MODESTO CITY COUNCIL
RESOLUTION NO. 2008-516

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY AND THE MODESTO IRRIGATION DISTRICT (MID) RELATED TO THE INITIAL FUNDING, REPAYMENT PROVISIONS, CARRYING COSTS, AND ALLOCATION OF COSTS FOR EXTERIOR INSULATION AND FINISH SYSTEMS (EIFS) REPAIR AND ROOF REPLACEMENT WORK AT THE MODESTO REGIONAL WATER TREATMENT PLANT (MRWTP) AND TERMINAL RESERVOIR/PUMP STATION FACILITY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MOU

WHEREAS, the MID’s MRWTP was completed in 1995 and delivers 30 million gallon (mgd), on an annual average basis, of treated surface water to the City each day, and

WHEREAS, the facilities are currently being expanded to 60 mgd as part of the MRWTP Phase Two Expansion project, and

WHEREAS, the buildings at the MRWTP have rainwater intrusion problems caused primarily by leaks from the internal gutter and downspout system, and

WHEREAS, the leaks have led to interior damage of the buildings in several locations and numerous cracks in the building’s exterior insulation and finish systems (EIFS) assembly have also led to rainwater intrusion because there is not a back-up waterproofing system behind the EIFS assembly, and

WHEREAS, water enters the cracks and then into the underlying substrates, such as plywood and metal framing resulting in rot, biological growth, and rust problems, and

WHEREAS, as a result of these collective leak problems, it is necessary to perform extensive repairs and re-design various failed components of the buildings, and
WHEREAS, in addition to the EIFS and internal gutter leak problems, the roofs at the MRWTP are nearing the end of the serviceable life and will be removed and replaced, and

WHEREAS, MID hired a waterproofing specialty consultant, Allana, Buick, and Bers (ABB) to initially investigate and perform a condition assessment of the existing facilities, and

WHEREAS, ABB was subsequently retained to prepare the plans, specifications, and cost estimates for the required repair work, in addition to construction management services to oversee the repairs, and

WHEREAS, the Memorandum of Understanding (MOU) contains provisions that memorialize the cost sharing arrangement between the City and MID, and

WHEREAS, some of the key provisions include; allocation of financial responsibility, fronting costs by MID, repayment provisions, identification of MID’s sunk costs to date (i.e. labor, legal services, consultants, etc.), expected length of time carrying the debt, and interest rate, and

WHEREAS, except as noted in the MOU, the provisions within the Amended and Restated Treatment and Delivery Agreement (ARTDA) remain unchanged and applicable to the project, and

WHEREAS, City and MID staff have met and reviewed ABB’s analysis and concluded that further technical analysis would not result in any additional insight, and as a practical matter, a negotiated and mutually agreeable settlement would be the most beneficial, and
WHEREAS, using the applicable provisions of the ARTDA under the direction of the Technical Committee and MID staff, ABB completed an extensive cost allocation study that was used as a guideline for policy makers to negotiate a final cost assignment to each agency, which concluded that: 1) The cost for low-sloped roofing should be directly assigned to the City, determined to be 10.5 percent of the project cost; 2) All other costs would be equally split between MID and the City, except carrying cost, and 3) The City shall reimburse MID for interest on City’s portion of the project cost, from the date that such costs are incurred and advanced by MID, until payment is made by the City, and

WHEREAS, City staff has reviewed the assumptions used in the proposed 50% / 50% split of the repair work (excluding the low-slope roof replacement, which will be a 100% City cost) and concurs with the provisions stated in the MOU, and

WHEREAS, MID will front the costs of the EIFS repair and roof replacement work, and as with other aspects of the MRWTP project, MID will be reimbursed per the terms and conditions of the ARTDA and the MOU from the City for such costs, and

WHEREAS, the execution of this MOU will allow the EIFS repairs and roof replacements to proceed,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Memorandum of Understanding (MOU) between the City and the Modesto Irrigation District (MID) related to the initial funding, repayment provisions, carrying costs, and allocation of costs for Exterior Insulation and Finish Systems (EIFS) repair and roof replacement work at the Modesto Regional Water Treatment Plant and Terminal Reservoir/Pump Station facility (MRWTP).
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Memorandum of Understanding.

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

(S Seal)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-517

A RESOLUTION AUTHORIZING THE MODESTO IRRIGATION DISTRICT (MID) TO EXECUTE A CONSTRUCTION CONTRACT WITH ALPHA RESTORATION & WATERPROOFING IN THE AMOUNT OF $5,901,045 FOR EXTERIOR INSULATION AND FINISH SYSTEMS (EIFS) REPAIR AND ROOF REPLACEMENT AT THE MODESTO REGIONAL WATER TREATMENT PLANT (MRWTP), AND AUTHORIZE A CHANGE ORDER AUTHORITY TO THE MID GENERAL MANAGER FOR UP TO 14.1 PERCENT ($832,047) OF THE CONSTRUCTION CONTRACT AMOUNT, PROVIDED THAT SUCH CHANGE ORDERS HAVE BEEN APPROVED THROUGH THE PROCESS DESCRIBED IN THE AMENDED AND RESTATED TREATMENT AND DELIVERY AGREEMENT (ARTDA)

WHEREAS, the MID’s MRWTP was completed in 1995 and delivers 30 million gallon (mgd), on an annual average basis, of treated surface water to the City each day, and

WHEREAS, the facilities are currently being expanded to 60 mgd as part of the MRWTP Phase Two Expansion project, and

WHEREAS, the buildings at the MRWTP have rainwater intrusion problems caused primarily by leaks from the internal gutter and downspout system, and

WHEREAS, the leaks have led to interior damage of the buildings in several locations and numerous cracks in the building’s exterior insulation and finish systems (EIFS) assembly have also led to rainwater intrusion because there is not a back-up waterproofing system behind the EIFS assembly, and

WHEREAS, water enters the cracks and then into the underlying substrates, such as plywood and metal framing resulting in rot, biological growth, and rust problems, and

WHEREAS, as a result of these collective leak problems, it is necessary to perform extensive repairs and re-design various failed components of the buildings, and
WHEREAS, in addition to the EIFS and internal gutter leak problems, the roofs at the MRWTP are nearing the end of the serviceable life and will be removed and replaced, and

WHEREAS, MID hired a waterproofing specialty consultant, Allana, Buick, and Bers (ABB) to initially investigate and perform a condition assessment of the existing facilities, and

WHEREAS, ABB was subsequently retained to prepare the plans, specifications, and cost estimates for the required repair work, in addition to construction management services to oversee the repairs, and

WHEREAS, bids were received by three (3) pre-qualified general contractors on August 20, 2008, and

WHEREAS, MID and City staff recommended that the bid of $5,901,045 received from Alpha Restoration & Waterproofing be accepted as the lowest responsible bid and the contract be awarded to Alpha Restoration & Waterproofing, and

WHEREAS, the purpose for providing change order authority to the MID General Manager is to help streamline a multi-layered and time consuming approval process, as outlined in the ARTDA, so that decisions may be made in a timely manner, thereby reducing the potential for delay claims from the contractor,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Modesto Irrigation District (MID) to execute a construction contract with Alpha Restoration & Waterproofing in the amount of $5,901,045 for Exterior Insulation and Finish Systems (EIFS) repair and roof replacement work at the Modesto Regional Water Treatment Plant and Terminal Reservoir/Pump Station facility.
(MRWTP), and authorize a change order authority to the MID General Manager for up to 14.1 percent ($832,047) of the construction contract amount, provided that such change orders have been approved through the process described in the Amended and Restated Treatment and Delivery Agreement (ARTDA).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 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. 2008-518

A RESOLUTION DIRECTING STAFF TO PROCEED WITH THE ANNEXATION OF THE SHACKELFORD INFILL AREA

WHEREAS, the Modesto City Council heard recommendations regarding the 2003 Urban Area Growth Policy Review on June 18, 2003, and considered and approved Resolution 2003-359 directing the City Clerk to submit to the voters an advisory measure relating to the extension of sewer service to the unincorporated area referred to as “Shackelford Infill Area” and approving an agreement between the City of Modesto and the County of Stanislaus to resolve potential fiscal impacts of upgrading deficient infrastructure with the Shackelford Infill Area, and

WHEREAS, an advisory vote relating to the extension of sewer service to the Shackelford Infill Area was held on November 4, 2003, and

WHEREAS, the July 1, 2003, public improvement agreement between the City of Modesto and the County of Stanislaus has been substantially fulfilled, and

