MODESTO CITY COUNCIL  
RESOLUTION NO. 2008-596

A RESOLUTION APPROVING A LOAN AGREEMENT, PROMISSORY NOTE, AFFORDABLE RENTAL COVENANT AND OTHER NECESSARY DOCUMENTS BETWEEN STANISLAUS COMMUNITY ASSISTANCE PROJECT AND THE CITY OF MODESTO FOR $100,000 IN COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS TO REHABILITATE TWO RENTAL UNITS INTO ACCESSIBLE UNITS AT 1312 ENSENADA DRIVE; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE REQUIRED DOCUMENTS

WHEREAS, the Stanislaus Community Assistance Project (SCAP) provides programs and services for persons living with HIV/AIDS and other life threatening illnesses within the City of Modesto, and

WHEREAS, SCAP recently purchased 1312 Ensenada Drive and has requested a rehabilitation loan from the City of Modesto to modify two of the units into accessible units, and

WHEREAS, the City of Modesto manages the Community Development Block Grant funds and can offer an assistance rehabilitation loan to modify the two units requested by SCAP, and

WHEREAS, the proposed Loan Agreement between the City of Modesto and the Stanislaus Community Assistance Project will provide a ten-year affordability covenant on the two units, and

WHEREAS, the Loan Agreement is for $100,000 for a ten-year period; however, if the affordability covenant is met, the loan will be forgiven and turned into a grant at the end of the ten years,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Loan Agreement between the Stanislaus Community Assistance Project (SCAP)
and the City of Modesto for $100,000 using Community Development Block Grant funds, to rehabilitate two units into accessible units with a ten-year affordability covenant is approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

By  

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-597

A RESOLUTION APPROVING GRANT APPLICATIONS TO THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD (CIWMB) FOR SOLID WASTE PROGRAMS, ACCEPTING GRANT AWARDS, AMENDING THE ANNUAL BUDGET AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT-RELATED DOCUMENTS, AND RESCINDING RESOLUTION NO. 2004-669

WHEREAS, the State of California collects fees which provide funds to cities and counties for establishing and maintaining solid waste programs throughout the state, and

WHEREAS, the California Integrated Waste Management Board has the responsibility for the administration of beverage container recycling programs as well as other recycling programs within the state, and setting up necessary procedures governing application by cities and counties under these programs, and

WHEREAS, to simplify the application process, the California Integrated Waste Management Board allows jurisdictions to adopt a single resolution authorizing a designated official to execute and submit applications and related documents for such funding for up to a five-year period,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that grant applications to the California Integrated Waste Management Board (CIWMB) for solid waste programs and the acceptance of grant awards are hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all grant-related documents.

BE IT FURTHER RESOLVED that this resolution shall remain in full force and effect for five years from the date of adoption.
BE IT FURTHER RESOLVED to amend the current budget to reflect increases in revenue from grant awards.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2004-669 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-598

A RESOLUTION APPROVING GRANT APPLICATIONS TO THE CALIFORNIA DEPARTMENT OF CONSERVATION (DOC) FOR SOLID WASTE PROGRAMS, ACCEPTING GRANT AWARDS, AMENDING THE ANNUAL BUDGET AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT-RELATED DOCUMENTS, AND RESCINDING RESOLUTION NO. 2004-669A

WHEREAS, the State of California collects fees which provide funds to cities and counties for establishing and maintaining solid waste programs throughout the state, and

WHEREAS, the California Department of Conservation has the responsibility for the administration of beverage container recycling programs within the state and setting up necessary procedures governing application by cities and counties under these programs, and

WHEREAS, to simplify the application process, the California Department of Conservation allows jurisdictions to adopt a single resolution authorizing a designated official to execute and submit applications and related documents for such funding for up to a five-year period,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that grant applications to the California Department of Conservation (DOC) for solid waste programs and the acceptance of grant awards are hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all grant-related documents.

BE IT FURTHER RESOLVED that this resolution shall remain in full force and effect for five years from the date of adoption.

RESCINDED

MAR 23 2010

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2010-105
BE IT FURTHER RESOLVED to amend the current budget to reflect increases in revenue from grant awards.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2004-669A is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AUTHORIZING THE EMPLOYEES REPRESENTED BY MODESTO CITY FIRE FIGHTERS ASSOCIATION TO PARTICIPATE IN THE CENTRAL VALLEY RETIREE MEDICAL TRUST

WHEREAS, pursuant to the Memorandum of Understanding between the City of Modesto and the Modesto City Fire Fighters Association (MCFFA) authorized by Council on December 12, 2006, the parties agreed to implement a tax deferred savings plan to provide for tax deferral of employee leave cashouts. The specific savings plan instrument was to be mutually agreed to by the parties and at no expense to the City, and

WHEREAS, the City and MCFFA have now agreed to implement employee participation in the health savings program identified by MCFFA, the Central Valley Retiree Medical Trust (CVRMT), and

WHEREAS, participation will require the mandatory cashout of all earned but unused vacation hours into the savings plan upon an employee's separation from City service or upon retirement, with no option for the employee to receive cash for said hours upon separation or retirement. A mandatory employee contribution into the plan of one hundred dollars ($100) per month, to be made by all active employees on an on-going basis, will also be required, and

WHEREAS, as an interim measure, it has been mandatory that all earned but unused vacation hours owed to any employee in the bargaining unit represented by MCFFA who retired or separated from City service on, or after, December 30, 2007 have not been available for cashout to the employee. Instead, funds equal to the cash value of said vacation hours have been held in trust by the City of Modesto on behalf of each individual employee, until a health savings program could be implemented,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City is authorized to initiate MCFFA’s participation in the CVRMT and in the Medical Expense Reimbursement Plan of the CVRMT, to make the mandatory payroll deductions and to process the mandatory contribution of all vacation hours into the CVRMT upon the separation or retirement from City service for any employee in the bargaining unit represented by MCFFA. The effective date of participation in the CVRMT will be December 1, 2008, but said participation shall include vacation funds currently held by the City on behalf of employees who separated or retired from City service on and after December 30, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-600

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 BUDGET TO REFLECT THE USE OF $30,582 WITHIN THE OPERATION BLOCK GRANTS FUND FOR THE MODESTO POLICE ACTIVITIES LEAGUE (PAL) AND GANG/DRUG AWARENESS PROGRAMS; AND AUTHORIZING THE FINANCE DIRECTOR, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION.

WHEREAS, Health and Safety Code Section 11489 states that 15% of seized assets forfeited must be placed in a special Gang/Drug Prevention Trust Account, and

WHEREAS, the Stanislaus County District Attorney’s Office maintains this Trust Account, and

WHEREAS, during FY 2007/2008, the Modesto Police Department received $30,582 from the Trust Account, which represents the 15% of Stanislaus Drug Enforcement Agency’s (SDEA) forfeitures for the last few years, and

WHEREAS, SDEA’s Governing Board approved these funds to be used “solely by the Modesto Police Activities League (PAL) in their efforts for gang prevention and anti-drug abuse education”, and

WHEREAS, any Gang/Drug Prevention funds originating from forfeited assets originating from Modesto Police Department cases can also be used for the PAL program or for anti-gang or anti-drug programs that the Department might develop and wish to implement, and

WHEREAS, in the future when the Asset Forfeiture Gang/Drug Prevention Trust is distributed by the Stanislaus County District Attorney’s Office to the City of Modesto, the funds will be placed in this special multi-year account and an adjustment will be made to increase the revenue and to increase the appropriation, and
WHEREAS, the 2008/2009 Multi-Year Budget will be amended as shown in Exhibit A, which is incorporated by reference herein, and

WHEREAS, on October 6, 2008, the Safety & Communities Committee unanimously recommended approval of this item to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2008-2009 budget to add a new multi-year appropriation as shown in Exhibit A.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
### Exhibit A

**Fund 400 – Police Operations Grants**

<table>
<thead>
<tr>
<th>Description</th>
<th>Increase (Decrease)</th>
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<td>Seized Forfeiture Revenue</td>
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<table>
<thead>
<tr>
<th>Description</th>
<th>Increase (Decrease)</th>
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</thead>
<tbody>
<tr>
<td>Drug/Gang Awareness Prog.</td>
<td>$30,582</td>
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</table>
MODESTO CITY COUNCIL  
RESOLUTION NO. 2008-601

A RESOLUTION ACCEPTING THE WORK BY ODYSSEY LANDSCAPING CO., INC. FOR THE PROJECT TITLED “LANDSCAPING AT SYLVAN PEDESTRIAN OVERCROSSING” 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 $158,960.39

WHEREAS, a report has been filed by the Public Works Director that the project titled “Landscaping at Sylvan Pedestrian Overcrossing” has been completed by Odyssey Landscaping Company, Inc. in accordance with the contract agreement dated November 27, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “Landscaping at Sylvan Pedestrian Overcrossing” is hereby accepted as complete from said contractor Odyssey Landscaping Company, 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 $158,960.39 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 28th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-602

A RESOLUTION ACCEPTING THE WORK BY PRESTON PIPELINES, INC. FOR THE PROJECT TITLED "ROSE AVENUE SEWER MANHOLE INSTALLATION" 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 $33,320.42

WHEREAS, a report has been filed by the Public Works Director that the project titled "Rose Avenue Sewer Manhole Installation" has been completed by Preston Pipelines, Inc. in accordance with the contract agreement dated June 10, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Rose Avenue Sewer Manhole Installation" is hereby accepted as complete from said contractor Preston Pipelines, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory periods, and that payment of amounts totaling $33,320.42 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 28th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODesto City Council
Resolution No. 2008-603

A Resolution Accepting the Work by Rolfe Construction for the “Carver Road Sewer Line Replacement Project,” as Complete, Authorizing the City Clerk to File a Notice of Completion with the Stanislaus County Recorder and to Release Securities Upon Expiration of Statutory Periods, and Authorizing Payment of Amounts Totaling $55,840

WHEREAS, a report has been filed by the Public Works Director that the “Carver Road Sewer Line Replacement Project” has been completed by Rolfe Construction in accordance with the contract agreement dated June 3, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the “Carver Road Sewer Line Replacement Project” is hereby accepted as complete from said contractor Rolfe Construction, 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 $55,840 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 28th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-604

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS FOR THE PURCHASE OF THREE (3) VERTICAL TURBINE MIXED FLOW PROPELLER PUMPS FOR THE JENNINGS TREATMENT PLANT FOR A COST NOT TO EXCEED $120,000

WHEREAS, the Jennings Treatment Plant uses pumps in the slough drainage pump station for flood control measures to prevent adverse effects to the treatment and disposal process, and

WHEREAS, the three existing pumps are 20+ years old and need to be replaced, and

WHEREAS, funds are budgeted in an amount not to exceed of $120,000 in Account No. 6210-480-B103-6081 for the purchase of these pumps, 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 three (3) mixed flow propeller pumps for the Public Works Department, Water Quality Control 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 28th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-605

A RESOLUTION APPROVING AN AGREEMENT WITH HOLDREGE & KULL CONSULTING ENGINEERS AND GEOLOGISTS FOR DESIGN SERVICES FOR GROUT STABILIZATION OF THE WASTEWATER TREATMENT PLANT CHLORINATION FACILITY, IN AN AMOUNT NOT TO EXCEED $85,473 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $8,547 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $94,020, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Wastewater Treatment Plant Chlorination Facility (Chlorination Facility), located at the Secondary Treatment Plant Site at 7007 Jennings Road, has had ongoing soil settlement and seepage issues around the effluent pump station and adjacent to the levee embankment, and

WHEREAS, on March 27, 2007, by Resolution No. 2007-200, Council approved an Agreement with Holdrege & Kull Consulting Engineers and Geologists (Holdrege & Kull), a geotechnical engineering firm, to perform a thorough site investigation and provide a report of their findings, and

WHEREAS, based on geotechnical soil testing of the area, Holdrege & Kull reported several issues at the site: 1) Relatively high potential for liquefaction of the soil surrounding the chlorination facility pumps because the soil strength has been decreased due to partial saturation from seepage; 2) Insufficient utility trench backfill compaction in the areas adjacent to the pump station; 3) Significant settlement of the concrete box culvert gravity drain and settlement of the soil underneath the discharge pipes and gate valves, and
WHEREAS, the Geotechnical Engineering Investigation Report recommended compaction grouting of the loose soils in and around the pump station and permeation grouting in the vicinity of the concrete box culvert gravity drain, and

WHEREAS, the compaction grouting is intended to densify the loose sandy soil which will reduce its potential to further settle, and

WHEREAS, the permeation grouting is intended to act as a seepage cut-off wall around the concrete gravity drain box culvert which should minimize seepage flows that may be occurring along the outside of the San Joaquin River channel, and

WHEREAS, the recommended actions will stabilize the soils and help to prevent liquefaction and settling, and

WHEREAS, the original geological study Agreement with Holdrege & Kull did not include technical plans and specifications, testing and quality control engineering; specifically the scope of work was to provide an evaluation of the likely cause of the soil settlement, conduct soils testing, and to provide recommendations for soil stabilization, and

WHEREAS, Holdrege & Kull satisfactorily completed the study within budget and provided recommendations for remediation of the soil settlement problems at the Chlorination Facility in their report submitted to the City on January 22, 2008, and

WHEREAS, in order to implement the recommendations of Holdrege & Kull, technical plans and specifications are necessary for bidding purposes, and testing and quality control reports to ascertain that the work is performed consistent with the technical plans and specifications, and
WHEREAS, using outside professional services will enable this project to be completed in a timely manner, and

WHEREAS, City staff recommends an Agreement with the consulting firm of Holdrege & Kull for design services for grout stabilization of the Chlorination Facility as the City does not have the subject matter expertise to complete the design services for grout stabilization of the Chlorination Facility,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Holdrege & Kull Consulting Engineers and Geologists for design services for grout stabilization of the Wastewater Treatment Plant Chlorination Facility, in an amount not to exceed $85,473 for the identified scope of services, plus $8,547 for additional services (if needed) for a maximum total amount of $94,020.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
RESOLUTION APPROVING AN AMENDMENT OF THE FY08/09 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET IN ORDER TO FUND OTHER HIGH-PRIORITY CIP PROJECTS AND APPROVING THE TRANSFER OF FUNDS AS SET FORTH HEREIN FOR THE REQUIRED REDISTRIBUTION OF FUNDS TO THE OTHER STREETS CAPITAL FACILITY FEE PROJECTS

WHEREAS, certain budgetary transactions are necessary in the amount of $3,150,000, in order to provide funding for other high-priority CIP projects within the Streets Capital Facility Fee fund, and

WHEREAS, due to a significantly lower bid received for the Pelandale Avenue Widening project, savings were realized, and

WHEREAS, the savings realized are now being reallocated to fund other high-priority CIP projects within the City making it necessary to amend the budgets to redistribute the savings to other Streets Capital Facility Fee accounts, and

WHEREAS, the FY08/09 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 FY 08-09 Capital Improvement Program budget as shown in Exhibit A and authorizes the Finance Director to take the necessary actions to effect the budget amendment.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
# Exhibit A

Fund  
Streets Capital Facility Fees

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</tr>
<tr>
<td>Pelandale/Dale to McHenry</td>
<td>$ 400,000.00</td>
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<td>$ 250,000.00</td>
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MODESTO CITY COUNCIL
RESOLUTION NO. 2008-607

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE "PELandale AVENUE WIDENING" PROJECT BY $350,000 FROM 8% ($756,663) TO 11.7% ($1,106,663) OF THE ORIGINAL CONTRACT PRICE WITH GEORGE REED, INC. TO FUND THE CHANGE ORDER FOR THE MEDIAN CURB INSTALLATION

WHEREAS, the City Council on August 12, 2008, by Resolution No. 2008-476, awarded a $9,458,292.06 contract to George Reed, Inc. to construct the Pelandale 6-lane widening project between Dale Road and McHenry Avenue, and

WHEREAS, installation of a large quantity of median curb was not included in the original contract and was estimated to cost $350,000, and

WHEREAS, the maximum amount of change orders that the Public Works Director is authorized to issue on this project is $756,663 per the Council’s Change Order Approval Policy adopted on July 19, 1994, by Resolution No. 94-443, and

WHEREAS, on a project of this size, staff anticipates that the entire contingency amount will be needed and does not want to reduce the contingency by $350,000 at the beginning of the project,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director’s authority to issue change orders on the Pelandale Avenue Widening project by $350,000 from 8% ($756,663) to 11.7% ($1,106,663) of the original contract price with George Reed, Inc. to fund the change order for the median curb installation.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING AN AGREEMENT CONSENTING TO COMMON USE WITH THE MODESTO IRRIGATION DISTRICT, FOR CONSTRUCTION RELATED TO THE EMERALD TRUNK SEWER LINE REHABILITATION PROJECT, TO USE CERTAIN REAL PROPERTY LOCATED AT 929 WOODLAND AVENUE (APN-115-002-001), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto desires to remediate and construct a 36” sewer trunk line for the purpose of improving its Emerald Trunk Line Wastewater Collection Facility, and

WHEREAS, this project was identified as one of the priority trunk sewer rehabilitation and reliability projects in the City’s Wastewater Collection System Master Plan, and

WHEREAS, MID is the owner in possession of certain real property within Modesto Irrigation District’s “Service Center,” located at 929 Woodland Avenue (APN 115-002-001), that the City desires to use for the rerouting of the 36” sewer trunk line, and

WHEREAS, the City will need approximately 838 square feet of MID’s property for the sewer trunk line, and

WHEREAS, MID requires an Agreement Consenting to Common Use prior to allowing construction within its right-of-way, and

WHEREAS, this will allow the City to use the MID property for the trunk 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 with the Modesto
Irrigation District, for construction related to the Emerald Trunk Sewer Line
Rehabilitation project, to use certain real property located at 929 Woodland Avenue
(APN-115-002-001).

