid. This adjustment will reduce the available budget to equal what has been spent, and adjust the revenue budget to equal the amount received from the FAA.

REVENUES

FROM:
MY6320-440-A804-3613 FAA Capital Grant (140,632)
MY6320-440-A804-4405 Passenger Facility Charges (7,443)

APPROPRIATIONS

FROM:
MY6320-440-A804-8014 Project Close Out (125,801)

Capital Improvement Project M275, Airport Apron Resurfacing, has been completed and the final invoices have been paid. This adjustment will reduce the available budget to equal what has been spent, and adjust the revenue budget to equal the amount received from the FAA.

REVENUES

FROM:
MY6320-440-M275-3613 FAA Capital Grant (55,093)
MY6320-440-M275-4405 Passenger Facility Charges 30,764

APPROPRIATIONS

FROM:
MY6320-440-M275-8014 Project Close Out (14,919)

This budget adjustment recognizes unbudgeted Revenue in the Gas Tax Fund, 0700-430-4380-8122, from the State of California Department of Transportation, for an appraisal reimbursement, and appropriate said revenues in Service City Forces, 0700-430-4380-0255.

REVENUES
TO:
MY0700-430-4380-8122  Refund  5,000

**APPROPRIATIONS**

MY0700-430-4380-0255  Service City Forces  5,000

This budget adjustment recognizes unbudgeted revenue in the Gas Tax Fund, 0700-160-E002-8101, for the sale of Real Property, and appropriate said revenues for the 9th and D Street Land Right of Way Acquisition, 0700-430-E002-6030.

**REVENUES**

TO:
MY0700-160-E002-8101  Sale of Real Property  34,900

**APPROPRIATIONS**

MY0700-160-E002-6030  Land Right of Way  34,900

This budget adjustment in Sewer Enterprise is being made to transfer $180,000 from Capital Improvement Project (CIP) A215, DAF Dissolved Air Flotation, 6210-430-A215, to the Celeste/Rose/Scenic Sewer Improvements project A049 to cover legal fees for arbitration negotiation costs related to the project.

**APPROPRIATIONS**

**FROM:**
MY6210-430-A215-6050  Contingency  (90,000)
MY6210-430-A215-6060  Construction Administration  (90,000)

**TO:**
MY6210-430-A049-6080  Consultant Charges – CIP  180,000

This budget adjustment in Sewer Enterprise reduces Primary Project B050, Development Reimbursement Water System Fees, and allocates funds to the Secondary Account B052, Village One Extend Sewer Subtrunk Reimbursement Secondary Project to cover agreement costs associated with Village One Specific Plan.

**APPROPRIATIONS**

**FROM:**
6211-430-B050-6052  Dev Reimbursement Wastewtr System Fees( 66,263)
This budget adjustment in Sewer Enterprise reduces Primary Project B780, Collection System Reliability Improvements, and allocates funds to the Shackelford Crossing, 6210-430-N143-6000, for environmental and engineering/design/administration costs.

**APPROPRIATIONS**

**FROM:**
6210-430-B780-6052
Collection System Reliability Improvements (16,000)

**TO:**
6210-430-N143-6000
Shackelford Crossing 16,000

Capital Improvement Project (CIP) B082, Security Upgrades Jennings Plant, has been closed and the project savings in the amount of $148,858 went into Wastewater Reserves, 6210-800-8000-8003. This budget adjustment appropriates funds from Wastewater Reserves to CIP B079, Security Upgrades Sutter Plant, for construction costs.

**APPROPRIATIONS**

**FROM:**
6210-800-8000-8003
Wastewater Reserves (149,858)

**TO:**
6210-480-B079-6040
Security Upgrades Sutter Plant 149,858

This budget adjustment recognizes unbudgeted revenue in the Wastewater Fund, 6210-430-5200-4304 and 6210-430-5213-4310, and appropriates these revenues in the Wastewater Fund Reserves, 6210-800-8000-8003.

**REVENUES**

**TO:**
6210-430-5200-4304
Commercial Sewer Services 400,000
6210-430-5213-4310
Septic Tank Pumping 98,324

**APPROPRIATIONS**

**TO:**
6210-800-8000-8003
Wastewater Fund Reserves 498,324
This budget adjustment decreases a transfer from the General Fund to Capital Improvement Project (CIP) D001, Storm Drain Rate Analysis, and reallocating these funds to the Storm Drain Fund Reserves, 6280-800-8000-8003.

**APPROPRIATIONS**

**FROM:**
6280-440-D001-6010 Storm Drain Rate Analysis (49,707)

**TO:**
6280-800-8000-8003 Storm Drain Fund Reserves 49,707

**TRANSFER BETWEEN FUNDS**

**FROM:**
MY 6280-700-D001-7010 Transfer Out of General Fund 49,707

**TO:**
MY 0100-700-D001-9628 Transfer into Storm Drain Rate Analysis 49,707

This budget adjustment recognizes unbudgeted revenue in the Water Capital Improvement Project (CIP) Fund, MY6180-430-W133-8122, from San Joaquin Valley Unified Air Pollution Control District, for a fee reimbursement, and appropriate said revenues to CIP #W133, Downstream Improvements – West Tank/ Pipe Project.

**REVENUES**

**TO:**
MY 6180-430-W133-8122 Refund 648

**APPROPRIATIONS**

MY 6180-430-w133-6010 Engineering/Design/Administration 648

This budget adjustment transfers funds from Water Fund Reserves, 6100-800-8000-8003, to Water Treatment and Delivery Operating Budget, 6100-480-5024-0321, to adjust the current year estimates for operations and maintenance.

**APPROPRIATIONS**

**FROM:**
6100-800-8000-8003 Water Fund Reserves (902,163)

**TO:**
6100-480-5024-0321 Water Treatment & Delivery 902,163
This budget adjustment transfers funds from Water Reserves, 6100-800-8000-8003, to Water PCE Litigation, 6100-440-5002-0233, for anticipated legal costs through FY 2008-09.

**APPROPRIATIONS**

<table>
<thead>
<tr>
<th>FROM:</th>
<th>TO:</th>
</tr>
</thead>
<tbody>
<tr>
<td>6100-800-8000-8003</td>
<td>Water Fund Reserves</td>
</tr>
<tr>
<td>6100-400-5002-0233</td>
<td>Water Fund – Legal Services</td>
</tr>
</tbody>
</table>