WHEREAS, the City Council considered directing staff to proceed with annexation of the Shackelford Infill Area at a regularly scheduled meeting on September 9, 2008, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby directs staff to proceed with the annexation of the Shackelford Infill Area, attached hereto as Exhibit “A”, and incorporated herein by reference.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 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, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

Shackelford Infill Area
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-519

A RESOLUTION APPROVING THE REVENUE SHARING AGREEMENT BETWEEN THE CITY OF MODESTO AND MAXUM PETROLEUM, INC. FOR SALES TAX REBATES AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE SAID AGREEMENT

WHEREAS, California imposes a sales tax on every retailer of personal property at a rate of 6.25% and an additional 1% sales tax is levied based on the Bradley-Burns Uniform Local Sales and Use Tax Law (“Bradley-Burns 1%”) for a minimum statewide total sales tax rate of 7.25%, and

WHEREAS, beginning in 1957, the City of Modesto (“City”) has entered into a tax-sharing agreement with Stanislaus County whereby the City receives 95% of the “Bradley-Burns 1%” and the County receives the remaining 5%, and

WHEREAS, the “Bradley-Burns 1%” is collected based upon the location of the sale, not the destination of the goods sold and the “Bradley-Burns 1%” portion of the sales tax is available for sales tax revenue sharing agreements, and

WHEREAS, Maxum Petroleum (dba: General Petroleum) sells business-to-business taxable sales of fuels and lubricants throughout California with an estimated annual taxable sales for all of the Northern California offices estimated to be approximately $200 million, and

WHEREAS, Maxum Petroleum is proposing to consolidate its sales function in two sales offices in California, one in Northern California and one in Southern California, and the office in Northern California will be located in Modesto, and

WHEREAS, in return for its decision to locate its Northern California sales office in Modesto, Maxum Petroleum has requested that the City enter into a Revenue-Sharing
Agreement ("Revenue Agreement") with Maxum Petroleum wherein up to 65% of the City’s share of the “Bradley-Burns 1%” sales tax that the City would otherwise obtain from sales made at the new Modesto office would be rebated to Maxum Petroleum, and

WHEREAS, the purpose of said Revenue Agreement is the generation of additional sales tax revenues to the City to use for various public services funded through General Fund revenues, and

WHEREAS, as a charter city, Modesto has the authority to enter into contractual agreements, including revenue-sharing agreements, with private companies, and

WHEREAS, said Revenue Agreement will terminate on December 31, 2028, unless it is extended by the mutual consent of both parties for two (2) five-year options, and

WHEREAS, the revenue sharing between the City and Maxum Petroleum will be as set forth in said Revenue Agreement,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL that the Revenue Sharing Agreement between the City of Modesto and Maxum Petroleum, Inc. is hereby approved.

BE IT FURTHER RESOLVED that the City Council does hereby authorize and direct its City Manager, or his/her designee, to execute said Revenue Sharing Agreement and any related documents on behalf of the City of Modesto.
The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 9th day of September, 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, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: O’Bryant

ABSENT: Councilmembers: None

ATTEST: [Signature]

(S Seal)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-520

A RESOLUTION DIRECTING THE AMENDMENT OF THE 2008-2009 FISCAL YEAR GENERAL FUND BUDGET TO REFLECT REVENUES AND EXPENSES RELATED TO A REVENUE SHARING AGREEMENT WITH MAXUM PETROLEUM, INC.

WHEREAS, the City Council has considered staff’s report on a proposed revenue sharing agreement between the City and Maxum Petroleum, Inc., and

WHEREAS, under the terms of the proposed revenue sharing agreement the City will be obligated to recognize revenues and expenditures that are not appropriated in the 2008-2009 General Fund operating budget, and

WHEREAS, the City Council has approved the revenue sharing agreement and now wishes to amend the 2008-2009 General Fund operating budget to reflect revenues and expenditures that will result from this agreement, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Finance Director to recognize the revenues and expenditures that result from the Revenue Sharing Agreement entered into between the City and Maxum Petroleum, Inc. as they are realized.

BE IT FURTHER RESOLVED that the Finance Director shall provide periodic updates to the City Council on the budgetary effects of the Revenue Sharing Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 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, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: O’Bryant

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-521

A RESOLUTION APPROVING AN AGREEMENT WITH THE MODESTO LIONS CLUB FOR SPONSORSHIP OF THE VIRGINIA CORRIDOR/MORRIS AVENUE PARK SITE PLAY STRUCTURE AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the 4.2 mile Virginia Corridor Trailway follows the old Tidewater Southern Railway line from Needham Avenue to south of Bangs Road, thus providing a non-motorized link between surrounding neighborhoods, schools, parks, shopping areas, work places and the downtown core, and

WHEREAS, the City of Modesto and the Modesto Lions Club wish to jointly develop the play area at Morris Avenue and Virginia Avenue in the City of Modesto which will include donations of labor, materials, and funding, and

WHEREAS, the City of Modesto is pleased to receive such donations, and

WHEREAS, the Modesto Lions Club wishes to provide certain park amenities at the above-referenced location under the City’s Park Partners program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with the Modesto Lions Club for sponsorship of the Virginia Corridor/Morris Avenue Park Site Play Structure.

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 23rd day of September, 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, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

(Seal)

ATTEST: ____________________
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: _______________________
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-522

A RESOLUTION APPOINTING JASON McCOY TO THE AIRPORT ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on August 11, 2008, and recommended appointment of JASON McCOY to the Airport Advisory Committee.

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

SECTION 1. JASON McCOY is hereby appointed to the Airport Advisory Committee with a term expiration of January 1, 2011.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPOINTING ULYSSES CISNEROS AND RICHARD HORNING TO THE COMMUNITY QUALITIES FORUM

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

WHEREAS, the Economic Development Committee met on August 11, 2008, and recommended appointment of ULYSSES CISNEROS and RICHARD HORNING to the Community Qualities Forum.

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

SECTION 1. ULYSSES CISNEROS and RICHARD HORNING, Northeast area residents, are hereby appointed to the Community Qualities Forum with term expirations of January 1, 2012.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the Community Qualities Forum, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-524

A RESOLUTION APPOINTING EVAN YOSHINO AND KAREN SWANSON TO THE DISABLED ACCESS APPEALS BOARD

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

WHEREAS, the Economic Development Committee met on August 11, 2008, and recommended appointment of EVAN YOSHINO and KAREN SWANSON to the Disabled Access Appeals Board.

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

SECTION 1. EVAN YOSHINO and KAREN SWANSON are hereby appointed to the Disabled Access Appeals Board with a term expiration of January 1, 2012.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Disabled Access Appeals Board, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-525

A RESOLUTION APPOINTING JENNIFER ABRAHAMSON AND CHARLOTTE DALBY TO THE EQUAL OPPORTUNITY/DISABILITY COMMISSION

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

WHEREAS, the Economic Development Committee met on August 11, 2008, and recommended appointment of JENNIFER ABRAHAMSON and CHARLOTTE DALBY to the Equal Opportunity/Disability Commission.

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

SECTION 1. JENNIFER ABRAHAMSON and CHARLOTTE DALBY are hereby appointed to the Equal Opportunity/Disability Commission with term expirations of January 1, 2012.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the Equal Opportunity Disability Commission, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: ________________

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _______________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-526

A RESOLUTION APPOINTING MICHAEL FORD, JACK JACQUES AND JEANNIE McDONALD TO THE GOLF COURSES ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on August 11, 2008, and recommended appointment of MICHAEL FORD, JACK JACQUES and JEANNIE McDONALD to the Golf Courses Advisory Committee.

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

SECTION 1. MICHAEL FORD, with term expiration of January 1, 2012, JACK JACQUES, with term expiration of January 1, 2011 and JEANNIE McDONALD, with term expiration of January 1, 2009, are hereby appointed to the Golf Courses Advisory Committee.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the Golf Courses Advisory Committee, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-527

A RESOLUTION APPOINTING DAN PARK TO THE HOUSING REHABILITATION LOAN COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and WHEREAS, the Economic Development Committee met on August 11, 2008, and recommended appointment of DAN PARK to the Housing Rehabilitation Loan Committee.