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-609

A RESOLUTION DECLARING THE OMITTED CONTRACTOR QUALIFICATIONS INFORMATION AS A MINOR IRREGULARITY, APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "DOWNSTREAM WATER SYSTEM IMPROVEMENTS-TIER 2, WEST TANK 12 AND PUMP STATION," ACCEPTING THE BID AND APPROVING A $5,760,000 CONTRACT WITH A. TEICHERT & SON, INC., DBA TEICHERT CONSTRUCTION FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS-TIER 2, WEST TANK 12 AND PUMP STATION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Downstream Water System Improvements-Tier 2, West Tank 12 and Pump Station project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Downstream Water System Improvements-Tier 2, West Tank 12 and Pump Station project were opened at 11:00 a.m. on September 23, 2008, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended the omitted contractor qualifications information was a minor irregularity in the bid, and

WHEREAS, the Public Works Director has recommended that the bid of $5,760,000 received from A. Teichert & Son, Inc., dba Teichert Construction be accepted as the lowest responsible bid and the contract be awarded to Teichert Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby declares the omitted contractor qualifications information as a minor irregularity, approves the plans and specifications for the project titled "Downstream Water System Improvements-Tier 2, West Tank 12 and Pump Station," accepts the bid of
Teichert Construction in the amount of $5,760,000, and awards Teichert Construction the contract for the Downstream Water System Improvements-Tier 2, West Tank 12 and Pump Station project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with Teichert Construction, in the amount of $5,760,000, for the Downstream Water System Improvements-Tier 2, West Tank 12 and Pump Station project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, by Councilmember Olsen, 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, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: Keating, Lopez, O’Bryant

ABSENT: Councilmembers: None

ATTEST:  

(SIGNATURE)  

(STEPHANIE LOPEZ, City Clerk)

APPROVED AS TO FORM:

By  

(SIGNATURE)  

(SUSANA ALCALA WOOD, City Attorney)
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-610

A RESOLUTION IMPLEMENTING $1.6 MILLION IN BUDGET REDUCTIONS IN THE STORM DRAIN OPERATING BUDGET FOR FY 2008-09; APPROVING AN AB 939 GREEN WASTE DIVERSION FEE TO FUND THE COLLECTION OF PRUNED REFUSE AND FORESTRY MATERIALS FOR COMPOSTING PURPOSES TO BE CHARGED ON A PER-TON BASIS THROUGH THE MAXIMUM GARBAGE RATES; SETTING A PUBLIC HEARING TO SET THIS FEE, WHICH WOULD BE CHARGED TO THE CITY’S LICENSED SOLID WASTE HAULERS ON A PER-TON BASIS FOR RESIDENTIAL, COMMERCIAL, AND DROP BOX SOLID WASTE; INCORPORATING THE FEE AS PART OF THE COST STRUCTURE OF MAXIMUM RATES FOR SOLID WASTE COLLECTION SERVICES, TO BECOME EFFECTIVE JANUARY 1, 2009; ESTABLISHING A SEPARATE AB 939 GREEN WASTE DIVERSION FUND IN THE SOLID WASTE FUND

WHEREAS, on October 7, 2008, Council considered several options for bringing the Storm Drain Fund into balance, and

WHEREAS, a key piece of that discussion was a recommendation by staff that the Council consider converting the current City-operated Pruned Refuse Pickup Program into a garbage hauler containerized pickup program, and

WHEREAS, as an alternative, Council was presented with an option to keep the current program and seek voter approval for a new fee to pay the annual $1.13 million cost, and

WHEREAS, Council directed staff to return on October 28, 2008, with three options to go to the voters for approval of a fee increase for the Storm Drain Fund, and

WHEREAS, Council expressed concern that other viable alternatives had not been presented, and

WHEREAS, during the process of evaluating the three Storm Drain Fund options, a fourth funding option emerged which warrants consideration, and
WHEREAS, AB 939 requires Cities and Counties to divert 50% of their solid waste from disposal, or face $10,000 per day fines, and

WHEREAS, in the event that the Pruned Refuse program is discontinued, the City runs the risk of not attaining the mandated diversion, and

WHEREAS, the Public Resources Code allows cities to assess fees for AB 939 program implementation to meet the diversion mandates, and

WHEREAS, Fees are typically charged on a per-ton basis, and are built into the maximum rate structure, and

WHEREAS, AB 939 Fee could be incorporated as part of the cost structure of maximum rates for solid waste collection services, to become effective January 1, 2009, and

WHEREAS, Staff estimates that the revenue generated from the AB 939 Green Waste Diversion fee would be approximately $1,681,000 million per year if both pruned refuse and forestry materials are included,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves $1.6 million in budget reductions in the Storm Drain operating budget for FY 2008-09; funding pruned refuse collection services through an AB 939 green waste diversion fee to fund the collection of pruned refuse and forestry materials for composting purposes to be charged on a per-ton basis through the maximum garbage rates; setting a Public Hearing to set this Fee, which would be charged to the City’s licensed solid waste haulers on a per-ton basis for residential, commercial, and drop box solid waste; incorporating the Fee as part of the cost structure of maximum rates for solid
waste collection services, to become effective January 1, 2009; establishing a separate AB 939 Green Waste Diversion Fund in the Solid Waste Fund.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
RESOLUTION CONSIDERING AND MAKING FINDINGS AS TO THE MASTER ENVIRONMENTAL IMPACT REPORT ("MEIR") FOR THE URBAN AREA GENERAL PLAN UPDATE, AS SUCH MEIR RELATES TO THE PROPOSED AMENDMENT TO THE AMENDED REDEVELOPMENT PLAN FOR THE MODESTO REDEVELOPMENT PROJECT

WHEREAS, the Redevelopment Agency of the City of Modesto (the "Agency") has proposed an Amendment to the existing Amended Redevelopment Plan (the "Redevelopment Plan") for the Modesto Redevelopment Project (the "Redevelopment Project") which would make a minor, technical modification to the language in the Redevelopment Plan to ensure that the land uses specified in the Redevelopment Plan conform to the land use designations specified in the Redevelopment Master Plan, the City's Urban Area General Plan, and where applicable, the County's General Plan (the "Proposed Amendment"); and

WHEREAS, the Proposed Amendment does not change or expand the boundaries of the Redevelopment Project Area, nor does it amend any of the other limits or provisions currently established under the existing Redevelopment Plan, and also does not modify the land uses established for the properties within the Redevelopment Project Area, and is not intended to modify the Agency's redevelopment activities or the goals and objectives of the Agency to redevelop the Redevelopment Project Area; and

WHEREAS, the City Council and the Agency held a joint public hearing in the City Council Chambers, on Tuesday, October 28, 2008, to consider adoption of the Proposed Amendment; and

WHEREAS, the Proposed Amendment is proposed in conjunction with the recently approved Modesto Urban Area General Plan technical update, which General
Plan update incorporates both the Redevelopment Plan and the Redevelopment Master Plan by reference; and

WHEREAS, the City of Modesto prepared a Master Environmental Impact Report (the "General Plan MEIR") for the Urban Area General Plan Update (SCH No. 2007072023) pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq., hereinafter referred to as "CEQA"), the Guidelines for Implementation of the California Environmental Quality Act (14 California Code of Regulations, Section 15000 et seq., hereinafter referred to as the "State CEQA Guidelines") and procedures adopted by the City relating to environmental evaluation; and

WHEREAS, the General Plan MEIR was certified as completed by the City Council on October 14, 2008, by Resolution No. 2008-582 and the City Council made certain findings relating to the Urban Area General Plan Update; and

WHEREAS, a Program Environmental Impact Report for the Redevelopment Master Plan ("Master Plan EIR") was certified as completed by the Agency on October 9, 2007, by Resolution No. 10-2007 and the Agency made findings and adopted mitigation measures and a mitigation monitoring plan relating to the Redevelopment Master Plan;

NOW, THEREFORE, the City Council of the City of Modesto does hereby resolve as follows:

Section 1. The City Council has reviewed and considered the information contained in the General Plan MEIR with respect to the Proposed Amendment, the Agency's Report to the City Council on the Proposed Amendment, all staff reports, oral and written testimony given at public hearings on the Proposed Amendment, and all other matters deemed material and relevant prior to adopting this Resolution. All documents
and materials that constitute the record of the proceedings upon which the Agency
decisions are based are located at the office of the City Clerk and Secretary of the
Agency, located at City Hall, 1010 Tenth Street, Sixth Floor, Modesto, California.

Section 2. The City Council finds and determines that the Proposed
Amendment is covered by the previously approved Master Plan EIR and the General Plan
MEIR relating to the Urban Area General Plan Update (collectively, the "Prior EIRs"),
and that all applicable mitigation measures, including the mitigation monitoring plan,
approved and identified in Agency Resolution Nos. 10-2007 and Council Resolution No.
2008-582 have been incorporated into the Proposed Amendment. The City Council
further finds that the Proposed Amendment is within the scope of the Prior EIRs and that
no additional environmental impact report or other environmental analysis is required
because: (a) the Amendment does not propose subsequent changes in the Redevelopment
Plan which will require major revisions to the Prior EIRs; (b) substantial changes have
not occurred with respect to the circumstances under which the Proposed Amendment
will be implemented which will require major revisions in the Prior EIRs; and (c) there is
no new information available which was not known or could not have been known at the
time the Prior EIRs were certified as complete. The foregoing findings are based on the
following facts: the Proposed Amendment makes a minor, technical modification to the
language in the Redevelopment Plan to ensure that the land uses specified in the
Redevelopment Plan conform to the land use designations specified in the
Redevelopment Master Plan, the City's Urban Area General Plan, and where applicable,
the County's General Plan; the Proposed Amendment does not change or expand the
boundaries of the Redevelopment Project Area; the Proposed Amendment does not
amend any of the other limits or provisions currently established under the existing
Redevelopment Plan; the Proposed Amendment does not modify the land uses established for the properties within the Redevelopment Project Area; and the Proposed Amendment is not intended to modify the Agency's redevelopment activities or the goals and objectives of the Agency to redevelop the Redevelopment Project Area. Based on the foregoing, the City Council finds and determines that the Proposed Amendment will not have a significant effect upon the environment.

Section 3. Following approval and adoption of the Proposed Amendment by the City Council, the City Clerk, in conjunction with the Secretary of the Agency, is hereby directed to file a Notice of Determination with the County Clerk of the County of Stanislaus pursuant to the provisions of Section 21152 of CEQA and Section 15094 of the State CEQA Guidelines.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, by Councilmember Olsen, 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:  Council Members:  Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES:  Council Members:  None

ABSENT:  Council Members:  None

ATTEST:  

(SIGNATURE)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-612

A RESOLUTION ACCEPTING A COMPONENT OF THE SUBDIVISION IMPROVEMENTS INSTALLED FOR CENTER COURT SUBDIVISION, WAIVING THE WARRANTY SECURITY REQUIREMENT, AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION FOR THE LANDSCAPE AND IRRIGATION IMPROVEMENTS ONLY

WHEREAS, CHARLESTON PLACE, a California Limited Partnership (collectively “SUBDIVIDER”), is the subdivider of the CENTER COURT SUBDIVISION (collectively “SUBDIVISION”) in the Village One Specific Plan area and,

WHEREAS, Village One Community Facilities District No. 1996-1 (“CFD”) was formed to fund both the infrastructure and maintenance of facilities needed to serve the Village One Specific Plan, and

WHEREAS, on December 31, 2004, a Mutual Release and Settlement Agreement by and between the City of Modesto, Village One Community Facilities District No. 1996-1 and Charleston Place was approved by the City of Modesto, and

WHEREAS, Paragraph 2.g. of the Agreement allows for satisfactory completion of certain components of improvements not affected by work not completed to be partially accepted, and

WHEREAS, the following improvements (“PUBLIC IMPROVEMENTS”) have been constructed by Charleston Place:

1. Landscape and irrigation improvements along Dermond Road and Belharbour Drive.
WHEREAS, the Construction Administration Office of the Public Works Department has verified that the landscape and irrigation improvements along Dermond Road and Belharbour Drive for SUBDIVISION have been satisfactorily completed, and

WHEREAS, the Public Works Department will assume maintenance responsibilities upon acceptance of PUBLIC IMPROVEMENTS, and

WHEREAS, the above-referenced improvements are functional segments of the SUBDIVISION’S improvements, and

WHEREAS, the City Engineer has indicated that it would be in order for the City Council to accept the partial improvements in SUBDIVISION as complete, and to authorize the City Clerk to file a Notice of Completion,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the landscape and irrigation improvements along Dermond Road and Belharbour Drive installed for the Center Court Subdivision, waives the warranty security requirement, and authorizes the City Clerk to record a Notice of Completion for the landscape and irrigation improvements along Dermond Road and Belharbour Drive only.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: Marsh

ATTEST: [Signature]

Stephanie Lopez, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-613

A RESOLUTION RESCINDING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF TWO (2) DUMP TRUCKS FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, WITH BONANDER TRUCK, TURLOCK, CA, AND AUTHORIZING THE PURCHASING MANAGER TO CANCEL THE PURCHASE ORDER WITH BONANDER TRUCK IN THE AMOUNT OF $134,909

WHEREAS, on May 6, 2008, the City Council, by Resolution No. 2008-264, authorized the award of bid and contract for the purchase of eight (8) dump trucks to several vendors, and

WHEREAS, on May 8, 2008, Purchase Order No. 08-06640 was issued to Bonander Truck, Turlock, CA, for two (2) dump trucks, for delivery on December 12, 2008, and

WHEREAS, on September 22, 2008, Bonander Truck notified the City that production would not begin until January 2009, for both trucks, and

WHEREAS, on October 8, 2008, a letter of cancellation was sent to Bonander Truck for failure to perform, and

WHEREAS, on October 24, 2008, Bonander Truck acknowledged the cancellation letter and that GMC is having production problems and cannot meet the delivery date, and

WHEREAS, the two (2) dump trucks are part of the California Air Resources Board (CARB) compliance program, and if delivery continually slips there is a danger of not meeting the City's requirements for the CARB compliance program, and

WHEREAS, Interstate Truck Center, Stockton, CA was the next lowest responsive and responsible bidder and was contacted for vehicle availability. Interstate
Truck Center has honored the original bid price and provided a reliable delivery time frame for a cost increase of $2,592.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves rescinding the award of bid and contract for the purchase of two (2) dump trucks for the Public Works Department, Fleet Services Division, with Bonander Truck, Turlock, CA,

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to cancel the purchase order with Bonander Truck.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-614

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF TWO (2) DUMP TRUCKS FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO INTERSTATE TRUCK CENTER, STOCKTON, CA, FOR AN ESTIMATED TOTAL COST OF $137,501

WHEREAS, on May 6, 2008, the City Council, by Resolution No. 2008-264, authorized the award of bid and contract for the purchase of eight (8) dump trucks to several vendors, and

WHEREAS, on May 8, 2008, Purchase order No. 08-06640 was issued to Bonander Truck, CA, for two (2) dump trucks, for delivery on December 12, 2008, and

WHEREAS, on September 22, 2008, Bonander Truck notified the City that production would not begin until January 2009, for both trucks. The Fleet Services Division was notified of the production schedule and rejected the new production dates, and

WHEREAS, Interstate Truck Center, Stockton, CA was the next lowest responsive and responsible bidder and was contacted for vehicle availability. Interstate Truck Center has honored the original bid price and provided a reliable delivery time frame for a total cost of $137,501.00,

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 two (2) dump trucks for the Public Works Department, Fleet Services Division, to Interstate Truck Center, Stockton, CA, for an estimated total cost of $137,501.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AUTHORIZING THE ISSUANCE OF FORMAL REQUEST FOR BIDS FOR PERSONAL PROTECTIVE EQUIPMENT CARE AND MAINTENANCE SERVICES FOR THE MODESTO FIRE DEPARTMENT FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL COST OF $30,000, AND A ONE TIME COST OF UP TO $100,000 FOR REPLACEMENT OF PERSONAL PROTECTIVE EQUIPMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, firefighters are required to wear personal protective equipment (PPE), and

WHEREAS, PPE’s minimize exposure to biological, chemical, and environmental contaminates, and

WHEREAS, these contaminates become trapped in fibers of PPE’s, posing a health hazard to anyone in contact with them long after the incident has occurred, and

WHEREAS, these contaminates are considered hazardous until proper decontamination has been performed, and

WHEREAS, PPE’s are damaged at times and require repairs, and

WHEREAS, repairs must be made by certified personnel using the same fabric, thread and stitch pattern used by the manufacturer, and

WHEREAS, the Modesto Fire Department, in an effort to meet current laws and regulations, wishes to create a care and maintenance program, and

WHEREAS, this will bring the Modesto Fire Department into compliance with current standards and keep our firefighters safe from hazards outside of their control,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the issuance of formal Request for Bids for personal protective equipment care and maintenance services for the Modesto Fire Department for a two (2)
year agreement, with three (3) one-year extension options, for an estimated annual cost of $30,000, and a one-time cost of up to $100,000 for replacement personal protective equipment.