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

SECTION 1. DAN PARK is hereby appointed to the Housing Rehabilitation Loan Committee with a term expiration of January 1, 2012.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Housing Rehabilitation Loan Committee, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of September, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-528

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF RONALD D. JESKE FROM THE GOLF COURSES ADVISORY COMMITTEE

WHEREAS, RONALD D. JESKE was appointed a member of the Golf Courses Advisory Committee, on June 13, 2006, and

WHEREAS, RONALD D. JESKE has tendered his resignation from the aforementioned committee, and

WHEREAS, RONALD D. JESKE 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 RONALD D. JESKE from the Golf Courses Advisory Committee hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to RONALD D. JESKE for his service to the community.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of September, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-529

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF SETH INGRAM FROM THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

WHEREAS, SETH INGRAM was appointed a member of the Citizens Advisory Committee on Recycling November 27, 2007, and

WHEREAS, SETH INGRAM has tendered his resignation from the aforementioned committee, and

WHEREAS, SETH INGRAM 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 SETH INGRAM from the Citizens Advisory Committee on Recycling 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 SETH INGRAM 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 23rd day of September, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-530

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE BURKSHIRE ESTATES II SUBDIVISION, (ROSELLE AVENUE WIDENING BETWEEN SYLVAN ROAD AND KODIAK DRIVE) LOCATED IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, STANDARD PACIFIC CORP., ("SUBDIVIDER"), is the subdivider of the BURKSHIRE ESTATES II ("SUBDIVISION"), and

WHEREAS, as a condition of the project, and the Acquisition and Shortfall Agreement ("AGREEMENT") dated October 24, 2006 between the City of Modesto Community Facilities District No. 2004-1 (Village One #2), and the SUBDIVIDER, the SUBDIVIDER was to construct roadway improvements on the east side of Roselle Avenue at Kodiak Drive ("PUBLIC IMPROVEMENTS"), located within the SUBDIVISION, 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 project have been satisfactorily completed and all inspection fees have paid, and

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

WHEREAS, pursuant to the AGREEMENT, SUBDIVIDER has filed a Faithful Performance Bond in the amount of $506,782.00, and a Payment Bond in the amount of $506,782.00, and
WHEREAS, pursuant to the AGREEMENT, SUBDIVIDER has filed a Warranty Bond in the amount of $50,678.20, and

WHEREAS, pursuant to the Subdivision Agreement, SUBDIVIDER, has filed a Subdivision Faithful Performance Bond in the amount of $1,711,124.00, and a Subdivision Payment Bond in the amount of $855,562.00, and

WHEREAS, pursuant to the Subdivision Agreement SUBDIVIDER, has filed a Warranty Bond in the amount of $171,112.40, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement, and the Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director and the Community Facilities District Administrator have indicated that it would be in order for the City Council to accept said PUBLIC IMPROVEMENTS and public improvements in the SUBDIVISION as complete, authorize the City Clerk to file a Notice of Completion, and to release the securities upon expiration of the statutory periods,

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

1. The said PUBLIC IMPROVEMENTS and public improvements in the SUBDIVISION are hereby accepted, and the City Clerk is hereby authorized to file a Notice of Completion.

2. The City Clerk is hereby authorized to release the Subdivision Faithful Performance Bond in the amount of $1,711,124.00 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the Faithful Performance Bond in the amount of $506,782.00, upon recordation of the Notice of Completion.
4. The City Clerk is hereby authorized to release the Payment Bond in the amount of $506,782.00 sixty (60) days after recordation of the Notice of Completion, provided no claim is madder thereon.

5. The City Clerk is hereby authorized to release the Subdivision Payment Bond in the amount of $855,562.00 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

6. The City Clerk is hereby authorized to release the Warranty Bonds in the amounts of $171,112.40 and $50,678.20 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 23rd day of September, 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, O'Byant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh, Mayor Ridenour

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]

SUSANÁ ALCALA WOOD, City Attorney
WHEREAS, the City of Modesto Standard Specifications address the storage of public storm water in public basins, and

WHEREAS, they do not address onsite storm water drainage, and

WHEREAS, onsite drainage is the flow of water that originates within the boundaries of private property and can impact the City in two main ways, and

WHEREAS, storm water from private development can drain onto City roads causing local flooding and dangerous driving conditions, and

WHEREAS, if onsite storm water does not disperse within 48 hours mosquitoes may breed creating an environmental issue, and

WHEREAS, questions may have been raised over whether the City Standard Specifications adequately identify requirements for infill development and redevelopment, and

WHEREAS, because of varying interpretations of infill and redevelopment storm drainage requirements, a definitive interpretation is warranted, and

WHEREAS, the primary purpose of this interim policy is to further clarify City of Modesto Standard Specifications, and to provide Standards that are equitable and proportional for the onsite storm drainage to the redevelopment and infill projects, and

WHEREAS, the standards are intended to encourage and maximize opportunities for infill development projects, which are beneficial to the community, protective of existing neighborhoods, and well designed, and
WHEREAS, staff is recommending this interim policy to further clarify our Standard Specifications, and to provide standards that are equitable and proportional for the onsite storm drainage to the redevelopment and infill projects, and

WHEREAS, this interim policy will facilitate the improvement plan review process by creating faster turn-around, decrease the number of re-submittals, and help improve working relationships between developers, private engineers and City staff, and

WHEREAS, these interim policy measures will still protect the greater public interest by providing flood intervention, reducing maintenance costs, minimizing inconveniences, and protecting against major property damage,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Storm Drainage Design Interim Policy for infill/redevelopment as part of the 2006 Standard Specifications, pending the adoption and implementation of the new Storm Water Master Plan.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION 2008-532

A RESOLUTION APPROVING A REFUND OF $292,618.70 FOR A PORTION OF CAPITAL FACILITIES FEES PAID IN PROTEST FOR BUILDING PERMIT NO. BLD2007-55307 AND APPROVING A DEFERRED PAYMENT AGREEMENT AND NOTICE OF LIEN WITH MASTAGNI/ADERHOLT JOINT VENTURE, A GENERAL PARTNERSHIP, FOR THE PAYMENT OF $325,131.89 IN CAPITAL FACILITIES FEES PLUS INTEREST IN NO MORE THAN TEN (10) ANNUAL INSTALLMENTS AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE THE AGREEMENT (FUNDING SOURCE: CAPITAL FACILITIES FEES REVENUE)

WHEREAS, Mastagni/Aderholt Joint Venture, a General Partnership, ("Owner") owns certain real property located within the City of Modesto, more particularly described on Exhibit "A", attached hereto and incorporated herein by reference (Property), and

WHEREAS, Owner has obtained a building permit from the City for the construction of a 27,310 square foot general office building and a 5,000 square foot shell warehouse building, located at 1820 Blue Gum Avenue, Modesto, CA (Project), and

WHEREAS, Owner has paid in protest Capital Facilities Fees, (hereinafter "CFF"), in the amount of $325,131.89 due on building permit No. BLD2007-55307, and

WHEREAS, Owner desires to defer payment of CFF, in the amount of $325,131.89, and

WHEREAS, the City has determined that it is appropriate to refund a portion of CFF paid on BLD2007-55307 and defer payment of said fees pursuant to Modesto City Council Resolution No. 2008-070,

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

1) A total of $292,618.70 in CFF paid on BLD2007-55307 shall be refunded within two weeks of the approval of the Agreement
2) A Deferred Payment Agreement and Notice of Lien ("Agreement") with Mastagni/Aderholt Joint Venture, a General Partnership, retaining payment of $32,513.19 in CFF paid on building permit BLD2007-55307 and deferring $292,618.70 for CFF plus interest in no more than ten (10) annual installments is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or 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 23rd day of September, 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, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:  

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
LOT SUMMARY

BEFORE ADJUSTMENT

LOT 1 1.06 ± ACRES
LOT 2 1.81 ± ACRES
LOT 3 1.44 ± ACRES

NEW LOTS AFTER ADJUSTMENT

NEW LOT 1 1.18 ± ACRES
NEW LOT 2 1.85 ± ACRES
NEW LOT 3 1.30 ± ACRES

ASSOCIATED ENGINEERING, INC.
Surveying · Design · Planning
4305 TECHNOLOGY DRIVE
MODESTO, CALIFORNIA 95356
PH: (209) 545-3390  FAX: (209) 545-3875
A RESOLUTION EXTENDING THE CONTRACT FOR TIRE RECAPPING AND RELATED SERVICES FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION WITH BRANNON TIRE CORP., STOCKTON, CA, FOR ONE-YEAR, FOR AN ESTIMATED ANNUAL COST OF $80,000, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR BID (RFB) FOR TIRE RECAPPING AND RELATED SERVICES FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY.

(FUNDING SOURCE: FLEET SERVICES DIVISION)

WHEREAS, on August 12, 2003, the City Council, by Resolution No. 2003-440, authorized the award of bid and contract for tire recapping and related services for the Public Works Department, Fleet Services Division, to Brannon Tire Corporation, Stockton, CA, for a three (3) year period with two (2) one-year extension options, and

WHEREAS, the Public Works Department, Fleet Services Division is requesting an extension of the contract for tire recapping and related services, which includes repair of flat tires, mounting and balancing of tires on site, and service calls for the fleet of transportation buses and corporation yard trucks, and

WHEREAS, the recapping of tires provides a cost savings to the City by extending the life of the tires. The average life span of a recapped tire is equivalent to that of a new tire, 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. However, one exception to the Code, Section 8-3.204 (d), allows for the Purchasing Manager, in his discretion, to determine that a process other than the formal bid procedure set forth in Section 8-3.203 will result in a procurement for the City
at the lowest possible cost commensurate with the desired quality. Such alternatives may include, but are not limited to, a “two-step” procurement process or a procurement based solely on a technical evaluation, and

WHEREAS, based on the current market conditions a one-year contract extension for tire recapping and related services for the Public Works Department, Fleet Services Division, with Brarmon Tire, Corp., Stockton, CA, conforms to the Modesto Municipal Code, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves extending the contract for tire recapping and related services for the Public Works Department, Fleet Services Division, with Brarmon Tire Corp., Stockton, CA, for one year, for an estimated annual cost of $80,000.

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

BE IT FURTHER RESOLVED that the Purchasing Manager is authorized to issue a formal Request for Bid (RFB) for tire recapping and related services for a two (2) year Agreement, with three (3) one year extension options, at the sole discretion of the City.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODesto CITY COUNCIL
RESOLUTION NO. 2008-534

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO APPROVING THE SELECTION OF A SUCCESSOR REMARKETING AGENT FOR THE MULTIFAMILY HOUSING REFUNDING REVENUE BONDS, SERIES 1994 (LIVE OAK APARTMENTS PROJECT) PREVIOUSLY ISSUED FOR THE PURPOSE OF REFINANCING THE LIVE OAK APARTMENTS PROJECT AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City of Modesto (the “City”) is a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California; and

WHEREAS, pursuant to the provisions of Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California, as amended (the “Law”), the City is authorized (i) to engage in certain activities related to the provision of decent, safe and adequate housing for persons residing in the City, including the financing of multifamily housing and (ii) to issue bonds for the purpose of making loans to finance such residential construction; and

WHEREAS, pursuant to the Law the City has implemented a residential construction financing program and in furtherance of such program issued its Multifamily Housing Revenue Bonds, 1987 Series A (First Nationwide Bank Program) in the aggregate principal amount of $9,040,000 (the “Original Bonds”), under and pursuant to that certain Indenture, dated as of August 1, 1987, by and between the City and the trustee named therein, for the purpose of financing the construction of a 328-unit multifamily housing development known as the Live Oak Apartments located in the City of Modesto, California (the “Project”), occupied partially (at least 20%) by individuals of
low and moderate income within the meaning of Section 142(d)(1)(A) of the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, the City assisted the owner of the Project, L.O. Associates, a California Limited Partnership (the “Borrower”), in the defeasance of the Original Bonds and the refinancing of the Project through the issuance, pursuant to Section 53570 et seq. of the Government Code of the State of California (the “Act”) and pursuant to an Indenture of Trust, dated as of September 1, 1994 (the “Indenture”), by and between the City and the trustee named therein (the “Trustee”), of its Multifamily Housing Refunding Revenue Bonds, Series 1994 (Live Oak Apartments Project) (the “Bonds”); and

WHEREAS, the Federal National Mortgage Association (“Fannie Mae”) provides credit enhancement and liquidity for the Bonds by pledging and guaranteeing to the trustee a security interest in certain mortgage loans and other collateral owned by Fannie Mae pursuant to that certain Collateral Agreement (“Collateral Agreement”), dated as of September 1, 1994, by and between Fannie Mae and the Trustee; and

WHEREAS, the Bonds are subject to remarketing from time to time as set forth in the Indenture, and in connection with the issuance of the Bonds a remarketing agent (the “Original Remarketing Agent”) was appointed pursuant to the Indenture; and

WHEREAS, the Borrower wishes to replace the Original Remarketing Agent with Banc of America Securities LLC, as successor remarketing agent (the “Successor Remarketing Agent”) under the Indenture pursuant to a remarketing agreement (the “Remarketing Agreement”) between the Borrower and the Successor Remarketing Agent; and
WHEREAS, the Borrower has caused to be prepared and lodged with the City Clerk the proposed form of the Remarketing Agreement; and

WHEREAS, the City now wishes to approve the Borrower’s selection of the Successor Remarketing Agent;

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

Section 1. Findings. The City Council hereby specifically finds and declares that the actions authorized hereby constitute, and are in furtherance of, the municipal affairs of the City and that the statements, findings and determinations of the City Council set forth in the preambles of the documents approved herein are true and correct.

Section 2. Approval of Remarketing Agent and Remarketing Agreement. The City Council hereby approves the selection of Banc of America Securities LLC as Successor Remarketing Agent and the form of the Remarketing Agreement by and between the Borrower and the Successor Remarketing Agent substantially in the form lodged with the City Clerk, and the City Manager or the Finance Director (as the case may be) of the City is authorized and requested to execute and deliver an instrument approving such Successor Remarketing Agreement, but with such changes therein, deletions therefrom and modifications thereof as the City Manager or the Finance Director (as the case may be) shall approve, such approval to be conclusively evidenced by the execution thereof in accordance with the terms hereof.

Section 3. Further Action Authorized. The City Manager, the Mayor, the City Clerk, the City Attorney, the Finance Director and the other officers of the City are hereby authorized and directed, jointly and severally, to do any and all things which they
may deem necessary or advisable in order to evidence the City’s approval of Banc of America Securities LLC as Remarketing Agent and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution. Such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

AYES: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-535

A RESOLUTION APPROVING AN AGREEMENT WITH THE
REDEVELOPMENT AGENCY FOR THE SALE OF CITY-OWNED
REAL PROPERTY AT 416 DOWNEY AVENUE FOR THE “DOWNEY
AVENUE PROJECT” FOR THE FAIR MARKET VALUE OF $520,000
PLUS ONE-HALF OF THE CLOSING COSTS

WHEREAS, the City of Modesto currently owns property at 416 Downey Avenue
and recently purchased the property at 412 Downey Avenue utilizing federal Housing and
Urban Development funds, and

WHEREAS, in July 2007, City Council allocated up to $250,000 in HOME
Investment Partnership (HOME) entitlement funds to be used for pre-development
activities for the development of affordable housing, and

WHEREAS, Parks, Recreation and Neighborhoods Department (PRND) staff
believes that the combination of the two parcels would be beneficial in regard to the
development of affordable housing, and

WHEREAS, the City of Modesto Redevelopment Agency is required to allocate
twenty percent of the annual tax increment revenues for housing set-aside funds to
provide affordable housing within the City of Modesto, and

WHEREAS, Parks, Recreation and Neighborhoods Department staff has been
actively searching for available parcels to develop affordable housing for low-income
citizens, and has found that 416 Downey would be a viable option for RDA to utilize for
affordable housing, and

WHEREAS, the sale of 416 Downey Avenue to the RDA would allow the City of
Modesto to develop affordable housing on the site and meet the goals as indicated in the
Housing Element, and
WHEREAS, the sale of this property to the RDA would also provide an influx of funds into the City of Modesto General Fund, and

WHEREAS, staff is recommending that the RDA pay the City $225,000 in Fiscal Year 2008-2009 and the City will carry the balance as a loan to be paid over a six-year period, and

WHEREAS, with this approach, the Redevelopment Agency will pay $50,000 annually from the housing set-aside fund to the City of Modesto in Fiscal Years 2009-2010 through 2013-2014 and in Fiscal Year 2014-2015, the balance of $46,417 will be paid, and

WHEREAS, the City could also opt to have the RDA pay the entire purchase price at the time of the sale; but this would prohibit the RDA from meeting its funding commitment to projects such as Archway Commons, and

WHEREAS, at its meeting on June 11, 2008, the Citizens Housing and Community Development Committee (CH&CDC) recommended the sale of the City-owned real property at 416 Downey Avenue, and

WHEREAS, at its meeting on August 25, 2008, the Finance Committee supported the recommendation for the sale of 416 Downey Avenue,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an agreement for the sale of City-owned real property at 416 Downey Avenue to the Redevelopment Agency for the “Downey Avenue Project” for the fair market value of $520,000 plus one-half of the closing costs.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-536