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 special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AUTHORIZING THE ISSUANCE OF FORMAL REQUEST FOR BIDS FOR LINEN SERVICES FOR THE MODESTO FIRE DEPARTMENT FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS FOR AN ESTIMATED ANNUAL COST OF $35,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, each of the City’s eleven (11) fire stations receive linen services, and

WHEREAS, these services include the weekly rental of bed linens, pillow cases, bath towels and dish towels, and

WHEREAS, line services are provided at a cost much less that it would cost to purchase and provide these services in-house, and

WHEREAS, although each station has cleaning equipment for clothing the machines are currently used to wash truck towels and turnouts, and

WHEREAS, this leaves a less that desirable level of oil and other contaminates in the cleaning equipment, and

WHEREAS, this equipment would not adequately clean items used for bathing, sleeping and dish cleaning,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the formal Request for Bids for linen services for the Modesto Fire Department for a two (2) year agreement, with three (3) one-year extension options for an estimated annual cost of $35,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the Agreement.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: [Signature]

(STEPHANIE LOPEZ, City Clerk)

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-617

A RESOLUTION APPROVING A GRANT APPLICATION FOR $1 MILLION FROM THE STATE OF CALIFORNIA'S URBAN STREAMS RESTORATION GRANT PROGRAM FOR THE STABILIZATION OF THE RIVER BANKS AT DRY CREEK, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY GRANT DOCUMENTS

WHEREAS, the California Department of Water Resources, Division of Planning and Local Assistance, Urban Streams Restoration Program has announced the availability of funds for grants, and

WHEREAS, said grants are intended to help solve flooding and erosion problems in a way that provides environmental enhancement, and

WHEREAS, the City of Modesto desires to apply for grant funds in the amount of $1 million from the Urban Streams Restoration Grant Program for the stabilization of the river bank along Dry Creek, remove invasive plants from the banks and bottom of the creek bed, remove garbage from the creek bed, and plant native riparian plant material, and

WHEREAS, the La Loma Neighborhood Association has proposed to co-sponsor a grant application with the City of Modesto, and

WHEREAS, staff has concluded the proposed project would be environmentally beneficial, and we will comply with all requirements of CEQA prior to implementation of the project, and

WHEREAS, staff has reviewed the proposed project and believes that it reflects most closely the goals of the Urban Streams Restoration Grant Program, and consider the prospects of receiving the grant to be reasonably likely,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a grant application for $1 million from the State of California's Urban Streams Restoration Grant Program.

BE IT FURTHER RESOLVED by the Council that it authorizes the City Manager, or his designee, to execute all necessary grant documents.

BE IT FURTHER RESOLVED that the Council authorizes the Parks, Planning and Development Manager, or his designee, to act as the Project Manager on the project. The Council hereby delegates authority to the Project Manager to manage the Agreement, and to delegate authority to others to provide management and support services required for performance of the work and administration of the Agreement. The delegation of authority to submit invoices requires written consent by both grantees which will be provided to the Department of Water Resources.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hahn, 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: None

ABSENT: Councilmembers: Marsh

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-618

A RESOLUTION APPROVING A GRANT APPLICATION FOR $2.2 MILLION IN FUNDING FROM THE STATE OF CALIFORNIA'S RIVER PARKWAYS GRANT FUNDING PROGRAM FOR THE DEVELOPMENT OF PROJECTS WITHIN THE TUOLUMNE RIVER REGIONAL PARK GATEWAY PARCEL, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY GRANT DOCUMENTS

WHEREAS, the Legislature and Governor of the State of California have provided funds for the River Parkways Grant Funding Program, and

WHEREAS, the State Resources Agency has been delegated the responsibility for the administration of this grant program, establishing necessary procedures, and

WHEREAS, said procedures established by the State Resources Agency require a resolution certifying the approval of an application by the City Council of the City of Modesto before submission of the application to the State, and

WHEREAS, the City of Modesto desires to apply for grant funds in the amount of $2.2 million from the River Parkways Grant Funding Program for the development of projects within the Tuolumne River Regional Park Gateway parcel, and

WHEREAS, the City of Modesto, if selected, will enter into an agreement with the State of California to carry out the project,

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

1. Approves the filing of an application for $2.2 million in funding from the State of California's River Parkways Grant Funding Program for the Tuolumne River Regional Park Gateway Parcel; and

2. Certifies that the City understands the assurances and certification in the application; and,
3. Certifies that the City or title holder will have sufficient funds to operate and maintain the project consistent with the land tenure requirements; or will secure the resources to do so; and,

4. Certifies that it will comply with all provisions of Section 1771.5 of the California Labor Code; and,

5. Certifies that the project will comply with any laws and regulations including, but not limited to, the California Environmental Quality Act (CEQA), legal requirements for building codes, health and safety codes, disabled access laws, and, that prior to commencement of construction, all applicable permits will have been obtained.

BE IT FURTHER RESOLVED that the Council authorizes the City Manager, or his designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, payment requests, etc, which may be necessary for the completion of the aforementioned projects.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ÁLCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-619

A RESOLUTION ACCEPTING THE REPORT ON XCLAMATION FEST 2008, AND APPROVING XCLAMATION FEST 2009, TO BE HOSTED BY CHRIS RICCI PRESENTS, INC. IN DOWNTOWN MODESTO ON SATURDAY, JULY 18, 2009

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

WHEREAS, the Safety and Communities Committee met on September 5, 2007, and supported approval of Xclamation Fest 2008 for July 19, 2008, and

WHEREAS, on September 25, 2007, by Resolution No. 2007-556, the City Council approved Xclamation Fest 2008, to be hosted by Chris Ricci Presents, Inc. in downtown Modesto on Saturday, July 19, 2008, and

WHEREAS, the eighth annual Xclamation Fest was held on Saturday, July 19, 2008, and

WHEREAS, Xclamation Fest 2008 was financially successful, and provided a safe, entertaining festival for Modesto residents, and

WHEREAS, the proposed date for Xclamation Fest 2009 is Saturday, July 18, 2009, and

WHEREAS, Chris Ricci of Chris Ricci Presents, Inc. coordinates all Xclamation Fest events with the Modesto Police Department, the Downtown Improvement District, and the Modesto Centre Plaza staff in order to secure approvals and coordination for the event, and
WHEREAS, this event is of financial benefit to the City of Modesto and downtown merchants, and

WHEREAS, at its October 6, 2008 meeting the Safety and Communities Committee accepted the staff report on Xclamation Fest 2008, and supported Xclamation Fest 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts staff's report on Xclamation Fest 2008, held in downtown Modesto on Saturday, July 19, 2008.

BE IT FURTHER RESOLVED that the Council hereby approves Xclamation Fest 2009, to be held in downtown Modesto on Saturday, July 18, 2009.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-620

A RESOLUTION ACCEPTING TWO TARGET GRANTS TOTALING $4,200 TO PROVIDE FUNDING FOR “ACCESS MPD” AND NATIONAL NIGHT OUT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the Modesto Police Department applied for two Target grants totaling $4,200, and

WHEREAS, one application was for “Access MPD”, a program the Modesto Police Department would like to implement so citizens can access helpful educational tips on crime prevention, and

WHEREAS, a plasma TV and tilt mount and a computer will be installed in the Modesto Police Department lobby to allow citizens access to helpful tips on crime prevention seven days a week, year-round, and

WHEREAS, the National Night Out award will provide funding for a National Night Out Knight Costume to be used for all future National Night Out events, parades, crime prevention and educational events, and

WHEREAS, there will be no fiscal impact to the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts two Target grants totaling $4,200 to provide funding for “Access MPD” and National Night Out.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: 

(SIGNATURE)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2008-621

A RESOLUTION AMENDING THE FISCAL YEAR 2008/2009 GENERAL FUND BUDGET, ESTIMATING REVENUE OF $4,200 FROM TWO TARGET GRANTS

WHEREAS, the Modesto Police Department applied for two Target grants, and

WHEREAS, one application was for “Access MPD”, a program the Modesto Police Department would like to implement so citizens can access helpful education tips on Crime Prevention, and

WHEREAS, this equipment will allow all citizens access to helpful tips on Crime Prevention and Education seven days a week, year-round, and

WHEREAS, the National Night Out grant will provide funding for a National Night Out Knight Costume to be used to promote National Night Out, and promotional materials, and

WHEREAS, there is no local match required for these programs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2008/2009 General Fund Budget is hereby amended as indicated below to initiate these grant projects:

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<tr>
<th>Expense:</th>
<th>Revenue:</th>
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<tr>
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<td></td>
<td>$4,200</td>
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</table>

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-622

A RESOLUTION APPROVING AN AGREEMENT WITH NOLTE ASSOCIATES, INC. FOR CONSTRUCTION MANAGEMENT SERVICES OF THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS - TIER 2, WEST TANK 12 AND PUMP STATION PROJECT IN AN AMOUNT NOT TO EXCEED $635,595.56, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City and the Modesto Irrigation District (MID) have been planning for the expansion of the Modesto Regional Water Treatment Plant (MRWTP) from its existing capacity of 36 million gallons per day (mgd) to 72 mgd, and

WHEREAS, the MRWTP currently treats water from the Modesto Reservoir and conveys it to the City’s service area to combine with groundwater sources to meet the City’s water supply needs, and

WHEREAS, Phase One of the MRWTP began operation in 1995 and significantly reduced the City’s reliance on groundwater pumping and improved the condition of the groundwater aquifer, and

WHEREAS, this project is needed to provide existing users with a continued reliable water source and keep pace with the City’s projected growth, and

WHEREAS, although MID facilities will soon be capable of conveying the expanded treatment plant capacity of 60 mgd, the City has determined that its existing water system needs additional storage and distribution systems to fully integrate the expanded MRWTP with the City’s distribution system, and

WHEREAS, these downstream improvements are primary parts of the Tier 1 and Tier 2 improvements, and
WHEREAS, Tier 1 improvements include pressure and/or flow regulating valves at MID system turnouts, the north storage tank and pump station, and the corresponding water transmission pipelines, and

WHEREAS, the installation of the Tier 1 transmission mains are nearing completion and the installation of the valves at MID system turnouts are expected to be completed April 2009, and

WHEREAS, Tier 2 improvements include the west and southeast storage tanks and pump stations, along with associated transmission pipelines, and the north and southeast tanks will be part of future improvements, and

WHEREAS, on April 8, 2008, by Resolution No. 2008-220, City Council approved an Agreement with West Yost Associates, Inc. to prepare the final project design of the Modesto Regional Water Treatment Plant (Downstream Water System Improvements) Tier 2 – West Tank Improvements, and

WHEREAS, the final design has been completed and will include the construction and startup of a new 4 mgd storage tank and associated booster pump station, as identified in the final Preliminary Design Report (PDR), which was accepted by the City Council, on April 8, 2008, by Resolution No. 2008-219, and

WHEREAS, due to the complexity of the construction of the Downstream Water System Improvements - Tier 2, West Tank 12 and Pump Station project (West Tank 12 and Pump Station) and the current staffing levels, a construction management firm is being tasked with the management and inspection of this project, and

WHEREAS, the selection process for construction management services followed the City’s selection procedures for professional consultants, and
WHEREAS, staff mailed a Request for Qualifications for services to all firms that had previously indicated an interest in providing construction management services to the City, and

WHEREAS, four consulting firms specializing in construction management services were asked to provide a proposal, and

WHEREAS, the City’s Selection Committee reviewed the proposals submitted and held interviews with three firms, and

WHEREAS, the firm of Nolte Associates, Inc. (Nolte) was considered the most qualified to provide construction management services for the project, and

WHEREAS, Nolte’s scope of work under this Agreement will include construction administration, processing and tracking of submittals and requests for information, coordination associated with inspections, inspection of installation of equipment and startup, coordination with City staff, documentation of daily and weekly field activities, and project closeout, and

WHEREAS, the West Tank Transmission Mains project will be managed and inspected by City staff, and

WHEREAS, staff recommends that an agreement with the consulting firm of Nolte Associates, Inc. be approved to perform the construction management services as the City does not currently have the staffing and expertise to manage the construction of the West Tank 12 and Pump Station project with the other scheduled capital improvement construction projects, and

WHEREAS, City desires to enter into an agreement with Nolte Associates, Inc. in an amount not-to-exceed $635,595.56, to perform construction management services for
the Downstream Water System Improvements – Tier 2, West Tank 12 and Pump Station project, and

WHEREAS, Nolte will be paid on a time and materials basis for actual hours required to perform individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Nolte Associates, Inc. in an amount not-to-exceed $635,595.56, for construction management services for the Downstream Water System Improvements – Tier 2, West Tank 12 and Pump Station project.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING A CONTRACT WITH ECOLOGIC FOR CONSULTANT SERVICES FOR THE REMOVAL AND DISPOSAL OF CONTAMINANTS FROM THE DRINKING WATER SUPPLY AT THE JENNINGS WASTEWATER TREATMENT PLANT, IN AN AMOUNT NOT TO EXCEED $150,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, the City of Modesto's Secondary Wastewater Treatment and Compost Facilities are located at 7007 Jennings Road, and currently have a total of 29 employees and consultants on site, and

WHEREAS, on July 17, 2008, the City of Modesto received a Citation and Notice of Penalty from the State of California, Division of Occupational Safety and Heath, for non-potable water being used for showering at the end of the work shift, and for washing dishes used for drinking and eating, and

WHEREAS, the domestic and operational water needs of the facilities are met by four water wells with pump systems, and

WHEREAS, each well has different levels of arsenic, uranium and manganese that exceed Maximum Contaminate Levels (MCLs) according to California Code of Regulations Title 22, and

WHEREAS, in order to identify what process needs to be taken to correct the situation at the Jennings facility, staff issued a Request for Qualifications (RFQ) on August 25, 2008 to 21 consultants, and

WHEREAS, staff received three proposals which were evaluated by five staff members, and
WHEREAS, after reviewing the proposals and the cost estimates, staff has determined that EcoLogic is the most qualified and cost effective consultant for the project, and

WHEREAS, funds are budgeted in CIP Water Supply at Jennings Treatment Plant Account No. 6210-480-B104-6010 for this project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a contract with EcoLogic for consultant services for the removal and disposal of contaminants from the drinking water supply at the Jennings Wastewater Treatment Plant, in an amount not to exceed $150,000.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: """" STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-624

A RESOLUTION ACCEPTING THE WORK BY JOHN D. BAKER CONSTRUCTION COMPANY, FOR THE PROJECT TITLED "INSTALLATION OF DETECTOR LOOPS AT 7 INTERSECTIONS" 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 $242,295

WHEREAS, a report has been filed by the Public Works Director that the project titled "Installation of Detector Loops at 7 Intersections" has been completed by John D. Baker Construction Company in accordance with the contract agreement dated January 9, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Installation of Detector Loops at 7 Intersections" is hereby accepted as complete from said contractor John D. Baker Construction Company; 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 $242,295 is authorized as provided in the contract.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: ______________________________

(Seal)

APPROVED AS TO FORM:

By: ______________________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-625

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF LILIANA LAZO FROM THE CULTURE COMMISSION

WHEREAS, LILIANA LAZO was appointed a member of the CULTURE COMMISSION on February 28, 2006, and

WHEREAS, LILIANA LAZO has tendered her resignation from the CULTURE COMMISSION, and

WHEREAS, LILIANA LAZO has been a devoted and sincere public servant and has contributed greatly to our civic progress.

NOW, THEREFORE, BE IT RESOLVED that the resignation of LILIANA LAZO from the CULTURE COMMISSION be, and hereby is accepted with regret.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-626

A 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 the Fiscal Year 2008-2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2008-2009 budget have been adjusted as shown on the Budget Request form(s).