A RESOLUTION AMENDING THE GENERAL FUND BUDGET TO
ESTIMATE $520,000 IN REVENUE IN 0100-510-9510-8301.09, LESS A
$295,000 ADVANCE TO OTHER FUNDS

WHEREAS, the City of Modesto currently owns property at 416 Downey Avenue
and recently purchased the property at 412 Downey Avenue utilizing federal Housing and
Urban Development funds, and

WHEREAS, the City of Modesto Redevelopment Agency is required to allocate
twenty percent of the annual tax increment revenues for housing set-aside funds to
provide affordable housing within the City of Modesto, and

WHEREAS, Parks, Recreation and Neighborhoods Department staff has been
actively searching for available parcels to develop affordable housing for low-income
citizens, and has found that 416 Downey would be a viable option for RDA to utilize for
affordable housing, and

WHEREAS, the sale of 416 Downey Avenue to the RDA would allow the City of
Modesto to develop affordable housing on the site and meet the goals as indicated in the
Housing Element, and

WHEREAS, the sale of this property to the RDA would also provide an influx of
funds into the City of Modesto General Fund, and

WHEREAS, the Redevelopment Agency is willing to purchase this property for
$520,000, plus one-half of closing costs, and

WHEREAS, staff is recommending that the RDA pay the City $225,000 in Fiscal
Year 2008-2009 and the City will carry the balance as a loan to be paid over a six-year
period, and
WHEREAS, with this approach, the Redevelopment Agency will pay $50,000 annually from the housing set-aside fund to the City of Modesto in Fiscal Years 2009-2010 through 2013-2014 and in Fiscal Year 2014-2015, the balance of $46,417 will be paid, and

WHEREAS, the City could also opt to have the RDA pay the entire purchase price at the time of the sale; but this would prohibit the RDA from meeting its funding commitment to projects such as Archway Commons, and

WHEREAS, at its meeting on June 11, 2008, the Citizens Housing and Community Development Committee (CH&CDC) recommended the sale of the City-owned real property at 416 Downey Avenue, and

WHEREAS, at its meeting on August 25, 2008, the Finance Committee supported the recommendation for the sale of 416 Downey Avenue,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the General Fund budget to estimate $520,000 in revenue in 0100-510-9510-8301.09, less $295,000 advanced to other funds.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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, Marsh, O' Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 

(S Seal)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-537

A RESOLUTION APPROVING FIRST AMENDMENTS TO FOUR AGREEMENTS WITH CROWN CASTLE MU LLC, A DELAWARE LIMITED LIABILITY COMPANY, FOR CELL TOWER LEASES LOCATED AT BEYER PARK, BRIGGSMORE AVENUE EAST, DOWNEY PARK AND DRY CREEK AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE FIRST AMENDMENTS TO AGREEMENTS

WHEREAS, on September 25, 2001, Resolutions No. 2001-491, 2001-492, 2001-493 and 2001-494, the City of Modesto and Cricket California Property Company, a Delaware corporation, entered into Site Lease Agreements, whereby Cricket leased certain real properties, together with access and utility easements, located at Beyer Park, Briggsmore Avenue East, Downey Park and Dry Creek Park, and

WHEREAS, Crown Castle MU LLC is currently the Tenant under the Lease as successor in interest to the Cricket California Property Company, and

WHEREAS, Crown Castle desires to amend the agreements to extend the length of the contract, as well as the adjustment indicator for rent escalation, and

WHEREAS, Crown Castle also desires to amend the agreements to allow for an option to lease more property and a right of first refusal if the City chooses to sell the property(ies), and

WHEREAS, for these considerations, Crown Castle will pay the City of Modesto $8,000 for each of the four amendments, a total of $32,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves First Amendments to four (4)
Agreements with Crown Castle MU LLC for the lease of cell tower sites at Beyer Park, Briggsmore Avenue East, Downey Park and Dry Creek Park.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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, Marsh, O'Bryant, Olsen
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-538

A RESOLUTION AMENDING THE FY 08-09 OPERATING BUDGET TO ESTIMATE $32,000 IN REVENUE IN 1400-310-3142-8107, DONATIONS, AND TO APPROPRIATE $32,000 IN EXPENDITURES TO 1400-310-3142-0235, FUND DEVELOPMENT, SERVICES PROFESSIONAL AND OTHER, TO BE USED FOR PARK AND RECREATION PURPOSES

WHEREAS, On September 25, 2001, by Resolutions No. 2001-491, 2001-492, 2001-493 and 2001-494, the City of Modesto and Cricket California Property Company, a Delaware corporation, entered into Site Lease Agreements, whereby Cricket leased certain real properties, together with access and utility easements, located at Beyer Park, Briggsmore Avenue East, Downey Park and Dry Creek Park, and

WHEREAS, Crown Castle MU LLC is currently the Tenant under the Lease as successor in interest to the Cricket California Property Company, and

WHEREAS, Crown Castle desires to amend the agreements to extend the length of the contract as well as the adjustment indicator for rent escalation, and

WHEREAS, Crown Castle also desires to amend the agreements to allow for an option to lease more property and a right of first refusal if the City chooses to sell the property(ies), and

WHEREAS, for these considerations, Crown Castle will pay the City of Modesto $8,000 for each of the four amendments, a total of $32,000, and

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 estimate $32,000 in revenue in 1400-310-3142-8107, Donations, and to
appropriate $32,000 in expenditures to 1400-310-3142-0235, Fund Development, Services Professional and Other, to be used for park and recreation purposes.

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 23rd day of September, 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, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2008-539

A RESOLUTION APPROVING A THIRD AMENDMENT TO AGREEMENT WITH GOLDENSTATE TOWER LLC, A DELAWARE LIMITED LIABILITY COMPANY FOR CELL TOWER LEASE AT CREEKSIDE GOLF COURSE AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE THIRD AMENDMENT TO AGREEMENT

WHEREAS, On September 7, 1999, the City of Modesto and Central Wireless Partnership entered into a Site Lease Agreement, whereby Central Wireless Partnership leased certain real property, together with access and utility easements, located at Creekside Golf Course in the City of Modesto, and

WHEREAS, this Agreement was amended on November 14, 2003, and

WHEREAS, this Agreement was further amended on February 27, 2007, and

WHEREAS, Central Wireless Partnership later merged with VIA Wireless LLC, and

WHEREAS, VIA Wireless LLC later merged with UbiqueTel Operating Company, and

WHEREAS, UbiquTel assigned its interest in the Agreement to Goldenstate Towers by way of Bill of Sale and Assignment dated October 15, 2003, and

WHEREAS, Goldenstate Towers desires to amend the agreement to extend the length of the contract as well as the adjustment indicator for rent escalation, and
WHEREAS, Goldenstate Towers also desires to amend the agreement to allow for an option to lease more property and a right of first refusal if the City chooses to sell the property, and

WHEREAS, for these considerations, Goldenstate Towers will pay the City of Modesto $8,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Third Amendment to Agreement with Goldenstate Towers LLC for the lease of cell tower site at Creekside Golf Course.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:  

(SHALL BE SIGNATURE)

APPROVED AS TO FORM:

By:  

(SHALL BE SIGNATURE)

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AMENDING THE FY 08-09 OPERATING BUDGET TO ESTIMATE $8,000 IN REVENUE IN 1400-310-3142-8107, DONATIONS, AND TO APPROPRIATE $8,000 IN EXPENDITURES TO 1400-310-3142-0235, FUND DEVELOPMENT, SERVICES PROFESSIONAL AND OTHER, TO BE USED FOR PARK AND RECREATION PURPOSES

WHEREAS, On September 7, 1999, the City of Modesto and Central Wireless Partnership entered into a Site Lease Agreement, whereby Central Wireless Partnership leased certain real property, together with access and utility easements, located at Creekside Golf Course in the City of Modesto, and

WHEREAS, this Agreement was amended on November 14, 2003, and

WHEREAS, this Agreement was further amended on February 27, 2007,

and

WHEREAS, Central Wireless Partnership later merged with VIA Wireless LLC, and

WHEREAS, VIA Wireless LLC later merged with UbiqueTel Operating Company, and

WHEREAS, UbiquTel assigned its interest in the Agreement to Goldenstate Towers by way of Bill of Sale and Assignment dated October 15, 2003, and

WHEREAS, Goldenstate Towers now desires a third amendment to the agreement, and

WHEREAS, for the considerations in the Third Amendment to Agreement, Goldenstate Towers will pay the City of Modesto $8,000, and
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 estimate $8,000 in revenue in 1400-310-3142-8107, Donations, and to appropriate $8,000 in expenditures to 1400-310-3142-0235, Fund Development, Services Professional and Other, to be used for park and recreation purposes.

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 23rd day of September, 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, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

(Seal)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-541

A RESOLUTION APPROVING A HOME ALLOCATION IN THE AMOUNT OF $343,000 TO WJC DEVELOPMENT, LLC, TO PROVIDE GAP FINANCING IN THE FORM OF DOWN PAYMENT ASSISTANCE TO QUALIFIED FIRST-TIME HOMEBUYERS TO PURCHASE NEW QUALITY HOMES AT SPORTSMEN ESTATES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MEMORANDUM OF UNDERSTANDING ("MOU") AND RELATED DOCUMENTS

WHEREAS, an RFQ for Affordable Housing Developers was issued on November 1, 2007, and proposals were due on January 14, 2008, and

WHEREAS, a total of eight (8) proposals were submitted, including requests for Community Development Housing Organization (CHDO) set-aside funds, and

WHEREAS, WJC Development, LLC (WJC) submitted a request for $1,000,000 in HOME funds to develop a first time homebuyers program to purchase new quality homes at Sportsmen Estates, and

WHEREAS, the project is located in the City of Modesto, between Sunset and Roselawn Avenues, and

WHEREAS, the project consists of 25 single family units, and

WHEREAS, the floor plans provided to staff show units with 3 bedrooms and 1 bath at 977 sq. ft., 3 bedrooms and 2 baths with 1,185 sq. ft. and 4 bedrooms and 2 baths with 1,360 sq. ft., and

WHEREAS, after interviewing WJC, the review sub-committee recommended allocating funding in the amount of $343,000 to WJC for the implementation of a First Time Home Buyers Program to assist low-income families purchase their first homes; that the program provide only gap financing instead of $100,000 flat loan per household;
that WJC work with staff in providing the First Time Home Buyers Program guidelines in compliance with HOME regulations; that City staff review the income eligibility of each household prior to providing the loan; and based on the program performance, WJC could come back to the City to request additional funds for their First Time Home Buyers Program, and

WHEREAS, in addition, staff recommended to the Citizens Housing and Community Development Committee (CH&CDC) that the Agreement between WJC and the City of Modesto be structured as follows:

1. The City of Modesto will enter into a Memorandum of Understanding with WJC Development to set aside $343,000 in HOME funds, to provide gap financing in the form of Down Payment Assistance to qualified first time homebuyers which are low-income households, to purchase a home at the Sportsmen Estates Subdivision. Once all the funds are used WJC could request to set aside additional funds to assist more families purchase a home within this subdivision.

2. Once the homebuyers are identified, City staff will process and underwrite the loans. The City of Modesto will draft a Promissory Note, a Regulatory Agreement, a Declaration of Conditions, Covenants, and Restrictions and a Deed of Trust between the City of Modesto and each homebuyer, and record the Declaration of Conditions, Covenants, and Restrictions and the Deed of Trust against the purchased property.

3. The Regulatory Agreements will include affordability covenants for each property.

4. The loans will be serviced by the Community Reinvestment Fund, which is the City’s loan servicer.

5. The down payment assistance provided for this project will be a 30 year amortized loan, but not to exceed 40 years in the event that WJC or the mortgage companies working with WJC cannot find qualified homebuyers and/or the homebuyers are very low-income.

The HOME loan shall bear simple interest at the rate of 3% annually, and

WHEREAS, on April 30, 2008, the CH&CDC accepted the sub-committee’s recommendation to allocate $343,000 in HOME Funds to the WJC Development LLC to
provide gap financing in the form of down payment assistance to first-time homebuyers to purchase new quality homes at Sportsmen Estates,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a HOME allocation in the amount of $343,000 to provide gap financing in the form of down payment assistance to qualified first-time homebuyers to purchase new quality homes at Sportsmen Estates.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Memorandum of Understanding and related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
RESOLUTION NO. 2008-542

A RESOLUTION APPROVING HOME PROGRAM DOWN PAYMENT ASSISTANCE GUIDELINES TO PROVIDE GAP FINANCING IN THE FORM OF DOWN PAYMENT ASSISTANCE TO FIRST-TIME HOMEBUYERS TO PURCHASE NEW QUALITY HOMES AT SPORTSMEN ESTATES

WHEREAS, an RFQ for Affordable Housing Developers was issued on November 1, 2007, and proposals were due on January 14, 2008, and

WHEREAS, a total of eight (8) proposals were submitted, including requests for Community Housing Development Organizations (CHDO) set-aside funds, and

WHEREAS, WJC Development, LLC (WJC) submitted a request for $1,000,000 in HOME funds to develop a first time homebuyers program to purchase new quality homes at Sportsmen Estates, and

WHEREAS, the project is located in the City of Modesto, between Sunset and Roselawn Avenues, and

WHEREAS, the project consists of 25 single family units, and

WHEREAS, after interviewing WJC, the review sub-committee recommended allocating funding in the amount of $343,000 to WJC for the implementation of a First Time Homebuyers program to assist low-income families purchase their first homes; that the program provide only gap financing instead of $100,000 flat loan per household; that WJC work with staff in providing the First Time Home Buyers Program guidelines in compliance with HOME regulations; that City staff review the income eligibility of each household prior to providing the loan; and based on the program performance, WJC could come back to the City to request additional funds for their first time homebuyers program, and
WHEREAS, on April 30, 2008, the Citizens Housing and Community Development Committee accepted the sub-committee’s recommendation to allocate $343,000 in HOME Funds to the WJC to provide gap financing in the form of down payment assistance to first-time homebuyers to purchase new quality homes at Sportsmen Estates,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council approves HOME Program Down Payment Assistance Guidelines to provide gap financing in the form of down payment assistance to first-time homebuyers to purchase new quality homes at Sportsmen Estates.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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, Marsh, O’Bryant, Olsen
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING A GRANT APPLICATION FOR $150,000 IN FUNDING FROM THE FEDERAL RECREATIONAL TRAILS PROGRAM FOR THE CONSTRUCTION AND INSTALLATION OF 2,850 LINEAL FEET OF BIKE/PEDESTRIAN TRAIL WITHIN THE PELANDALE/SNYDER BIKE TRAIL AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY DOCUMENTS

WHEREAS, the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users:" provides funds to the State of California for Grants for federal, state, local and non-profit organizations to acquire, develop and/or maintain motorized and non-motorized trail Projects, and

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility for the administration of the program within the State, setting up necessary procedures governing project application under the program, and

WHEREAS, the procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of the application before submission of said application to the State, and

WHEREAS, the City desires to apply for grant funds in the amount of $150,000 from the Recreational Trails Program for 2,850 lineal feet of pedestrian trail within the Pelandale/Snyder Bike Trail, and

WHEREAS, this project is consistent with the Recreational Trails Program grant project criteria, and

WHEREAS, the City will enter into a contract with the State of California to complete 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 the Recreational Trails Program; and

2. Certifies that the project is consistent with the applicant's general plan or the equivalents planning document; and

3. Certifies that said applicant has or will have available prior to commencement of any work on the project(s) included in this application sufficient funds to operate and maintain the project(s); and

4. Certifies that the applicant has reviewed, understands, and agrees to the general provisions contained in the contract shown in the procedural guide; and

5. Appoints the City Manager, or his designee, as agent to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the Project upon acceptance of said grant by the City Council.

6. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: ____________________________

(Seal)

APPROVED AS TO FORM:

By: ____________________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-544

A RESOLUTION AUTHORIZING STAFF TO DECLARE THE CITY-OWNED PROPERTY (APN 1101-001-004) KNOWN AS 720 COLDWELL AVENUE AS SURPLUS PROPERTY AND TO PROCEED WITH A CONTRACT FOR REAL ESTATE SERVICES FOR THE SALE OF THIS PROPERTY

WHEREAS, the City of Modesto owns the property at 720 Coldwell Avenue (APN 110-001-004), and

WHEREAS, a portion of the property has been used as an off-site facility for the City of Modesto, Parks, Recreation and Neighborhoods Department, and

WHEREAS, staff is interested in listing the property with a real estate firm for sale, and

WHEREAS, at its May 19, 2008 thru May 23, 2008, meetings, the Finance Committee supported staff’s recommendation to sell the property that houses the Parks, Recreation and Neighborhoods Department,

NOW, THEREFORE, BE IT RESOLVED by the City Council of Modesto that it hereby authorizes staff to declare the City-owned property (APN 110-001-004) known as 720 Coldwell Avenue as surplus property.