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-627

A RESOLUTION APPROVING THE PURCHASE OF A PIERCE QUANTUM 1500GPM FIRE APPARATUS FROM GOLDEN STATE FIRE APPARATUS IN THE AMOUNT OF $445,885.00 THROUGH A LEASE-PURCHASE AGREEMENT BETWEEN THE CITY OF MODESTO AND OSHKOSH CAPITAL TO FINANCE THE ACQUISITION

WHEREAS, the Modesto Fire Department uses fifteen engine companies and three truck companies in its current fire/life safety delivery system, and

WHEREAS, front line apparatus consists of eleven engine companies and three truck companies, and

WHEREAS four reserve engines are utilized when front line apparatus are out-of-service for repairs and/or when additional apparatus is needed to maintain our system delivery, and

WHEREAS, the National Fire Protection Agency (NFPA) recommends fire apparatus useful life span at fifteen (15) years in front line service and five (5) years in reserve status, and

WHEREAS, the Modesto Fire Department maintains apparatus to higher than average standards which allows the extension of this life span to eighteen years in front line service and five years in reserve status, and

WHEREAS, on June 27, 2006, by Resolution No. 2006-416, Council adopted Pierce Manufacturing’s apparatus as the standard apparatus for the Modesto Fire Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the purchase of one (1) Pierce Quantum 1500GPM Fire Engine from Golden State Fire Apparatus for a total cost of $443,885.00.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING CHANGES TO THE FISCAL YEAR 2009-2009 GENERAL FUND AND FLEET REPLACEMENT FUND BUDGETS TO REFLECT THE COSTS ASSOCIATED WITH THE LEASE-PURCHASE OF A NEW FIRE APPARATUS

WHEREAS, the Modesto City Council approved the lease-purchase of a fire apparatus from Oshkosh Capital in the amount of $445,585.00, and

WHEREAS, the lease-purchase will be accounted for in the Fleet Replacement Fund (fund 7210), and

WHEREAS, the Fleet Replacement Fund will bill the General Fund annually for the cost of the lease-purchase payments, and

WHEREAS, the Fleet Maintenance Fund has sufficient equity to offset the unpaid lease-purchase liability until it is repaid in full.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the General Fund and Fleet Replacement fund budgets as shown in Exhibit A and authorizes the Finance Director to take all steps necessary to reflect those changes within the city’s financial accounting system.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: [Signature] STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature] SUSANA ALCALA WOOD, City Attorney
### Exhibit A

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<td>Expense</td>
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<td><strong>Fleet Equipment Replacement</strong></td>
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<tr>
<td>Revenue</td>
<td>Transfer from General Fund (7210-700-7000-9010)</td>
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<td><strong>Expense</strong></td>
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<td>Apparatus (7210-480-5814-5900)</td>
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<tr>
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$22,368.82/ 12*7.5 mos.
A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE
PROJECT TITLED "INSTALLATION OF TRAFFIC SIGNALS AT FOUR
LOCATIONS: CLAUS ROAD/SYLVAN AVENUE, FLOYD AVENUE/LINCOLN
OAK DRIVE, TULLY ROAD/STODDARD AVENUE, AND SISK
ROAD/VINTAGE FAIRE DRIVEWAY;" ACCEPTING THE BID AND
APPROVING A CONSTRUCTION CONTRACT WITH ANGELO UTILITIES,
FOR $695,870, FOR THE PROJECT, AND AUTHORIZING THE CITY
MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, this project will install traffic signals at the intersections of Claus
Road/Sylvan Avenue, Floyd Avenue/Lincoln Oak Drive, Tully Road/Stoddard Avenue,
and Sisk Road/Vintage Faire Driveway, and

WHEREAS, bids for this project were opened on August 26, 2008, and

WHEREAS, Angelo Utilities was determined to be the responsible low bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the plans and specifications for the project titled "Installation of
Traffic Signals at Four Locations: Claus Road/Sylvan Avenue, Floyd Avenue/Lincoln
Oak Drive, Tully Road/Stoddard Avenue, and Sisk Road/Vintage Faire Driveway,"
accepts the bid and approves a construction contract with Angelo Utilities for $695,870,
for the project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is
authorized to execute the contract.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING PREQUALIFIED CONSULTANT LISTS FOR ENGINEERING DESIGN SERVICES FOR UNDERGROUND UTILITIES, STREET DESIGN, LANDSCAPE DESIGN, AND THE PREQUALIFIED CONSULTANTS FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR DOMESTIC WATER TREATMENT AND DELIVERY, WASTEWATER COLLECTION SYSTEMS, BUILDINGS, PARKS, TRAFFIC SIGNALS, AND STREETS

WHEREAS, the Public Works Department – Capital Improvement Services Division (CIS) performs several Capital Improvement Projects (CIP’s) that require engineering design, construction management, and inspection services that are beyond the City’s current staffing levels and workload to accomplish in a timely manner, and

WHEREAS, CIS has found it necessary to utilize the services of specialized engineering design, construction management, and inspection services consulting firms, and

WHEREAS, retaining prequalified shortlists of consultants allows the division to have quick access to specific engineering design, construction management, and inspection services when needed, and

WHEREAS, Capital Improvement Projects presently scheduled for review and processing by City staff continue to rise at a rapid rate, and

WHEREAS, using experienced consultants provides a quick turnaround, which is essential to efficient response to the large undertaking of numerous projects, and

WHEREAS, the goal in having shortlists of consultants is to promote project cost savings, which is a positive budget impact to the Capital Improvement Program, and

WHEREAS, six of the on-call consultants on the shortlists are local firms to the area and are familiar with the layout of the City as well as City Standards, and
WHEREAS, the shortlists of on-call consultants have established experience and were the most qualified consultants from those who submitted Statement of Qualifications, and have demonstrated satisfactory services to the City on past and current projects, and

WHEREAS, for each CIP, a written proposal outlining the scope of services, design or construction schedule, and cost estimate will be submitted by the selected consultant, and

WHEREAS, the selected consultant will perform no service until Capital Improvement Services management has approved the proposal and a written Notice to Proceed is prepared and sent to the selected consultant prior to commencement of services, and

WHEREAS, City staff recommends approving the prequalified consultant lists, and

WHEREAS, the selected consultant will be determined on a CIP project basis once a scope of work and contract have been negotiated with the most qualified firm(s) from the shortlists for each particular CIP project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the prequalified consultant lists for engineering design, construction management, and inspection services for various Capital Improvement Projects for three years, with the option of revising or renewing the shortlists after three years at the sole discretion of the City.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: ____________________________

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By ____________________________

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF PAUL FREDERICKS FROM THE COMMUNITY QUALITIES FORUM

WHEREAS, PAUL FREDERICKS was appointed a member of the Community Qualities Forum on July 13, 2007, and

WHEREAS, PAUL FREDERICKS has tendered his resignation from the Community Qualities Forum, and

WHEREAS, PAUL FREDERICKS has been a devoted and sincere public servant and has contributed greatly to our civic progress.

NOW, THEREFORE, BE IT RESOLVED that the resignation of PAUL FREDERICKS from the Community Qualities Forum be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to PAUL FREDERICKS for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-632

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF LARRY DOVICHI FROM THE COMMUNITY QUALITIES FORUM

WHEREAS, LARRY DOVICHI was appointed a member of the Community Qualities Forum on May 15, 2001, and

WHEREAS, LARRY DOVICHI has tendered his resignation from the Community Qualities Forum, and

WHEREAS, LARRY DOVICHI has been a devoted and sincere public servant and has contributed greatly to our civic progress.

NOW, THEREFORE, BE IT RESOLVED that the resignation of LARRY DOVICHI from the Community Qualities Forum be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to LARRY DOVICHI for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(Seal)

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

11/25/08/CityMgr/EPuckett/Item 3 1 2008-632
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-633

A RESOLUTION DENYING AN APPEAL FILED BY MODESTO CITY EMPLOYEES ASSOCIATION (MCEA) AND MODESTO CONFIDENTIAL & MANAGEMENT ASSOCIATION (MCMA) REGARDING THE REQUEST FOR PROPOSAL (RFP) FOR CUSTODIAL SERVICES

WHEREAS, in February of 2008, the Purchasing Division issued Request for Proposal (RFP) No. 0708-18 for the furnishing of custodial services for City-owned buildings. Proposals were received and opened in April of 2008. The City received six (6) responsive proposals. One of those proposals was from the MCEA/MCMA associations, and

WHEREAS, the proposals were evaluated by a committee based on established criteria and associated point weightings and a decision was announced. The evaluation committee ranked Pride Industries the highest proposer and made a recommendation to award. The proposal from MCEA/MCMA was ranked fifth by the evaluation committee, and

WHEREAS, MCEA and MCMA filed a written protest and appeal on August 27, 2008 with the Purchasing Manager based on the announced decision to award a contract to Pride Industries. The Purchasing Manager reviewed the protest and found the majority of the protest to be without merit. Therefore, the Purchasing Manager denied the protest, and

WHEREAS, MCEA and MCMA appealed the Purchasing Manager’s decision to the Deputy City Manager as allowed for in City protest procedures. That appeal was not received within the applicable time frames contained in the purchasing manual. Therefore, it was not reviewed or considered by the Deputy City Manager. The decision
by the Deputy City Manager was memorialized in correspondence to Attorney W. Robert Phibbs on September 17, 2008, and

WHEREAS, the representative for MCEA and MCMA objected to the rejection of the appeal by the Deputy City Manager in a September 22, 2008 letter, and

WHEREAS, on September 30, 2008 counsel for MCEA and MCMA requested two separate appeals to the Mayor and City Council including: 1) Appeal of Purchasing Manager’s Decision to Deputy City Manager; and 2) Appeal of Deputy City Manager’s decision that the appeal to that level was time barred. Furthermore, the appeal requested the Council to overrule the decision of the Deputy City Manager or in the alternative, for the Council to directly rule on the appeal, and

WHEREAS, the City Council granted a date and time to hear the requests submitted by the representative for MCEA and MCMA and such matter was heard by the Mayor and City Council members on November 5, 2008, whereby the Council heard the appeal and voted to deny it,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal filed by Modesto City Employees Association (MCEA) and Modesto Confidential & Management Association (MCMA) regarding the Request for Proposal (RFP) for Custodial Services is denied.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, 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, Olsen, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ÁLCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-634

A RESOLUTION ACCEPTING THE FINAL SUBDIVISION MAP AND PUBLIC IMPROVEMENTS AT 3125 COFFEE ROAD FOR CONDOMINIUM PURPOSES FOR THE GUPTA PROFESSIONAL PLAZA, AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, BRIJ GUTPA, ( “SUBDIVIDER”), is the subdivider of the GUPTA PROFESSIONAL PLAZA FOR CONDOMINIUMS ( “SUBDIVISION”) located at 3125 Coffee Road in the City of Modesto and,

WHEREAS, the Gupta property is part of the Planned Developed Zone, P-D (575) area of the City of Modesto, and

WHEREAS, on February 25, 2008, the Planning Commission, by Resolution No. 2008-15, approved the Tentative Subdivision Map to allow condominiums, and

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

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

WHEREAS, the Construction Administration Office of the Public Works Department have verified that all required public improvements for this project have been satisfactorily completed and all inspection fees have been paid, and

WHEREAS, the Public Works Department will assume maintenance responsibilities upon acceptance of public improvements, and
WHEREAS, SUBDIVIDER has posted a Subdivision security equal to 50% of the estimated cost of the public improvements in the amount of $28,046.70, and

WHEREAS, SUBDIVIDER has posted a warranty security equal to 10% of the estimated cost of the public improvements in the amount of $5,609.34,

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

1. The final map is hereby approved.

2. The improvements completed along the property frontage on Coffee Road are hereby accepted, and the City Clerk is authorized to file a Notice of Completion.

3. The City Clerk is hereby authorized to certify the map of said SUBDIVISION on behalf of the City of Modesto, after the fees and deposits required by the Modesto Municipal Code in amounts determined by the City Engineer have been paid.

4. The City Clerk is further authorized to release the Warranty security to guarantee improvements in the amount of $5,609.34 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, 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, Olsen, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney

11/25/08/C&ED/DEnglishItem 6  2008-634
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-635

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF A 2009 CRANE TRUCK TO ALTEC INDUSTRIES, INC., DALEVILLE, VA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $171,812

WHEREAS, on August 14, 2007, the City Council, by Resolution No. 2007-495, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 07/08 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, a crane truck for the Water Division was included in the FY 07/08 new vehicles and heavy equipment list authorized by Council, and

WHEREAS, on June 6, 2008, the Purchasing Division issued RFB No. 0708-30 for the purchase of a 2009 Crane Truck to thirty-six (36) prospective bidders, posted the bid on the City’s web site and formally advertised as required by law, and

WHEREAS, on July 15, 2008, RFB’s were formally opened in the City Clerk’s office. Of the thirty-six (36) prospective bidders, one (1) company chose to respond, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid/contract for the purchase of a 2009 Crane Truck to Altec Industries, Inc., Daleville, VA, for the total estimated cost of $171,812,

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 a 2009 Crane Truck to Altec Industries, Inc., Daleville, VA.
BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a Purchase Order for a total estimated cost of $171,812.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 WATER ENTERPRISE FUND CAPITAL PROJECT BUDGET TO TRANSFER $86,812 TO THE FLEET REPLACEMENT FUND WHERE IT WILL BE APPLIED TO THE PURCHASE OF A 2009 CRANE TRUCK

WHEREAS, the City Council approved the purchase of a 2009 Crane Truck from Altec Industries, Inc., and

WHEREAS, the original appropriation for this purchase was $85,000 before the additional requirements imposed by the California Air Resource Board (CARB), and additional needed equipment were considered, and

WHEREAS, sufficient monies have been identified within the Water Enterprise Capital Project Fund to pay the additional amount necessary to acquire the crane truck,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2008-2009 Water Enterprise Fund Capital Project Budget and the Fleet Replacement Fund budget 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 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 25th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(S Seal)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
## Exhibit A

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<td>Fleet Replacement Fund</td>
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<tr>
<td>Transfer in 7210-700-7000-9618</td>
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<tr>
<td>Expense</td>
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<td>$86,812.00</td>
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</table>
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-637

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF A DIGGER DERRICK TRUCK TO TEREX UTILITIES, SACRAMENTO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $195,672

WHEREAS, on August 14, 2007, the City Council, by Resolution No. 2007-495, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment throughout FY 07/08 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, a digger derrick truck for the Electric Division of the Public Works Department was included in the FY 07/08 new vehicles and heavy equipment list authorized by Council, and

WHEREAS, on January 4, 2008, Turlock Irrigation District went through a competitive bid process for the purchase of a digger derrick truck. The lowest responsive and responsible bidder was Terex Utilities, Sacramento, CA, and

WHEREAS, to take advantage of this process and award by “accessing the terms” of the Turlock Irrigation District’s competitive bid process is an efficient and effective way to purchase this digger derrick truck, by saving the time and expense to the City to formally solicit RFB’s, and

WHEREAS, the Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases which meet or exceed $50,000.00 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto Municipal Code, and
WHEREAS, one exception, MMC Section 8-3.204(d), is available where the Purchasing Manager, in his or her discretion, determines that a process other than the usual formal bid procedure set forth in MMC Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, acting within his discretion, the Purchasing Manager invoked that exception for this purchase. The purchase of a digger derrick truck by “accessing the terms” of the Turlock Irrigation District contract with Terex Utilities, Sacramento, CA, conforms to MMC 8-3.204(d),

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 a digger derrick truck to Terex Utilities, Sacramento, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a Purchase Order for a total estimated cost of $195,672.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]

SUSANNA ALCALA WOOD, City Attorney

11/25/2008/Finance/MTorres/Item 8 2 2008-637
A RESOLUTION AUTHORIZING THE AWARD OF BID AND APPROVING A TWO-YEAR AGREEMENT WITH BRENDA ATHLETIC CLUB FOR GYM SERVICES WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ANNUAL COST OF $11,000, AND POTENTIAL FIVE (5) YEAR COST OF $55,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, since 1992 the Fire Department and Risk Management have researched ways to improve the results of City physicals for firefighters, and

WHEREAS, Risk Management found that firefighters who participated in a regular fitness program had a reduction of work-related injuries which resulted in substantial savings to the City in Workers’ Compensation claims, and

WHEREAS, Risk Management began interviewing local fitness centers for quarterly classes and evaluations, and

WHEREAS, one of the benefits of working with a local fitness center is they are willing to provide fitness center memberships for each member of the Fire Department, and

WHEREAS, the Fire Department wishes to continue to offer gym services to facilitate ongoing fitness training outside of the work environment, and

WHEREAS, Request for Bids were issued to six local vendors as well as posted on the City’s website and legally advertised by the City Clerk’s office, and

WHEREAS, three (3) vendors responded, with Brenda Athletic Club submitting the lowest responsive and responsible bid,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of
Modesto that it hereby authorizes the award of bid and approves a two (2) year Agreement with Brenda Athletic Club for gym services with three (3) one-year extension options, at the sole discretion of the City, for a total annual cost of $11,000, and potential five (5) year cost of $55,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is 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 25th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-639

A RESOLUTION ACCEPTING THE LACI AND CONNER SEARCH AND RESCUE FUND DONATION TOTALING $5,096 TO PURCHASE SEARCH AND RESCUE EQUIPMENT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY FUNDING DOCUMENTS.

WHEREAS, the Laci and Conner Search and Rescue Fund, a program of the Carole Sund/Carrington Memorial Reward Foundation, provides financial assistance to law enforcement agencies and non-profit organizations involved in search and rescue operations, and

WHEREAS, the Modesto Police Department has been awarded $5,096.00 for the purchase of scuba equipment, and

WHEREAS, the scuba equipment will allow the Modesto Police Department to perform underwater search, recovery and rescue operations, and

WHEREAS, there will be no fiscal impact to the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Laci and Conner Search and Rescue Fund donation totaling $5,096 to purchase search and rescue equipment.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODesto CITY COUNCIL
RESOLUTION NUMBER 2008-640

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 OPERATING BUDGET, AND AUTHORIZING THE FINANCE DIRECTOR, OR HIS DESIGNEE, TO INCREASE THE REVENUE AND APPROPRIATION ACCOUNTS ESTIMATING REVENUE OF $5,096 FROM THE LACI AND CONNER SEARCH AND RESCUE FUND DONATION TO PROVIDE FUNDING FOR THE PURCHASE OF SEARCH AND RESCUE EQUIPMENT

WHEREAS, the Laci and Conner Search and Rescue Fund, a program of the Carole Sund/Carrington Memorial Reward Foundation, provides financial assistance to law enforcement agencies and non-profit organizations involved in search and rescue operations, and

WHEREAS, the Modesto Police Department has been awarded $5,096.00 for the purchase of scuba equipment, and

WHEREAS, the scuba equipment will allow the Modesto Police Department to perform underwater search, recovery and rescue operations, and

WHEREAS, the Fiscal Year 2008-2009 Operating Budget will be amended as shown in Exhibit A, which is attached hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2008-2009 Operating Budget to add a new appropriation 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 25th day of November, 2008, 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 ALCALA WOOD, City Attorney
### Exhibit A

**Expense:**
To: 0100-190-1961-5026 $5,096 Scuba Equipment

**Revenue:**
To: 0100-190-1961-3761 $5,096 Misc. Grants/donations
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-641

A RESOLUTION APPROVING CONTINUATION OF MODESTO AREA EXPRESS ROUTE 43 BUS SERVICE, WHICH CONNECTS THE DOWNTOWN TRANSPORTATION CENTER WITH PARADISE ROAD, CARPENTER ROAD AND CALIFORNIA AVENUE

WHEREAS, Stanislaus County opened a new medical clinic located on the north side of Paradise Road immediately west of the intersection with Martin Luther King, Jr. Drive, and

WHEREAS Stanislaus County requested a bus stop be placed on the same side of the street as the clinic to shorten the walk of their clients and to prevent them from having to cross the street, and,

WHEREAS, at the time of the request Modesto Area Express (MAX) provided service in the area but did not have a bus stop on the north side of Paradise Road adjacent to the medical facility, and

WHEREAS, Public Works Department staff concluded that a new bus route would be needed in order to establish a bus stop on the north side of Paradise Road as requested by Stanislaus County, and

WHEREAS, on May 6, 2008, the City Council, by Resolution No. 2008-263, approved establishment of the new bus route on a trial basis, and directed staff to return to Council for approval to continue the route on a permanent basis, and

WHEREAS, Public Works staff has reviewed the performance of the route and recommends its continuation on a permanent basis,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves continuation of Modesto Area Express Route 43 bus service,
which connects the Downtown Transportation Center with Paradise Road, Carpenter Road and California Avenue.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, 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 ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-642

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 WATER ENTERPRISE FUND OPERATING BUDGET AND THE GENERAL FUND OPERATING BUDGET TO REFLECT THE SUPPORT FOR NEW COSTS ASSOCIATED WITH THE METER INSTALLATION PROGRAM

WHEREAS, Assembly Bill 2572 mandated that, by January 1, 2010, all customers who have a water meter be billed based on the actual volume of water used, and

WHEREAS, since 2003, staff has been installing and retrofitting meters with automated meter reading (AMR) devices to meet the January 2010 deadline, and

WHEREAS, the extra workload created by the Meter Installation Program requires the addition of two Customer Service Account Clerk I positions and related miscellaneous costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2008-09 Water Enterprise Fund operating budget and the General Fund operating budget 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 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 25th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
### Exhibit A

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A RESOLUTION ACCEPTING THE WORK BY MOZINGO CONSTRUCTION, INC. FOR THE PROJECT TITLED “DOWNSTREAM WATER SYSTEM IMPROVEMENTS, TIER 1 - ORANGEBURG TRANSMISSION MAIN” 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 $3,268,562.05

WHEREAS, a report has been filed by the Public Works Director that the project titled “Downstream Water System Improvements, Tier 1 - Orangeburg Transmission Main” has been completed by Mozingo Construction, Inc. in accordance with the contract agreement dated January 8, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “Downstream Water System Improvements, Tier 1 - Orangeburg Transmission Main” is hereby accepted as complete from said contractor Mozingo Construction, 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 $3,268,562.05 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 25th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2008-644  

A RESOLUTION ACCEPTING THE WORK BY KAWEAH CONSTRUCTION CO. FOR THE PROJECT TITLED “DISSOLVED AIR FLOTATION FACILITY” 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 $6,489,791.60

WHEREAS, a report has been filed by the Public Works Director that the project titled “Dissolved Air Flotation Facility” has been completed by Kaweah Construction Co. in accordance with the contract agreement dated January 2, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “Dissolved Air Flotation Facility” is hereby accepted as complete from said contractor Kaweah Construction Co., 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 $6,489,791.60 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 25th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

APPROVED AS TO FORM:  

By SUSANA ALCALA WOOD, City Attorney  

11/25/2008/PW/KOhlson/Item 14
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-645

A RESOLUTION APPROVING A SETTLEMENT AGREEMENT AND MUTUAL RELEASE
BY AND BETWEEN THE CITY OF MODESTO, A MUNICIPAL CORPORATION
OF THE STATE OF CALIFORNIA, CITY OF MODESTO COMMUNITY
FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE), A COMMUNITY
FACILITIES DISTRICT OF THE STATE OF CALIFORNIA AND
DEL VALLE CAPITAL CORPORATION, INC., A CALIFORNIA
CORPORATION AND AUTHORIZING THE CITY MANAGER, OR HIS
DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in December 1997, a Development Agreement was executed
between Norman Galas, et al. and the City of Modesto, and

WHEREAS, on January 9, 2003, the Development Agreement was amended and
named Del Valle Capital Corporation, Inc. as a party to the agreement, and

WHEREAS, additional amendments to the Development Agreement have
occurred and additional agreements have been executed between the City of Modesto
(“City”), City of Modesto Community Facilities District No. 2003-1 (“CFD No. 2003-1”) and
Del Valle Capital Corporation, Inc. (“Del Valle”), a chronology of which is attached
hereto as Exhibit “A”, (collectively “Agreements”) and

WHEREAS, portions of the improvements related to the Agreements have been
accepted by the City Council, and

WHEREAS, there are significant improvements remaining to be accepted, and

WHEREAS, the City agrees to pay Del Valle $1,300,000 (“Gross Settlement
Amount”) for the water improvements, and

WHEREAS, the City will deduct $99,044.89 from the Gross Settlement Amount
for unfinished work to be completed by City crews, and
WHEREAS, the City will deduct $266,902.68 from the Gross Settlement Amount and will pay this amount directly to HOWK Systems as payment for the Stop Notice filed with the City of Modesto, and

WHEREAS, the City will deduct $70,578.00 from the Gross Settlement Amount and will pay this amount directly to Developers Surety and Indemnity Company as the premium payment for the Subdivision Payment Bonds, and

WHEREAS, the City will deduct $15,839.09 from the Gross Settlement Amount for payment it is due for staff time related to construction administration associated with the water improvements, and

WHEREAS, the City will issue a Net Settlement Check to Del Valle in the amount of $847,635.34, and

WHEREAS, the City, CFD No. 2003-1 and Del Valle desire to memorialize this understanding in a document entitled Settlement Agreement and Mutual Release,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Settlement Agreement and Mutual Release by and between the City of Modesto, City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and Del Valle Capital Corporation, Inc.,

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Settlement Agreement and Mutual Release.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 25th day of November, 2008, 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)

ATTEST: ________________
STEFANIE LOPEZ, City Clerk

PROVED AS TO FORM:

By: ________________________
SUSANA ALCALA WOOD, City Attorney
EXHIBIT “A”

Chronology of Agreements related to Galas Brothers Subdivision Unit Nos. 1 & 2

- Development Agreement between the City of Modesto and Norman Galas, June Galas, Stanley Galas and Bonnie K. Galas dated as of September 16, 1997, as amended by the First Amendment to Development Agreement between the City of Modesto and Norman Galas, June Galas, Stanley Galas, Bonnie K. Galas and Del Valle Capital Corporation, Inc. dated as of January 9, 2003, and as further amended by the Second Amendment to Development Agreement between the City of Modesto and Norman Galas, June Galas, Stanley Galas, Bonnie K. Galas and Del Valle Capital Corporation, Inc. dated as of June 10, 2003, and as finally amended by the Third Amendment to Development Agreement between the City of Modesto and Norman Galas, June Galas, Stanley Galas, Bonnie K. Galas, Del Valle Capital Corporation, Inc. dated as of June 22, 2004

- Advanced Funding Agreement for the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) dated as of October 28, 2003 Subdivision Agreement, dated as of December 23, 2003 pertaining to Galas Brothers Subdivision Unit No. 1

- Subdivision Agreement, dated as of December 23, 2003 pertaining to Galas Brothers Subdivision Unit No. 2

- Agreement to Complete Necessary Infrastructure Prior to Final Inspection or Occupancy, dated as of December 23, 2003, as amended by the Amendment to Agreement dated as of January 25, 2005, and as further amended by the Second Amendment to Agreement dated as of November 9, 2005, and as further amended by the Third Amendment to Agreement dated as of December 14, 2005 and as finally amended by the Fourth Amendment to Agreement, dated as of June 27, 2006

- Two Acquisition and Shortfall Agreements between the City of Modesto Community Facilities District No. 2003 1 (Fairview Village) and Del Valle Homes, each dated as of June 22, 2004

- Agreement by and between the City of Modesto, Del Valle Capital Corporation, D.R. Horton, Inc., and Pulte Home Corporation Regarding the Funding and Construction of Certain Interim Water Improvements in Return for City’s Issuance of Certain Permits, dated as of September 30, 2005

- Letter of Agreement between City of Modesto and Del Valle Homes dated as of February 2, 2007

- Agreement for the Acceptance of Completed Public Improvements and Partial Release of Security, dated as of June 12, 2007
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-646

RESOLUTION APPROVING AN AMENDMENT OF THE FY 08-09 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET IN ORDER TO FULLY FUND THE SETTLEMENT AGREEMENT AND MUTUAL RELEASE WITH DEL VALLE CAPITAL CORPORATION AND CREATE A NEW CIP PROJECT D002 (FAIRVIEW STORM DRAIN REPAIRS) AND APPROVE THE BUDGET ADJUSTMENTS INCLUDED IN ATTACHMENT A

WHEREAS, on November 25, 2008, the City Council approved a Settlement Agreement and Mutual Release ("Settlement Agreement") with Del Valle Capital Corporation, Inc., and

WHEREAS, certain budgetary transactions are necessary in the amount of $421,724.35, in order to fully fund the Settlement Agreement, and

WHEREAS, sufficient monies are available in the CFD NO. 2003-1 (Fairview Village) reserve fund reserve to support this budget adjustment, and

WHEREAS, the FY 08-09 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 FY 08-09 Capital Improvement Program budget as shown in Exhibit A and authorizes the Finance Director to take the necessary actions to effect the budget amendment.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 25th day of November, 2008, by Councilmember Hawn,
who moved its adoption, which motion being duly seconded by Councilmember Keating,
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
## Exhibit A

**Fund: City of Modesto CFD No. 2003-1 (Fairview Village)**

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**Revenues**

| 0700-700-E007-9264 | Transfer from Fairview Village (2641) $62,745     |
| 6280-700-D002-9264 | Transfer from Fairview Village (2641) $36,300     |
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-647

A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE FURNISHING OF CUSTODIAL SERVICES FOR CERTAIN CITY-OWNED FACILITIES OTHER THAN THE PUBLIC SAFETY BUILDING (OPTION 2 IN THE STAFF REPORT) TO PRIDE INDUSTRIES, ROSEVILLE, CALIFORNIA; AUTHORIZING STAFF TO NEGOTIATE AN AGREEMENT WITH PRIDE INDUSTRIES; AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN ANNUAL 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 ANNUAL COST OF $308,064

WHEREAS, on January 2, 2008, by Resolution No. 2008-10, the City Council authorized the Purchasing Manager to formally issue a Request for Proposal (RFP) for a managed competition process for custodial services within City-owned buildings currently maintained by the Parks, Recreation and Neighborhoods Department, Building Services Division, and

WHEREAS, on February 29, 2008, the Purchasing Division issued RFP No. 0708-18 for the furnishing of custodial services for City-owned buildings to 28 prospective proposers, 9 of them local businesses, posted the RFP on the City’s website and formally advertised as required by law, and

WHEREAS, on April 15, 2008, RFP’s were formally opened in the City Clerk’s Office. Of the 28 prospective proposers, 8 companies chose to respond. Of the 8 proposals received, 6 were considered responsive and responsible, and

WHEREAS, on May 21, 2008, an evaluation committee comprised of 5 City staff members was formed to formally review and evaluate the proposals, and

WHEREAS, on July 23, 2008, the evaluation committee completed the evaluation process and came to a consensus for award, and
WHEREAS, based on being ranked highest in total evaluation criteria, the evaluation committee recommended the award of proposal and contract for the furnishing of Citywide custodial services, with the exception of custodial services to the Police Department as stated in option 2 of the agenda report to PRIDE Industries, Roseville, CA, and authorizing the City Manager to execute an annual 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 annual cost of $308,064, and

WHEREAS, for public safety purposes, the custodial services at the Public Safety Building will continue to be provided by city employees, who have gone through an extensive background check and security clearance, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of proposal and contract for the furnishing of Citywide custodial services to PRIDE Industries, Roseville, CA, conforms to the Modesto Municipal Code, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for the furnishing of custodial services for certain City-owned facilities to PRIDE Industries, Roseville, CA.

BE IT FURTHER RESOLVED that staff is hereby authorized to negotiate an agreement with PRIDE Industries.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute an annual 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 annual cost of $308,064.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 25th day of November, 2008, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING AN AMENDMENT TO THE DEPARTMENT OF HOUSING & URBAN DEVELOPMENT (HUD) ANNUAL ACTION PLAN FOR FISCAL YEAR 2008-2009 ALLOCATING THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) NEIGHBORHOOD STABILIZATION PROGRAM (NSP) FUNDING, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE ALL RELATED DOCUMENTS; AND AUTHORIZING STAFF TO SUBMIT THE DOCUMENTS TO HUD

WHEREAS, on July 30, 2008, the President signed Title III of Division B of the Housing and Economic Recovery Act, 2008 (HERA), and

WHEREAS, Section 2301-Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes, named Neighborhood Stabilization Program (NSP), allocated $8.1 million to the City of Modesto, and

WHEREAS, NSP funding is considered a special allocation of CDBG funds, funding must be targeted to areas with greatest need, HUD requires that 25% of this allocation must be spent to serve households that are at or below 50% of the Median Area Income, funds must be obligated within 18 months after the execution of the grant agreement, and amendments are due to HUD by December 1, 2008, and

WHEREAS, NSP funds may only be used to establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties; purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent or redevelop such homes and properties; establish land banks for homes that have been foreclosed upon; demolish blighted structures and redevelop demolished or vacant properties, and

WHEREAS, staff is recommending that the funding be allocated to partner with the Housing Authority of the County of Stanislaus for an Incentive Transfer Program
with $2,025,000; provide $1,467,500 in Down Payment Assistance funding specifically for residents purchasing abandoned or foreclosed properties; issue an RFQ for $2,000,000 in funding to be used to purchase and rehabilitate foreclosures within the focus areas, including the Airport Neighborhood, the Weed and Seed area and designated target areas; issue an RFQ for $2,000,000 in funding to be used to purchase and rehabilitate foreclosures throughout the City of Modesto, and allocate $607,500 to be used for administration of the program, including property inspections, abatement of issues such as lead based paint, and review and monitoring of grants and loans issued under the program, and

WHEREAS, the Citizens Housing and Community Development Committee met on November 12, 2008, and supported approval of the Amendment to the Annual Action Plan, and

WHEREAS, a report dated November 13, 2008, 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 November 25, 2008, 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,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the Department of Housing & Urban Development (HUD) Annual Action Plan for Fiscal Year 2008-2009 allocating the
Community Development Block Grant (CDBG) Neighborhood Stabilization Program (NSP) funding.

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 25th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: 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. 2008-649

A RESOLUTION AMENDING THE FY 08-09 OPERATING BUDGET TO
ESTIMATE AND APPROPRIATE $8.1 MILLION IN ENTITLEMENT
REVENUE FROM THE FEDERAL COMMUNITY DEVELOPMENT BLOCK
GRANT NEIGHBORHOOD STABILIZATION PROGRAM

WHEREAS, on July 30, 2008, the President signed Title III of Division B of the
Housing and Economic Recovery Act, 2008 (HERA), and

WHEREAS, Section 2301-Emergency Assistance for the Redevelopment of
Abandoned and Foreclosed Homes, named Neighborhood Stabilization Program (NSP),
allocated $8.1 million to the City of Modesto, and

WHEREAS, NSP funding is considered a special allocation of CDBG funds,
funding must be targeted to areas with greatest need, HUD requires that 25% of this
allocation must be spent to serve households that are at or below 50% of the Median Area
Income, funds must be obligated within 18 months after the execution of the grant
agreement, and amendments are due to HUD by December 1, 2008, and

WHEREAS, NSP funds may only be used to establish financing mechanisms for
purchase and redevelopment of foreclosed upon homes and residential properties;
purchase and rehabilitate homes and residential properties that have been abandoned or
foreclosed upon, in order to sell, rent or redevelop such homes and properties; establish
land banks for homes that have been foreclosed upon; demolish blighted structures and
redevelop demolished or vacant properties, and

WHEREAS, staff is recommending that the funding be allocated to partner with
the Housing Authority of the County of Stanislaus for an Incentive Transfer Program
with $2,025,000; provide $1,467,500 in Down Payment Assistance funding specifically
for residents purchasing abandoned or foreclosed properties; issue an RFQ for $2,000,000 in funding to be used to purchase and rehabilitate foreclosures within the focus areas, including the Airport Neighborhood, the Weed and Seed area and designated target areas; issue an RFQ for $2,000,000 in funding to be used to purchase and rehabilitate foreclosures throughout the City of Modesto, and allocate $607,500 to be used for administration of the program, including property inspections, abatement of issues such as lead based paint, and review and monitoring of grants and loans issued under the program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 08-09 operating budget to create five multi year organizations in new fund 1131 CDBG NSP Entitlement and estimate and appropriate $8.1 million in entitlement revenue from the federal Community Development Block Grant Neighborhood Stabilization Program as more fully described on Exhibits 1 through 5, attached hereto and incorporated herein.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is 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 25th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: 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
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Carolyn Eubank
Telephone No.: 577-5349
Department: Parks, Recreation and Neighborhoods
Fund Title: CDBG NSP Entitlement

Fund-Agency-Organization-Object | Appr Unit | Current Budget | Increase/Decrease | Revised Budget | Description of Object
--- | --- | --- | --- | --- | ---

DEPARTMENTAL REVENUES

FROM

TO
1131-320-3281-3515

$607,500 $607,500 CDBG NSP Entitlement

APPROPRIATIONS

FROM

TO
1131-320-3281-0235
1131-320-3281-0255
1131-320-3281-0230
1131-320-3281-0207
1131-320-3281-0208
1131-320-3281-0209
1131-320-3281-0301

$138,327 $437,173 $2,000 $5,000 $10,000 $10,000 $5,000 $607,500

Service Professional & Other
Service City Forces - Interfund Advertising
Conference Expenses Business Expenses Training Office Supplies

COMMENTS/JUSTIFICATION

This action will appropriate $607,500 in federal Community Development Block Grants Neighborhood Stabilization Program entitlement funding to org 3281, CDBG NSP Admin. This 18 month program is part of the Housing and Economic Recovery Act, 2008 and is slated to begin on February, 2009. 10% of the $8.1 million allocated to the City of Modesto, provides administrative support to the emergency assistance for the redevelopment of abandoned and foreclosed homes.