BE IT FURTHER RESOLVED that the Council hereby authorizes staff to proceed with a contract for real estate services for the sale of this property.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION 2008-545

AUTHORIZING A CORRECTION TO THE AMENDMENT TO CONTRACT BETWEEN THE
BOARD OF ADMINISTRATION CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
AND THE CITY COUNCIL CITY OF MODESTO

WHEREAS, the City Council of the City of Modesto, hereinafter referred to as Public Agency, and the Board of Administration of the Public Employees' Retirement System entered into a contract effective August 1, 1946 providing for the participation of Public Agency in the Public Employees' Retirement System; and

WHEREAS, said contract was amended effective August 1, 2008; and

WHEREAS, due to an inadvertence, paragraph “4. c” read:

“ELECTED CITY COUNCIL MEMBERS PROSPECTIVELY ONLY”; and

WHEREAS, Section 20472 of the Government Code provides that errors in a contract may be corrected through contract correction amendments executed by the adoption of suitable resolutions by the contracting parties; and

NOW, THEREFORE, BE IT RESOLVED that said governing body of Public Agency authorizes, and it does hereby authorize, a correction to the amendment to contract effective August 1, 2008 as follows:

A. Paragraph 4. c of said contract shall be changed as follows:

“CITY COUNCIL MEMBERS ELECTED INTO OFFICE ON OR AFTER AUGUST 1, 2008”

BE IT FURTHER RESOLVED, that the presiding officer of the governing body of Public Agency is hereby authorized, empowered, and directed to execute said amendment for and on behalf of Public Agency.

Adopted this ___ day of September, 2008.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF MODESTO

LORI MCGARTLAND, CHIEF EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

PRESIDING OFFICER Jim Ridenour
Mayor

Attested

Clerk Stephanie Lopez
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of September, 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, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-546


WHEREAS, on June 24, 2008, the City Council, by Resolution No. 2008-371, authorized submittal of an application to the U.S. Department of Justice for the 2008 Edward Byrne Memorial Justice Assistance Grant (JAG), and

WHEREAS, on August 25, 2008, the U.S. Department of Justice (DOJ) notified the Modesto Police Department that it was awarded the 2008 Edward Byrne Memorial Justice Assistance Grant, and

WHEREAS, funds provided by the JAG will allow the Modesto Police Department to replace firearms that are twelve years old, and

WHEREAS, the total Grant is $47,285, and

WHEREAS, there is no local match required for this Grant, and

WHEREAS, on June 24, 2008, the City Council, by Resolution No. 2008-372, authorized amending the 2008/09 operating budget upon acceptance of the Grant,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the 2008 Edward Byrne Memorial Justice Assistance Grant (JAG) with the U.S. Department of Justice, in the amount of $47,285, for firearms upgrade.

BE IT FURTHER RESOLVED that the Police Chief is hereby authorized to execute the necessary documents.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd of September, 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, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2008-546A


WHEREAS, the Modesto Police Department received notification that we have been awarded $133,280.25 for the COPS 2008 Technology grant from the U.S. Department of Justice, Office of Community Oriented Policing Services for the City of Modesto and Stanislaus Operational Area Regional Radio Interoperability Project, and

WHEREAS, the regional communications between public safety agencies and Stanislaus County are dangerously inadequate, and

WHEREAS, this funding will enhance the existing interoperability channel, expand radio coverage through difficult terrain, replace aging equipment, and continue progress towards a radio system that meets the national standard for interoperability, and

WHEREAS, this will support the City and County’s joint efforts to respond to public safety incidents throughout California’s Central Valley and be prepared for a disaster situations,

WHEREAS, there is no local match required for this program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2008/2009 Multi-Year Budget is hereby amended as indicated below to initiate said grant project:
Expense:
To: 0410-190-2909-5000 $133,280.25 Technology Grant/Radio Interoperability

Revenue:
To: 0410-190-2909-3508 $133,280.25 Federal Police Grant

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 regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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, Marsh, O’Bryant, Olsen
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Ridenour

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-547

A RESOLUTION APPROVING A LICENSE AGREEMENT WITH THE
MODESTO IRRIGATION DISTRICT (MID) FOR THE PURPOSE OF
INSTALLING AND MAINTAINING DOMESTIC WATER TRANSMISSION
MAINS LOCATED ON MID PROPERTY, WHICH SERVE THE PROPOSED
WEST TANK, AND AUTHORIZING THE CITY MANAGER, OR HIS
DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City and the Modesto Irrigation District (MID) have begun work
to expand the Modesto Regional Water Treatment Plant (MRWTP) from its existing
capacity of 30 million gallons per day (mgd) to 60 mgd (Phase Two Expansion), 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, the City has determined that its distribution system needs additional
downstream improvements to fully integrate the expanded MRWTP with the City’s water
distribution system, and

WHEREAS, a 4-million gallon West Tank is scheduled to be constructed for
water storage and distribution, and

WHEREAS, two water transmission pipelines associated with the West Tank will
be constructed for fill and distribution, and

WHEREAS, the two water transmission pipelines are needed to adequately
distribute water throughout each section of the City, and

WHEREAS, portions of the two water transmission pipelines will be located
within MID right-of-way, and
WHEREAS, the Modesto Irrigation District requires a License Agreement to install and maintain improvements in the District’s right-of-way,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a License Agreement with the Modesto Irrigation District (MID) for the purpose of installing and maintaining Water Transmission Mains associated with the West Tank located on MID property.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember March, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MOSETO CITY COUNCIL
RESOLUTION NO. 2008-548

A RESOLUTION APPROVING AN IRRIGATION EASEMENT WITH THE MODESTO IRRIGATION DISTRICT (MID) FOR THE PURPOSE OF IDENTIFYING FUTURE IRRIGATION ACCESS ON THE CITY OF MODESTO WEST TANK PROPERTY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City and the Modesto Irrigation District (MID) have begun work to expand the Modesto Regional Water Treatment Plant (MRWTP) from its existing capacity of 30 million gallons per day (mgd) to 60 mgd (Phase Two Expansion), 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, the City has determined that its distribution system needs additional downstream improvements to fully integrate the expanded MRWTP with the City’s water distribution system, and

WHEREAS, a 4-million gallon West Tank is scheduled to be constructed for water storage and distribution, and

WHEREAS, the existing City owned parcel of land for the West Tank does not have an MID pipeline that could convey irrigation water to the adjacent privately owned parcel to the west, and

WHEREAS, the MID requires a 10-foot wide segment of land for a future irrigation or drainage pipeline, to the adjacent privately owned parcel to the west, and

WHEREAS, the 10-foot wide segment of land should be granted in the form of an Irrigation Easement to install and maintain irrigation pipeline improvements on the City West Tank property if needed,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Irrigation Easement with the Modesto Irrigation District (MID) for the purpose of securing right-of-way for a future irrigation pipeline to serve the adjacent property to the west.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: __________________________

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: __________________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-549

A RESOLUTION APPROVING THE PROTECTED-PERMISSIVE TRAFFIC SIGNALS FOR 2008

WHEREAS, the City has protected-permissive traffic signal phasing at 49 intersections, and

WHEREAS, based on staff’s periodic evaluations, staff has determined that protected-permissive phasing is very effective at most locations in town, and

WHEREAS, protected-permissive phasing provides more important non-tangible benefits, such as, reduced driver anxiety and a second chance to turn left during the same cycle, and

WHEREAS, staff recommends continuing the use of protected-permissive phasing at appropriate locations and monitoring these installations for improvement and/or modifications based on periodic technical analysis, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that is hereby approves the Protected-Permissive Traffic Signals Report for 2008.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE “MODIFICATION OF TRAFFIC SIGNALS AT THREE LOCATIONS 12th STREET/J STREET, LA LOMA AVENUE/BURNEY STREET, AND BRIGGSMORE AVENUE/CARVER ROAD,” PROJECT; ACCEPTING THE BID; APPROVING A CONSTRUCTION CONTRACT WITH COLLINS ELECTRICAL COMPANY, INC., FOR $346,300, FOR THE PROJECT TITLED, “MODIFICATION OF TRAFFIC SIGNALS AT THREE LOCATIONS 12th STREET/J STREET, LA LOMA AVENUE/BURNEY STREET, AND BRIGGSMORE AVENUE/CARVER ROAD;” AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, this project will modify and upgrade the existing traffic signals at the intersections of 12th Street/J Street, La Loma Avenue/Burney Street, and Briggsmore Avenue/Carver Road, and

WHEREAS, bids for this project were opened on July 22, 2008, and

WHEREAS, Collins Electrical Company, Inc., 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 “Modification of Traffic Signals at Three Locations 12th Street/J Street, La Loma Avenue/Burney Street, and Briggsmore Avenue/Carver Road” project; accepts the bid; and approves a construction contract with Collins Electrical Company, Inc., for $346,300, for the project titled, “Modification of Traffic Signals at Three Locations 12th Street/J Street, La Loma Avenue/Burney Street, and, Briggsmore Avenue/Carver Road.”