AUTHORIZATION (check if required) SIGNATURE DATE

DEPARTMENT DIRECTOR or
AUTHORIZED ASSISTANT
(Allocation of Dept Appr to Line-Item Level)

FINANCE DIRECTOR
(Transfers to/from Internal Service Charges)
(All items requiring City Manager's Approval)

CITY MANAGER
(Transfers between Budgeted Activities of Departments within Funds)
(Appropriation of Unbudgeted Dept Revenues)
(Transfers into Personnel Services)
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Carolyn Eubank  
Telephone No.: 577-5349  
Department: Parks, Recreation and Neighborhoods  
Fund Title: CDBG NSP Entitlement

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<tr>
<td>1131-320-3282-0496</td>
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COMMENTS/JUSTIFICATION
This action will appropriate $2,025,000 in federal Community Development Block Grants Neighborhood Stabilization Program entitlement funding to org 3282, CDBG NSP Incentive Transfer Program. This program assists qualified participants to become self sustainable in a single-family home.

AUTHORIZATION (check if required)  
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT  
(Allocation of Dept Appr to Line-Item Level)  
FINANCE DIRECTOR  
(Transfers to/from Internal Service Charges)  
(All items requiring City Manager's Approval)  
CITY MANAGER  
(Transfers between Budgeted Activities of Departments within Funds)  
(Appropriation of Unbudgeted Dept Revenues)  
(Transfers into Personnel Services)
**REQUEST FOR BUDGET ADJUSTMENT**

**Contact Person:** Carolyn Eubank  
**Telephone No.:** 577-5349  
**Department:** Parks, Recreation and Neighborhoods  
**Fund Title:** CDBG NSP Entitlement  
**Council Action Date:** November 25, 2008  
**Resolution Number:** ___________  
**FY:** MY

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**APPROPRIATIONS**

| FROM | | | | | |
|------| | | | | |
| TO   | | | | | |
| 1131-320-3283-0235 | | $100,000 | | $100,000 | Service Professional & Other |
| 1131-320-3283-0493 | | $240,000 | | $240,000 | Housing Demo |
| 1131-320-3283-0497 | | $1,600,000 | | $1,600,000 | Direct Loan |
| 1131-320-3283-0502 | | $10,000 | | $10,000 | Lead Based Paint - Testing |
| 1131-320-3283-0503 | | $25,000 | | $25,000 | Lead Based Paint - Clearance |
| 1131-320-3283-0504 | | $25,000 | | $25,000 | Lead Based Paint - Abatement |

**COMMENTS/JUSTIFICATION**

This action will appropriate $2,000,000 in federal Community Development Block Grants Neighborhood Stabilization Program entitlement funding to org 3283, CDBG NSP Target Area Focus. This program funds qualified candidates with the ability to purchase and rehabilitate foreclosed homes within the Airport Neighborhood, Weed & Seed and other targeted areas.

**AUTHORIZATION (check if required)**

- DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)
- FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager’s Approval)
- CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)

**SIGNATURE**

**DATE**
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Carolyn Eubank
Telephone No.: 577-5349
Department: Parks, Recreation and Neighborhoods
Fund Title: CDBG NSP Entitlement

Council Action Date: November 25, 2008
Resolution Number: __________________________

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</table>

COMMENTS/JUSTIFICATION

This action will appropriate $2,000,000 in federal Community Development Block Grants Neighborhood Stabilization Program entitlement funding to org 3284, CDBG NSP Scattered Focus Areas. This program funds qualified candidates with the ability to purchase and rehabilitate foreclosed homes.

**AUTHORIZATION (check if required)**

<table>
<thead>
<tr>
<th>DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)</th>
<th>SIGNATURE</th>
<th>DATE</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)</th>
<th></th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) ( Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)</th>
<th></th>
</tr>
</thead>
</table>
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Carolyn Eubank  Council Action Date: November 25, 2008
Telephone No.: 577-5349  Resolution Number: ____________________________
Department: Parks, Recreation and Neighborhoods
Fund Title: CDBG NSP Entitlement

<table>
<thead>
<tr>
<th>Fund-Agency-Organ-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
<th>Description of Object</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEPARTMENTAL REVENUES</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FROM</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TO</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1131-320-3285-3515</td>
<td></td>
<td></td>
<td>$1,467,500</td>
<td>$1,467,500</td>
<td>CDBG NSP Down Payment Assistance</td>
</tr>
</tbody>
</table>

| APPROPRIATIONS            |           |                |                     |                |                     |
| FROM                     |           |                |                     |                |                     |
| TO                       |           |                |                     |                |                     |
| 1131-320-3285-0235        |           |                | $67,500             | $67,500        | Service Professional & Other |
| 1131-320-3285-0497        |           |                | $1,400,000          | $1,400,000     | Direct Loans         |

COMMENTS/JUSTIFICATION
This action will appropriate $1,400,000 in federal Community Development Block Grants Neighborhood Stabilization Program entitlement funding to org 3285, CDBG NSP Down Payment Assistance. This program funds qualified candidates to purchase abandoned or foreclosed properties. New home buyers will be required to participate in Housing Counseling.

<table>
<thead>
<tr>
<th>AUTHORIZATION (check if required)</th>
<th>SIGNATURE</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEPARTMENT DIRECTOR or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>AUTHORIZED ASSISTANT</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Allocation of Dept Appr to Line-Item Level)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FINANCE DIRECTOR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Transfers to/from Internal Service Charges)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(All items requiring City Manager's Approval)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CITY MANAGER</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Transfers between Budgeted Activities of Departments within Funds)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Appropriation of Unbudgeted Dept Revenues)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Transfers into Personnel Services)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
A RESOLUTION APPROVING ADJUSTMENTS TO THE MAXIMUM SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SOLID WASTE COLLECTION SERVICES, TO BECOME EFFECTIVE JANUARY 1, 2009, INCLUDING FUEL COST AND AN AB 939 GREEN WASTE DIVERSION FEE, creating a NEW AB 939 GREEN WASTE DIVERSION FUND WITHIN THE SOLID WASTE FUND, AND RESCINDING RESOLUTION NO. 2008-484

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

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

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

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

WHEREAS, the City conducted an analysis using the audited financial statements provided by the garbage haulers, supplemental data provided by the garbage haulers, and fuel price information and forecast prices developed by the United States Department of Energy, and
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 November 13, 2008, 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 November 25, 2008, 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, and

WHEREAS, Section 41901 of the Public Resources Code allows cities to assess fees for AB 939 program implementation to meet the diversion mandates and Section 41902 allows cities to have these fees collected by the solid waste haulers, and
WHEREAS, fees are typically charged on a per-ton basis, and are built into the
maximum rate structure, and

WHEREAS, the AB 939 Fee can be incorporated as part of the cost structure of
maximum rates for solid waste collection services, to become effective January 1, 2009,

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 January 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 a new AB 939 Green Waste Diversion Fund
is hereby created in the Solid Waste Fund.

BE IT FURTHER RESOLVED that Resolution No. 2008-484 is hereby
rescinded, effective January 1, 2009.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _Stephanie Lopez_, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _SUSANA ALCALA WOOD_, City Attorney
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
- Blue bag recycling
- Countertop container for kitchen scraps
- Drop-off of old TV and computer tubes
- Two bulky item collections per year by appointment

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 **$23.82 per month** regardless of size of container. A fuel component of $1.47 per month is included in the maximum rate for the two quarters beginning April 1, 2008 and ending September 30, 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 **$20.04 per month**. A fuel component of $1.47 per month is included in the maximum rate for the two quarters beginning April 1, 2008 and ending September 30, 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
Number of Collections Per Week

<table>
<thead>
<tr>
<th>Container Size</th>
<th>NUMBER OF COLLECTIONS PER WEEK</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 CY</td>
<td>1 CY: $39.74, 2 CY: $68.99, 3 CY: $98.21, 4 CY: $127.45, 5 CY: $156.69, 6 CY: $185.93</td>
</tr>
<tr>
<td>3 CY</td>
<td>1 CY: $98.21, 2 CY: $185.93, 3 CY: $273.63, 4 CY: $361.33, 5 CY: $449.05, 6 CY: $536.75</td>
</tr>
<tr>
<td>5 CY</td>
<td>1 CY: $156.69, 2 CY: $302.86, 3 CY: $449.05, 4 CY: $595.22, 5 CY: $744.41, 6 CY: $887.58</td>
</tr>
<tr>
<td>6 CY</td>
<td>1 CY: $185.93, 2 CY: $361.33, 3 CY: $536.75, 4 CY: $712.17, 5 CY: $887.58, 6 CY: $1,063.00</td>
</tr>
</tbody>
</table>

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

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 $0.29 per cubic yard ($1.29 per month for a 1 cubic yard container collected once a week) is included in the maximum rate for the two quarters beginning April 1, 2008 and ending September 30, 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
Maximum Monthly Rates

Front Loader Type:

<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>3 CY</td>
<td>$294.63</td>
</tr>
<tr>
<td>4 CY</td>
<td>$382.35</td>
</tr>
<tr>
<td>6 CY</td>
<td>$557.79</td>
</tr>
</tbody>
</table>

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

EXTRA PICKUPS

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

SPECIAL SERVICE CONDITIONS

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

DETACHABLE CONTAINER ONLY
REPLACEMENT AND CLEANING SERVICE

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

NOTATIONS

1. The above maximum rates include a $0.25 per month per household recycling fee, a $0.05 per cubic yard commercial recycling fee, and a $5.00 per pull ($0.25 per ton) industrial recycling fee, payable to the City by the garbage company.
2. The above residential maximum rates include a $1.33 per month per household AB 939 Green Waste Diversion Fee.
3. The above commercial bin and front-loader compactor maximum rates include an AB 939 Green Waste Diversion Fee of $2.36 per yard/month.
4. Pursuant to Section 11-6.16(c)(2) of the Modesto Municipal Code, the garbage company may require a deposit equivalent to two (2) months service charge from customers prior to beginning service.
A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH UNITED CEREBRAL PALSY ASSOCIATION OF STANISLAUS COUNTY (UCPA) TO PLACE ADVERTISING INSIDE MODESTO AREA EXPRESS (MAX) BUSES FOR A FIVE-YEAR PERIOD, COMMENCING JANUARY 1, 2009

WHEREAS, the current bus bench franchise and interior bus advertising lease expire December 31, 2008, and

WHEREAS, included with the bench franchise is an exclusive lease agreement to sell advertising in the card rack space inside the City’s buses, and

WHEREAS, on September 23, 2008, the City Council, by Resolution No. 2008-556, authorized staff to issue Request for Proposals (RFP) for firms interested in operating the bus bench franchise, and

WHEREAS, the RFP also requested proposals to place and maintain advertising in the card rack space inside the City buses, and

WHEREAS, United Cerebral Palsy Association (UCPA) was the only firm submitting a proposal for the franchise, and

WHEREAS, the City’s evaluation panel recommended award of the franchise and the lease to UCPA,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager to enter into a Lease Agreement with United Cerebral Palsy Association of Stanislaus County to place advertising inside Modesto Area Express (MAX) buses for a five-year period, commencing January 1, 2009.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: __________________________

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ______________________________

SUSANA ALCALA WOOD, City Attorney

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a Conflict of Interest Code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted the Conflict of Interest Code, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the Code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of December 2, 2008, considered the adoption of the Amended Conflict of Interest Code for various City Departments, and creation of a Conflict of Interest Code for the newly established Office of the City Auditor.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts an amended Conflict of Interest Code for the City of Modesto as submitted, a copy of said Code is attached hereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of December, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
CONFLICT OF INTEREST CODE
FOR THE CITY OF MODESTO

The Political Reform Act (Government Code Section 8100, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act.

Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the City of Modesto.

Designated employees shall file their statements with the Office of the City Clerk which will make the statements available for public inspection and reproduction. (Gov. Code Section 81008.) Statements for all designated employees will be retained by the Office of the City Clerk.
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-653

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE BRIGGSMORE PLAZA SLIP RAMP PROJECT, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, California Equity Management Group Inc ("DEVELOPER"), is the developer of the Briggsmore Plaza Slip Ramp project ("DEVELOPMENT"), and

WHEREAS, DEVELOPER constructed approximately 1000 feet of roadway improvements on the south side of Briggsmore Avenue starting at Prescott Avenue going east, and installed landscaping, a slip ramp, and parking ("PUBLIC IMPROVEMENTS"), located within the DEVELOPMENT, and

WHEREAS, said PUBLIC IMPROVEMENTS have been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Construction Administration Office of the Public Works Department has verified that all required PUBLIC IMPROVEMENTS for this DEVELOPMENT have been satisfactorily completed, and all inspection fees have been paid, and

WHEREAS, upon acceptance of the PUBLIC IMPROVEMENTS, the Public Works Department will assume maintenance responsibilities on those items outlined in an agreement approved by the City Council on October 23, 2007, by Resolution No. 2007-622, including, but not limited to, maintenance of the storm drainage basin, part of the landscaping and the slip ramp, and
WHEREAS, DEVELOPER has filed bonds to secure faithful performance and payment for labor and materials each in the amount of $215,195.11 for said PUBLIC IMPROVEMENTS, and

WHEREAS, DEVELOPER has filed a warranty bond in the amount of $21,520.00 to guarantee the PUBLIC IMPROVEMENTS in the DEVELOPMENT,

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

1. The City Clerk is hereby authorized to file a Notice of Completion for the PUBLIC IMPROVEMENTS.

2. The City Clerk is hereby authorized to release the security for faithful performance in the amount of $215,195.11 immediately after recordation of the Notice of Completion, provided no claim is made thereon.

3. The City Clerk is hereby authorized to release the security for labor and materials in the amount of $215,195.11 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty security to guarantee PUBLIC IMPROVEMENTS in the amount of $21,520.00 one year and one day after the effective date of this resolution, provided no claim is made thereon.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of December, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION CREATING TWO NEW FUNDS AND TWO BUDGET ORGANIZATIONS FOR THE MANAGEMENT OF REVENUES AND EXPENSES FOR LANDSCAPE ASSESSMENT DISTRICTS 1 AND 2, AND APPROPRIATE REVENUE, RESERVES AND EXPENSES

WHEREAS, Landscape Assessment District No. 1 was formed December 12, 1988, to administer the maintenance of the 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, Landscape Assessment District No. 2 was formed on April 4, 1989, to administer the maintenance of the landscaping on the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Units 1 & 2, and

WHEREAS, these assessment districts were formed in accordance with “The Landscape and Lighting Act of 1972”, and

WHEREAS, since their formation, revenues and expenses for Landscape Assessment Districts No. 1 and 2 have been located in the Parks, Recreation and Neighborhoods general fund operating budget, and

WHEREAS, this has created difficulty in calculating reserve monies at the end of each year in addition to identifying those expenses attributable to the Landscape Districts, and

WHEREAS, creation of a separate fund and budget for each assessment district will allow more efficient and accurate record keeping of the assessments collected for each of these districts as shown in Attachment A, which is incorporated by reference
herein,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL that two new funds and two budget organizations will be created for management of revenues and expenses associated with Landscape Assessment Districts 1 and 2.

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 City Council of the City of Modesto held on the 2nd day of December, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
Attachment A

Reduce amounts in the Parks, Recreation & Neighborhoods Budget within the General Fund:

<table>
<thead>
<tr>
<th>Revenue</th>
<th>Expense</th>
</tr>
</thead>
<tbody>
<tr>
<td>LMAD Assessment</td>
<td>Landscape Maint. Exp.</td>
</tr>
<tr>
<td>0100-350-3522-5100</td>
<td>0100-350-3522-0231</td>
</tr>
<tr>
<td>($31,000)</td>
<td>($12,488)</td>
</tr>
</tbody>
</table>

Grover Contract 0100-350-3522-0235 ($18,456)

From the General Fund Reserves:

<table>
<thead>
<tr>
<th>Expense</th>
</tr>
</thead>
<tbody>
<tr>
<td>0100-800-8000-8003</td>
</tr>
<tr>
<td>($56)</td>
</tr>
</tbody>
</table>

Increasing amounts in the following accounts to create Landscape Assessment District 1:

<table>
<thead>
<tr>
<th>Revenue</th>
<th>Expenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>LMAD 1 Revenue</td>
<td>Grover Landscape Contract</td>
</tr>
<tr>
<td>0480-140-1470-5101</td>
<td>0480-140-1470-0235</td>
</tr>
<tr>
<td>$19,500</td>
<td>$18,005</td>
</tr>
</tbody>
</table>

Transfer: GF Reserves 0100-800-8000-8003 $16,090

Total: $35,590

<table>
<thead>
<tr>
<th>Expenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grover Landscape Contract</td>
</tr>
<tr>
<td>0480-140-1470-0235</td>
</tr>
<tr>
<td>$18,005</td>
</tr>
</tbody>
</table>

One-Time Repairs 0480-140-1470-0231 $6,400

Staff Charges 0480-140-1470-0255 $2,200

Utilities 0480-140-1470-0210 $3,400

Total: $30,005

Increasing amounts in the following accounts to create Landscape Assessment District 2:

<table>
<thead>
<tr>
<th>Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>LMAD 2 Revenue</td>
</tr>
<tr>
<td>0490-140-1470-5101</td>
</tr>
<tr>
<td>$16,658</td>
</tr>
</tbody>
</table>

Transfer: GF Reserves 0100-800-8000-8003 $9,687

Total: $26,345
<table>
<thead>
<tr>
<th>Expenses</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grover Landscape Contract</td>
<td>0490-140-1480-0235</td>
<td>$10,246</td>
</tr>
<tr>
<td>One-Time Repairs</td>
<td>0490-140-1480-0231</td>
<td>$1,500</td>
</tr>
<tr>
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<tr>
<td>Utilities</td>
<td>0490-140-1480-0210</td>
<td>$3,200</td>
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<tr>
<td>Total:</td>
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<td>$17,046</td>
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A RESOLUTION AMENDING THE FISCAL YEAR 2008/2009 GENERAL FUND OPERATING BUDGET, ESTIMATING REVENUE OF $18,900 FROM ASSET FORFEITURES TO POLICE OPERATIONS FOR THE PURCHASE OF CANINE (K9) EQUIPMENT; AND AUTHORIZING THE FINANCE DIRECTOR, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, members of the Modesto Police Canine Unit have been conducting reviews and evaluations of the current condition of the police vehicles utilized by the Canine Unit for patrol operations, and

WHEREAS, there are 14 canine unit members who share seven canine vehicles, and

WHEREAS, the cars are used all day, every day, and

WHEREAS, the heat sensors and alarms no longer meet the industry standard and the new technology available exceeds the current protection we provide these canine partners, and

WHEREAS, sufficient resources exist within the Asset Forfeiture Trust Account to pay for the purchase of Canine (K9) unit cages for vehicles, heat sensors with fans, collapsible dog crates and heat only alarm, and

WHEREAS, the equipment is universal and can be transferred to new vehicles when ordered, and

WHEREAS, this equipment is needed to ensure the department canines will be kept safe while in police vehicles from heat-related injury, and
WHEREAS, the Fiscal Year 2008/2009 General Fund Operating Budget will be amended as shown in Exhibit A, attached to this resolution, and incorporated by reference, and

WHEREAS, on November 3, 2008, the Safety & Communities Committee unanimously recommended approval to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2008-2009 General Fund Operating Budget to make adjustments as shown in Exhibit A.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of December, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
## Exhibit A

**Fund 0100 – General Fund**

<table>
<thead>
<tr>
<th>Revenue</th>
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<th>Description</th>
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<table>
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<tr>
<th>Expense</th>
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<tr>
<td>To: 0100-190-1961-5000</td>
<td>$ 18,900</td>
<td>K9 Equipment</td>
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</table>
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-656

A RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, P.C. FOR THE PREPARATION OF A PRELIMINARY DESIGN REPORT FOR PHASE 2 BIOLOGICAL NUTRIENT REMOVAL (BNR)/TERTIARY TREATMENT FACILITY FOR AN AMOUNT NOT TO EXCEED $1,564,400 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $156,440 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $1,720,840, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the scope of services to be provided under this agreement include completing the 35% design for the Phase 2 BNR/Tertiary Treatment Facility and summarizing the project scope and cost estimates in a Preliminary Design Report, and

WHEREAS, the proposed services are less than 2% of the approximately $90 million construction cost of this project which is considered reasonable for this size of project, and

WHEREAS, the Regional Water Quality Control Board (RWQCB) issued a new tentative waste discharge permit (Permit No. CA0079103) on April 25, 2008, which contained limits more restrictive than those indicated in the City’s 2007 Wastewater Master Plan (WWMP), and

WHEREAS, the new permit includes unprecedented limits for seasonal secondary effluent discharges into the San Joaquin River, and

WHEREAS, on April 1, 2008, the City Council, by Resolution 2008-187, approved an Agreement with Carollo Engineers, P.C. (Carollo) to prepare a WWMP Supplement to update the 2007 WWMP, and

WHEREAS, the WWMP Supplement revised the City’s strategic plan to meet these new discharge requirements and accommodate revised growth projections,
reprioritize the capital improvement program, and revise the projected cash flow curve, to be used by others, to update future wastewater rates, and

WHEREAS, on September 9, 2008, the City Council, by Resolution 2008-511, accepted the WWMP Supplement and its recommendations, and

WHEREAS, based on the analysis in the WWMP Supplement, in order to meet the state mandated regulatory requirements, the City will need to design and construct an additional Phase 2 BNR/Tertiary Treatment Facility at the Jennings Road Water Quality Control (WQC) Facility, and

WHEREAS, in accordance with the Public Works Department Major Scope Policy approved on September 26, 2006, all projects exceeding $1,000,000 are required to be presented at Council at the 35% preliminary design report stage if the projected cost estimate is expected to exceed the approved project budget by more than 10%, and

WHEREAS, immediately following Council approval of the WWMP Supplement and under Director’s approval, staff issued an expedited Request for Proposal (RFP), in accordance with Administrative Directive 3.1 Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, in order to meet the compliance period by June 2013, and

WHEREAS, a Selection Committee was formed consisting of Public Works Engineering staff, Wastewater Operations staff and Councilmember Hawn, however, Councilmember Hawn had to excuse himself from the Selection Committee due to a conflict of interest with a potential subconsultant, and

WHEREAS, five RFPs were sent to design firms that were familiar with the City’s current treatment processes, and
WHEREAS, two proposals were submitted and subsequently reviewed by the Selection Committee, and

WHEREAS, following the consultant interviews, the Selection Committee determined that Carollo Engineers, P.C. of Walnut Creek is the most qualified to prepare the PDR of the Phase 2 BNR/Tertiary Treatment Facility, and

WHEREAS, Carollo’s project team has the best working knowledge of the City of Modesto secondary wastewater treatment site, completed the design of the Phase 1A Tertiary Wastewater Treatment project and has highly qualified staff to bring a new facility online, and

WHEREAS, Carollo has chosen local firms Kleinfelder, Inc., Associated Engineering, and L Street Architects as sub-consultants to provide Geotechnical Engineering, Site/Civil & Surveying, and architectural design, respectively, which will perform over 13.8% of the work on the Phase 2 PDR, and

WHEREAS, in addition, City staff is currently in the process of issuing an RFP to provide Value Engineering (VE) of the Phase 2 BNR/Tertiary Treatment Facility PDR, and

WHEREAS, the VE consultant will provide the City with an independent review of the Phase 2 facility design and construction approach, and the outcome would in efficient and cost effective recommendations to the Phase 2 design, and

WHEREAS, the proposal will also include optional, as-needed tasks to assist the City to meet all SRF loan funding eligibility requirements, if needed, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner, and
WHEREAS, City staff recommends an Agreement with the consulting firm of Carollo Engineers, P.C. as the City does not have the staffing level or subject matter expertise to complete the Preliminary Design Report for Phase 2 Biological Nutrient Removal (BNR)/Tertiary Treatment Facility, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Carollo Engineers, P.C. for the preparation of a Preliminary Design Report for Phase 2 Biological Nutrient Removal (BNR)/Tertiary Treatment Facility for an amount not to exceed $1,564,400 for the identified scope of services, plus $156,440 for additional services (if needed), for a maximum total amount of $1,720,840.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of December, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PREZONED PLANNED DEVELOPMENT ZONE P-P-D(588), PROPERTY LOCATED NORTH OF THE NORTH CORNER OF NORTH NINTH STREET AND CARVER ROAD (EAH)

WHEREAS, EAH represents the owners of approximately 8.3 acres of real property, located north of the intersection of North Ninth Street and Carver Road, and

WHEREAS, a verified application for an amendment to Section 19-3-9 of the Zoning Map was filed by EAH, on January 10, 2008, to prezone from Prezone Highway Commercial Zone, P-C-3, and Prezone Light Industrial Zone, P-M-1, to Prezone Planned Development Zone, P-P-D(588), to allow for the development of a two story 150-unit affordable housing project on property located on the north corner of North Ninth Street and Carver Road, as described in Exhibit “A” attached hereto (“Property”), and

WHEREAS, after a public hearing held on December 2, 2008, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, the Planning Commission of the City of Modesto recommended by its Resolution No. 2008-45 that the City Council find and determine as follows:

1. The requested prezoning of the Property is required by public convenience or necessity for the following reasons:
   a. The proposed 150-unit affordable housing development is consistent with the Redevelopment Master Plan, which calls for housing to be developed in this area, among other things; and
   b. The proposed project helps further General Plan Goal ID.4, which calls for Modesto to contain a diversity of housing types to enable citizens from a wide range of economic levels and age groups to live within its boundaries; and
   c. The proposed prezoning will result in orderly planned use of land resources, because it will provide for infill development that is consistent with City Standards.
2. The proposed prezone is consistent with the Modesto Urban Area General Plan, because:

   a. The project site lies within the redevelopment planning district, and the proposed 150-unit affordable housing development is consistent with the Redevelopment Master Plan, which is incorporated into the General Plan by reference; and

   b. The location of the Property immediately adjacent to the existing City limits and within the Sphere of Influence is consistent with Urban Growth Policy II.C.1.b., which states “Urban development should be kept as contiguous as possible in order to avoid premature urbanization of valuable farm land, foster resident convenience, and provide for economy in City services.”

3. The type of project is described in Chapter II of the Master Urban Area General Plan Master EIR (MEIR).

4. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made Conditions of Approval of the project.

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

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

   a. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 beyond that which was identified in the MEIR.

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

7. The Initial Study, Environmental Assessment No EA/C&ED 2008-42, provides the substantial evidence to support findings 3-6, noted above.

   WHEREAS, said matter was set for a public hearing of the City Council to be held on December 2, 2008, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held, and
WHEREAS, after said public hearing the Council found and determined that the application of EAH, for a prezone to Prezone Planned Development Zone, P-P-D(588), should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2008-XX and quoted above.

WHEREAS, the Council has introduced Ordinance No. 3498-C.S. on the 2nd day of December, 2008, reclassifying the above-described property to prezone from Prezone Highway Commercial Zone, P-C-3, and Prezone Light Industrial Zone, P-M-1, to Prezone Planned Development Zone, P-P-D(588),

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

SECTION 1. DEVELOPMENT PLAN. The development plan for the Prezoned Planned Development Zone, P-P-D(588), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan titled "Archway Commons (File No. PRZ-08-001)" stamped approved by the City Council.

2. Fences or walls shall be constructed prior to occupancy and shall be as follows:

   An eight-foot-high concrete-masonry wall along the northern, eastern and southern property lines, except where the project fronts onto Carver Road;

   Six-foot-high wrought iron fencing with decorative masonry pilasters with cap at 16-feet-on-center alternating between the buildings along the North 9th Street and Carver Road frontages;

   A six-foot-tall decorative sound-wall surrounding the community center, except in the area where the eight-stall parking aisle extends perpendicularly adjacent to the pool, as shown on the stamped approved plan. This area shall be fenced in with wrought iron with masonry pilasters matching the design of the fencing along the 9th Street and Carver Road frontages.
3. Prior to the issuance of a building permit, the applicant shall submit a landscaping and irrigation plan conforming to current City of Modesto specifications and standards for review and approval by the Parks, Recreation and Neighborhood Director or designee. The trees planted along North 9th Street and Carver Road adjacent to the project site shall be 24" box. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

4. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

5. Prior to the issuance of a building permit, the developer shall dedicate and improve the North 9th Street and Carver Road frontages to City Standards, as required by the City Engineer or designee.

6. All private streets and parking areas shall be constructed in accordance with the standard structural section for residential streets as contained in the City of Modesto Standard Specifications.

7. All-weather, hard-surfaced roadways shall be constructed and maintained free of obstructions prior to and at all times during construction.

8. Prior to certificate of occupancy, the West Tank transmission pipelines shall be constructed and accepted by the City Engineer or designee and the project shall connect to the eight-inch water line in Carver Road in accordance with City Standards.

9. The development shall connect to the existing six-inch sewer line in the easement north of the property in accordance with City Standards.

10. The storm drain system shall be constructed in accordance with the design and calculations provided to Public Works staff by George Luk and Associated, dated September, 2008, demonstrating that with a combination rockwell and horizontal drain design, the system could accommodate the 100-year, six-day event with incremental infiltration, as required by the City Engineer or designee.

11. Improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.

12. Prior to certificate of occupancy, the developer shall execute an agreement providing the terms for affordable housing in exchange for use of Redevelopment Set Aside and Home Funds to the satisfaction of the Parks, Recreation and Neighborhoods Director.

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

14. Electric facilities and overhead lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the City Engineer or designee. Appropriate easements for electrical facilities shall
be granted as required. Relocation or installation of electric facilities shall conform to the District’s Electric Service Rules. Costs for relocation and/or undergrounding the District’s facilities at the request of others will be borne by the requesting party.

15. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Public Works Director or designee. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community and Economic Development Department Director or designee.

16. Trash enclosures shall be of a size and design to permit the storage and removal of required recyclable material receptacles, or a separate enclosure of the collection for recyclable materials shall be provided as approved by the Public Works Director or designee.

17. Trash enclosures for the project shall be bermed to prevent storm water run-on and graded to drain to adjacent landscape areas.

18. The developer shall provide permanent, post-construction treatment (grass swale, vegetative strip, or other approved proprietary device) to remove pollutants from the first ½” of stormwater run-off from site.

19. Prior to the issuance of a building permit, the developer shall submit a plan to provide on-site treatment of storm water, as approved by the City Engineer or designee. Storm drain improvements shall be constructed in accordance with the approved plans.

20. Prior to issuance of a building permit, the property owner shall provide owner-signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Development Services, Stormwater for recording.

21. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building & Development Services all fire hydrants as required by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures.

22. The applicant shall install fire sprinkler systems as required by the California Fire Code (CFC) and the California Building Code (CBC).

23. Fire Department Connections (FDC) shall be accessible to the Fire Department and within 90 feet of a fire hydrant.

24. Prior to the issuance of a building permit, the developer shall submit plans for all vehicle access gates for approval by the Fire Marshall. The gates shall be constructed in accordance with the approved plans.

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

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

27. All ground mounted utility structures such as transformers, HVAC equipment and back flow prevention valves shall be located out of view from a public street or adequately screened through the use of landscape screening or masonry walls.

In addition, the following Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report:

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

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

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

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

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

33. Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

34. The developer shall implement measures to prevent carryout or trackout that may otherwise occur in conjunction with construction activities.

35. The City’s Noise Ordinance (Modesto Municipal Code Section 49.101) prohibits the “loud and raucous discharge into the open air of the steam of
any steam equipment or exhaust from any stationary internal-combustion engine.”

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

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

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

c. A hand-powered saw.

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

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

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

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

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

37. If archeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K of the MEIR.

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

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Prezone Planned Development Zone, P-P-D(588):

The entire construction program be accomplished in one phase, construction to begin on or before December 2, 2010, and completion to be not later than December 2, 2011.

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

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

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until Ordinance No. 3498-C.S. prezoning the above-described property to Prezoned Planned Development P-P-D(588) becomes effective.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of December, 2008, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

ATTEST:  
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By:  
Community & Economic Development Department Planning Division
Exhibit "A"

LEGAL DESCRIPTION

ALL that certain real property situate in the County of Stanislaus, State of California, lying within the Southwest Quarter of Section 19, Township 3 South, Range 9 East, Mount Diablo Meridian, described as follows:

BEGINNING at the center line intersection point of Carver Road and Princeton Avenue, said point lying on the City limits line as described in the Northwest Addition (44) as filed in the Office of the Recorder of the County of Stanislaus on December 10, 1951 as Instrument No. 28460; thence 1.) South 00°21'15" East along last said line also being the center line of Carver Road and the Southerly extension thereof, a distance of 210.28 feet to a point on the Northeasterly right-of-way line of the Southern Pacific Railroad and being an angle point on the Northerly line of that Reorganization to the City of Modesto entitled “North 99/Woodland”; thence 2.) South 46°39'03" West along last said line, a distance of 100.00 feet to a point on the Southwesterly right-of-way line of the Southern Pacific Railroad; thence 3.) North 43°20'57" West along last said line, a distance of 1814.58 feet to a point on the Westerly right-of-way line of State Highway 99 and a point on the existing City limit line as shown on that Reorganization to the City of Modesto entitled “Carpenter Addition”, filed in the Office of the Recorder of the County of Stanislaus on July 7, 1969 as Instrument No. 23266; thence 4.) North 01°24'01" West along last said lines, a distance of 314.14 feet to a point on the Northeasterly right-of-way line of North Ninth Street and being an angle point in the existing City limit line as shown on that Reorganization to the City of Modesto entitled “North 99 Addition” filed in the Office of the Recorder of the County of Stanislaus on June 28, 1966 as Instrument No. 23028; thence 5.) North 02°39'22" West along last said line, and the Easterly line of said North 99 addition Reorganization, a distance of 38.66 feet to a point of curvature of a non-tangent curve, concave Westerly, having a radius of 1500.00 feet; thence 6.) Northerly along the arc of said curve and said Westerly right-of-way line of State Highway 99 and the Easterly line of said North 99 addition Reorganization, through a central angle of 12°56'20", an arc distance of 338.74 feet to an angle point in said Easterly line of the North 99 addition Reorganization; thence 7.) Continuing along last said line North 34°55'06" East, a distance of 329.28 feet to an angle point in last said line and being the intersection point of the Northeasterly right-of-way line of State Highway 99 and the North right-of-way line of Clayton Avenue (now abandoned); thence 8.) North 89°31'45" East along last said line and the Easterly line of said North 99 addition Reorganization, a distance of 134.97 feet to a point on the center line of Martin Avenue; thence 9.) South 89°38'15" East along last said line and the North right-of-way line of Clayton Avenue, a distance of 498.30 feet to a point on the West line of that Reorganization to the City of Modesto entitled “Dodson” addition filed in the Office of the Recorder of the County of Stanislaus on December 13, 1962 as Instrument No. 46564; thence 10.) South 00°30'30" East along last said West line, a distance of 200.01 feet to a point on the North line of that Reorganization to the City of Modesto entitled “Campus Edge” filed in the County of Stanislaus on July 24, 1956 as Instrument No. 20020; thence 11.) North 89°38'15" West along last said North line, a distance of 330.00 feet to the Northwest corner of said Campus Edge Reorganization; thence 12.) South 00°30'30" East along the West line of said Campus Edge Reorganization, a distance of 538.04 feet to the Southwest corner of
last said Reorganization; thence 13.) North 89°55'00" East along the South line of last
said Reorganization, a distance of 397.63 feet to the Northwest corner of that
Reorganization to the City of Modesto entitled “McWilliams Addition” filed in the Office
of the Recorder of the County of Stanislaus on July 11, 1967 as Instrument No. 21431;
then 14.) South 01°42'03" East along the West line of last said Reorganization, a
distance of 398.65 feet to the Southwest corner of last said Reorganization; thence 15.)
North 89°44'17" East along the South line of last said Reorganization, a distance of
467.02 feet to the Southeast corner of last said Reorganization and being a point on the
Westerly line of said Northwest addition (44) Reorganization and the center line of
Carver Road; thence 16.) South 00°21'15" East along last said line, a distance of 863.32
feet to the point of beginning.

CONTAINING 32.08 acres more or less.
RESOLUTION APPROVING THE FILING OF AN APPLICATION WITH THE
STANISLAUS LOCAL AGENCY FORMATION COMMISSION TO ANNEX
APPROXIMATELY 32.2 ACRES OF PROPERTY LOCATED NORTH OF THE
INTERSECTION OF NORTH 9TH STREET AND CARVER ROAD TO THE CITY
OF MODESTO, AND TO DETACH THE PROPERTY FROM THE WOODLAND
FIRE PROTECTION DISTRICT (OWNER INITIATED – UNINHABITED) (EAH)

WHEREAS, EAH ("Applicant") represents some of the owners of approximately
32.2 acres of real property, located north of the intersection of North 9th Street and
Carver Road ("Property"), and

WHEREAS, the City has received a written request from the Applicant to initiate
reorganization of the Property to the City of Modesto under the Cortese-Knox-Hertzberg
Local Reorganization Act of 2000, California Government Code Section 56000, et seq,
and

WHEREAS, the Resolution of Application is proposed pursuant to California
Government Code Sections 56654 and 56700, and

WHEREAS, the Property proposed for reorganization is uninhabited, and a
description of the boundaries of the subject Property is set forth in Exhibit "A",
attached hereto and by this reference incorporated herein, and

WHEREAS, the subject Property proposed for reorganization is within Stanislaus
County, contiguous to the existing City limits and within the current Sphere of Influence
of the City of Modesto, as adopted by Stanislaus Local Agency Formation Commission,
Resolution No. 97-11, on December 19, 1994, and
WHEREAS, before an annexation application may be heard by LAFCO, there must be an agreement with the County providing for the sharing of property taxes following an annexation, and

WHEREAS, the proposed reorganization area is covered by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170, on April 9, 1996, and

WHEREAS, the proposed Property is not subject to a Williamson Act contract, pursuant to Government Code Section 51200, et seq, and

WHEREAS, it is desired that the proposed reorganization be subject to the following terms and conditions:

1. The annexation of said Property, as set forth on Exhibits “A” and “B” attached hereto, to the City of Modesto.
2. The detachment of said Property from the Woodland Fire Protection District.

WHEREAS, the reasons for this proposed reorganization to the City of Modesto are as follows:

1. Staff has received a written request from the Applicant, to annex the Property to the City of Modesto.
2. The proposed annexation is consistent with the Urban Area General Plan and can be served by City services.
3. The proposed annexation will result in planned, orderly and efficient development of the area, and provision of services; and

WHEREAS, pursuant to Government Code Section 56653, a plan for providing services is set forth in Exhibit “C”, attached hereto and by this reference incorporated herein, and

WHEREAS, on November 17, 2008, City of Modesto Planning Commission held a duly noticed public hearing in the Chambers, Tenth Street Place, 1010 Tenth Street,
Modesto, California, at which time both oral and documentary evidence were received and considered, and

WHEREAS, after said public hearing, the City of Modesto Planning Commission adopted Resolution No. 2008-46, recommending to the City Council that they adopt the Resolution of Application for an annexation of the Property to the City of Modesto, and detachment of the Property from the Woodland Fire Protection District, and

WHEREAS, said matter was set for public hearing of the City Council to be held on December 2, 2008, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed reorganization, and

WHEREAS, an Initial Study (Environmental Assessment No. EA/C&ED 2008-42) was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR, and

NOW, THEREFORE, the Council of the City of Modesto hereby finds and determines as follows:

1. That the proposed reorganization is consistent with the Modesto Urban Area General Plan, because it is consistent with General Plan Urban Growth Policy II.C.1.b., which states “Urban development should be kept as contiguous as possible in order to avoid premature urbanization of valuable farm land, foster resident convenience, and provide for economy in City services” and because the development resulting from the proposed and annexation is consistent with the General Plan as amended.

2. The type of project is described in Chapter II of the Master Urban Area General Plan Master EIR (MEIR).

3. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made Conditions of Approval of the project.
4. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

5. Based on the Initial Study, the City of Modesto finds and determines:
   a. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 beyond that which was identified in the MEIR.
   b. No new or additional mitigation measures or alternatives are required.

6. The Initial Study, Environmental Assessment No. EA/C&ED 2008-42, provides the substantial evidence to support findings 2-5 above.

7. An agreement for the sharing of property taxes for the Property was approved by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996.

8. As determined by the Department of Public Works, there is reasonable certainty that the City will have adequate wastewater capacity to serve the proposed annexation based on the following findings:
   a. The necessary capital improvements are in place, because the annexation area is predominantly developed and, with the exception of the 150-unit affordable housing development, is not anticipated to generate additional sewer demand. The 150-unit affordable housing project contributes approximately one percent to the existing sewer demand for the area, which is considered insignificant, and can be served by the existing system. In addition, the City is planning to rehabilitate the old Emerald Trunk as well as provide additional capacity through the Carpenter Road Relief Sewer project.
   b. The rehabilitation of the Emerald Trunk is funded by the current FY 2008/09 Capital Improvement Program (CIP). The Carpenter Road Relief Sewer project is scheduled for design in FY 2008/09 and anticipated to be completed during FY 2010/11. These improvements are included in the Wastewater Master Plan, and the necessary sewer rates and capacity charges to implement the plan were adopted by the City Council and established in August 2007.
   c. The necessary regulatory approvals for wastewater treatment capacity needed to serve the annexation area are available as the City has completed its Dissolved Air Flotation (DAF) facility. The
City has also received its NPDES permit from the Regional Water Quality Control Board for its wastewater treatment plant. The City is on schedule with the design of its Phases I tertiary treatment facilities, which will provide additional treatment capacity beyond the DAF facilities.

d. As mentioned under item "8a", the annexation area can be served by the existing system, even after intensification of the area by the 150-unit affordable housing development. Furthermore, development of the proposed 150-unit affordable housing project is anticipated to coincide with the improvement schedule listed above under item "8b". Therefore, following annexation, the City’s facilities will remain within acceptable design parameters.

9. The Property is not subject to a Williamson Act Contract pursuant to Government Code Section 51200, et seq.

10. The Property is located within Stanislaus County, and is within the City’s existing Sphere of Influence, is contiguous to the existing City limits and can be most efficiently served with City services.

11. The Property proposed to be annexed to the City of Modesto is uninhabited, and a description of the boundaries of the subject Property is set forth in Exhibits "A" and "B," attached hereto and by this reference incorporated herein.

12. In accordance with Section 56663(c) of the Cortese-Knox-Hertzberg Act, the City hereby consents to a waiver of conducting authority proceedings

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

In addition, the following Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that shall apply to the project.

14. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/ suppressant, covered with a tarp or other suitable cover or vegetative ground cover.
15. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

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

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

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

19. Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

20. The developer shall implement measures to prevent carryout or trackout that may otherwise occur in conjunction with construction activities.

21. The City's Noise Ordinance (Modesto Municipal Code Section 49.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

22. The Noise Ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):
   a. A hammer or any other device or implement used to pound or strike an object.
   b. An impact wrench or other tool or equipment powered by compressed air.
   c. A hand-powered saw.
   d. Any tool or piece of equipment powered by an internal combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
   e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, backhoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

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

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

23. If archeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K of the MEIR.

24. The developer shall implement pre- and post-construction best management practices (BMP) to minimize pollutants entering the storm system.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the filing of an Application with the Stanislaus Local Agency Formation Commission to annex 32.2 acres of property located north of the intersection of North 9th Street and Carver Road to the City of Modesto, and to detach the Property from the Woodland Fire Protection District.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that pursuant to Government Code Section 56653, the City Council submit the plan for providing services as set forth in Exhibit “C”, attached hereto and by this reference incorporated herein.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of December, 2008, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: SUSANA ACALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
Exhibit "A"

LEGAL DESCRIPTION

ALL that certain real property situate in the County of Stanislaus, State of California, lying within the Southwest Quarter of Section 19, Township 3 South, Range 9 East, Mount Diablo Meridian, described as follows:

BEGINNING at the center line intersection point of Carver Road and Princeton Avenue, said point lying on the City limits line as described in the Northwest Addition (44) as filed in the Office of the Recorder of the County of Stanislaus on December 10, 1951 as Instrument No. 28460; thence 1.) South 00°21'15" East along last said line also being the center line of Carver Road and the Southerly extension thereof, a distance of 210.28 feet to a point on the Northeasterly right-of-way line of the Southern Pacific Railroad and being an angle point on the Northerly line of that Reorganization to the City of Modesto entitled "North 99/Woodland"; thence 2.) South 46°39'03" West along last said line, a distance of 100.00 feet to a point on the Southwesterly right-of-way line of the Southern Pacific Railroad; thence 3.) North 43°20'57" West along last said line, a distance of 1814.58 feet to a point on the Westerly right-of-way line of State Highway 99 and a point on the existing City limit line as shown on that Reorganization to the City of Modesto entitled "Carpenter Addition", filed in the Office of the Recorder of the County of Stanislaus on July 7, 1969 as Instrument No. 23266; thence 4.) North 01°24'01" West along last said lines, a distance of 314.14 feet to a point on the Northeasterly right-of-way line of North Ninth Street and being an angle point in the existing City limit line as shown on that Reorganization to the City of Modesto entitled "North 99 Addition" filed in the Office of the Recorder of the County of Stanislaus on June 28, 1966 as Instrument No. 23028; thence 5.) North 02°39'22" West along last said Westerly right-of-way line, and the Easterly line of said North 99 addition Reorganization, a distance of 38.66 feet to a point of curvature of a non-tangent curve, concave Westerly, having a radius of 1500.00 feet; thence 6.) Northerly along the arc of said curve and said Westerly right-of-way line of State Highway 99 and the Easterly line of last said Reorganization, through a central angle of 12°56'20", an arc distance of 338.74 feet to an angle point in said Easterly line of the North 99 addition Reorganization; thence 7.) Continuing along last said line North 34°55'06" East, a distance of 329.28 feet to an angle point in last said line and being the intersection point of the Northeasterly right-of-way line of State Highway 99 and the North right-of-way line of Clayton Avenue (now abandoned); thence 8.) North 89°31'45" East along last said line and the Easterly line of said North 99 addition Reorganization, a distance of 134.97 feet to a point on the center line of Martin Avenue; thence 9.) South 89°38'15" East along last said line and the North right-of-way line of Clayton Avenue, a distance of 498.30 feet to a point on the West line of that Reorganization to the City of Modesto entitled "Dodson" addition filed in the Office of the Recorder of the County of Stanislaus on December 13, 1962 as Instrument No. 46564; thence 10.) South 00°30'30" East along last said West line, a distance of 200.01 feet to a point on the North line of that Reorganization to the City of Modesto entitled "Campus Edge" filed in the County of Stanislaus on July 7, 1969 as Instrument No. 23266.
Stanislaus on July 24, 1956 as Instrument No. 20020; thence 11.) North 89°38'15" West along last said North line, a distance of 330.00 feet to the Northwest corner of said Campus Edge Reorganization; thence 12.) South 00°30'30" East along the West line of said Campus Edge Reorganization, a distance of 538.04 feet to the Southwest corner of last said Reorganization; thence 13.) North 89°55'00" East along the South line of last said Reorganization, a distance of 397.63 feet to the Northwest corner of that Reorganization to the City of Modesto entitled “McWilliams Addition” filed in the Office of the Recorder of the County of Stanislaus on July 11, 1967 as Instrument No. 21431; thence 14.) South 01°42'03" East along the West line of last said Reorganization, a distance of 398.65 feet to the Southwest corner of last said Reorganization; thence 15.) North 89°44'17" East along the South line of last said Reorganization, a distance of 467.02 feet to the Southeast corner of last said Reorganization and being a point on the Westerly line of said Northwest addition (44) Reorganization and the center line of Carver Road; thence 16.) South 00°21'15" East along last said line, a distance of 863.32 feet to the point of beginning.

CONTAINING 32.08 acres more or less.
Exhibit "B"

ANNEXATION PROPOSAL MAP

PROPOSED CARVER-9TH
CHANGE OF ORGANIZATION
ANX-08-001
Exhibit "C"

PLAN FOR SERVICE

NORTH 9TH STREET REORGANIZATION
PLAN FOR PROVIDING SERVICES

Pursuant to Government Code Section 56653, the following Plan for Services to be extended to the affected territory has been prepared for the North 9th Street Reorganization.

The project site is part of the Redevelopment Area, as described in the Modesto Urban Area General Plan, adopted August 15, 1999, amended March 4, 2003 and October 14, 2008. As part of the approval, community facilities and services were analyzed in detail in Initial Study Environmental Checklist (C&ED No. 2008-42). These services include traffic and circulation, waste water collection, water delivery, storm water drainage, solid waste disposal, schools, parks, fire protection, and police protection. The City of Modesto is a full service city that intends to provide the following services.

1. **Traffic and Circulation:** The bulk of the external roadway network is already constructed. The applicant or developer must provide minor dedication and construct roadway improvements along the project frontages to City standards.

2. **Waste Water Collection:** Upon reorganization, the site will annex to Modesto’s Sewer District No. 1. Sewer service will be provided to the subject site from an existing six-inch line the easement north of the property. Service will be extended upon development of the site at no cost to the City, as existing City fees will cover the cost.

3. **Water Delivery:** The City is currently working on improvements to the west tank transmission lines, which will be necessary to provide sufficient water service to the project area once the proposed 150-unit affordable housing project is developed. The west tank project is scheduled to be complete before the project would be constructed and ready for occupancy. The site will be served from an existing eight-inch water line in Carver Road.

4. **Storm Water Drainage:** Storm water drainage for this project will be collected through a combination of horizontal drains and rock wells near the project site. Through this combination system, adequate storm drainage capacity can be accommodated by the City.

5. **Solid Waste Disposal:** Weekly pickup will be extended to the annexation area upon the effective date of annexation.

6. **Fire Protection:** Upon reorganization, the annexation area will be detached from the Woodland Fire Protection District. The
Modesto Fire Department has indicated that it can provide adequate service to the subject site following annexation.

7. **Police Protection**: The Modesto Police Department has indicated that it is able to provide adequate service to the subject site following annexation.

**Level and range of services**

The City of Modesto is a full service provider of municipal services and intends to provide the complete service for those areas identified above.

**When can services be provided?**

The above-described services can be provided upon the effective date of annexation.

**Improvements required as a condition of reorganization**

Roadway Dedication and Improvements along the North 9th Street and Carver Road frontages of the 150-unit affordable housing development.

**How will services be financed?**

Services will be financed through City fees.