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: ____________________________

(SEAL)

APPROVED AS TO FORM:

By: ________________________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-551

A RESOLUTION ACCEPTING THE KAISER WELL PROJECT AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION

WHEREAS, the City Council, by Ordinance No. 3357-C.S., which became effective on October 8, 2004, approved the Development Agreement between the City of Modesto and Kaiser Foundation Hospitals (DEVELOPER) for the development of Kaiser Modesto Medical Center/Cornerstone Business Park (DEVELOPMENT), located in the Kiernan Business Park Specific Plan, and

WHEREAS, as a condition of the Development Agreement Kaiser Foundation Hospitals was to construct a City of Modesto Well (PROJECT) as an identified public improvement located within the DEVELOPMENT, and

WHEREAS, the Construction Administration Office has completed all inspections for the PROJECT, and

WHEREAS, the Public Works Department indicates that the PROJECT has been completed to the satisfaction of Public Works, that it would be in order for the City Council to accept the PROJECT as complete, and authorize the City Clerk to record a Notice of Completion,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Kaiser Well Project is hereby accepted,

BE IT FURTHER RESOLVED that the City Clerk, or her designee, is hereby authorized to file a Notice of Completion.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-552

A RESOLUTION ACCEPTING THE WORK BY TOM MAYO CONSTRUCTION, INC. FOR THE PROJECT TITLED “2005-2006 PAVEMENT REHABILITATION PROGRAM- 9TH STREET RECONSTRUCTION L STREET TO MODESTO IRRIGATION DISTRICT LATERAL NO. 4 AND 9TH STREET OVERLAY B STREET TO D STREET” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $1,219,255.38

WHEREAS, a report has been filed by the Public Works Director that the project titled “2005-2006 Pavement Rehabilitation Program- 9th Street Reconstruction L Street to Modesto Irrigation District Lateral No. 4 and 9th Street Overlay B Street to D Street” has been completed by Tom Mayo Construction, Inc. in accordance with the contract agreement dated August 14, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “2005-2006 Pavement Rehabilitation Program- 9th Street Reconstruction L Street to Modesto Irrigation District Lateral No. 4 and 9th Street Overlay B Street to D Street” is hereby accepted as complete from said contractor Tom Mayo 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 $1,219,255.38 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 23rd day of September, 2008, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-553

A RESOLUTION APPROVING A WATER AND SEWER UTILITY AGREEMENT BETWEEN THE CITY OF MODESTO AND THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) IN THE TOTAL AMOUNT OF $33,300 FOR ROADWAY IMPROVEMENTS WITHIN THE PROJECT TITLED, “MODESTO 132 REHAB,” AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the State of California Department of Transportation (Caltrans) has scheduled roadway improvements at various sites, and

WHEREAS, the City of Modesto has water and wastewater pipelines within the State highway roadway improvements, and

WHEREAS, the underground water pipelines have valves at the roadway surface, and

WHEREAS, the underground wastewater pipelines have manholes at the roadway surface, and

WHEREAS, Caltrans will grind and overlay the existing asphalt roadway, and

WHEREAS, the water valves and wastewater manholes will need to be reset to the new surface elevation, and

WHEREAS, an Agreement is needed between the City and Caltrans to seek reimbursement of costs to reset the water valves and wastewater manholes, and

WHEREAS, Caltrans will be the lead agency in completing the design, bidding, construction, and inspection for the proposed improvements, and

WHEREAS, the proposed projects are to be completed under a Water and Sewer Utility Agreement between the City of Modesto and Caltrans and will consist of a reimbursement of expenditures for utility repair in the total amount of $33,300,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Water and Sewer Utility Agreement between the City of Modesto and the California Department of Transportation (Caltrans) in the total amount of $33,300 for roadway improvements within the project titled, "Modesto 132 Rehab."

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 23rd day of September, 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, O'Bryant, Olsen
NOES: Councilmembers: None
ABSENT: Councilmembers: Marsh, Mayor Ridenour

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-554


WHEREAS, the State of California Department of Transportation (Caltrans) has scheduled roadway improvements at various sites, and

WHEREAS, the City of Modesto has water and wastewater pipelines within the State highway roadway improvements, and

WHEREAS, the underground water pipelines have valves at the roadway surface, and

WHEREAS, the underground wastewater pipelines have manholes at the roadway surface, and

WHEREAS, Caltrans will grind and overlay the existing asphalt roadway, and

WHEREAS, the water valves and wastewater manholes will need to be reset to the new surface elevation, and

WHEREAS, the Agreements are needed between the City and Caltrans to seek reimbursement of costs to reset the water valves and wastewater manholes, and

WHEREAS, Caltrans will be the lead agency in completing the design, bidding, construction, and inspection for the proposed improvements, and

WHEREAS, the proposed projects are to be completed under Water and Sewer Utility Agreements between the City of Modesto and Caltrans and will consist of a reimbursement of expenditures for utility repair in the total amount of $20,480,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Water Utility Agreement and a Sewer Utility Agreement between the City of Modesto and the California Department of Transportation (Caltrans) in the total amount of $20,480 for roadway improvements within the project titled, "Modesto SR108 Rehab."

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 23rd day of September, 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, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh, Mayor Ridenour

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF HYDROCHLORIC ACID FOR THE PUBLIC WORKS DEPARTMENT, WATER QUALITY CONTROL DIVISION, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST NOT TO EXCEED $60,000

WHEREAS, Hydrochloric Acid (HCL) is used at the Jennings Secondary Treatment Plant for pH adjustment of waters discharged to the San Joaquin River as required by the City’s National Pollutant Discharge Elimination System (NPDES) permit, and

WHEREAS, HCL is used during the river discharge season from October 1 through May 31 to lower the pH level in the treated effluent, and

WHEREAS, the Jennings Treatment Plant was constructed in 1965, and in 2002 the HCL system was installed to meet the NPDES discharge permit requirements, and

WHEREAS, the annual usage of HCL varies based on weather conditions, and

WHEREAS, funds are budgeted in the amount of $25,000 per year in 6210-480-5214-0312, with additional funding made available not to exceed $60,000 should a wet weather season develop, 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, and

WHEREAS, the issuance of a formal RFB for the purchase of hydrochloric acid conforms to the Modesto Municipal Code,
NOW, THEREFORE, BE IT HEREBY 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 hydrochloric acid for the Public Works Department, Water Quality Control Division, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, 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 a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO.2008-556

A RESOLUTION AUTHORIZING STAFF TO ISSUE A REQUEST FOR PROPOSALS (RFP) FOR A FIVE-YEAR FRANCHISE TO PLACE BENCHES WITH ADVERTISING THEREON AT CITY OF MODESTO BUS STOPS AND A LEASE FOR THE PLACEMENT OF ADVERTISING INSIDE MODESTO AREA EXPRESS (MAX) BUSES TO BECOME EFFECTIVE JANUARY 1, 2009

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

WHEREAS, bus benches are used by Modesto Area Express (MAX) customers to wait for buses and are particularly important to individuals who, because of age or physical disability, cannot stand for long periods of time, and

WHEREAS, continuation of the bus bench franchise saves the City a minimum of $50,000 annually in maintenance expenses, and

WHEREAS, by an agenda report to the City Council dated September 4, 2008, from the Public Works Director, City staff recommended that the Council approve issuing a request for proposals for a franchise to place benches with advertising thereon at City of Modesto bus stops and a lease for the placement of advertising inside Modesto Area Express (MAX) buses.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that staff is authorized to issue a request for proposals for a five-year franchise and to place benches with advertising thereon at City of Modesto bus stops and a lease for the placement of advertising inside Modesto Area Express (MAX) buses to become effective January 1, 2009.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____________________________

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ________________________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-557

A RESOLUTION APPROVING A CAPITAL FACILITIES FEES ("CFF") EXEMPTION/DEFERRAL AGREEMENT BETWEEN THE CITY OF MODESTO AND HABITAT FOR HUMANITY, STANISLAUS ("HABITAT FOR HUMANITY") FOR 20 SINGLE-FAMILY AFFORDABLE HOUSING UNITS, COMMONLY KNOWN AS HOPE VILLAGE, LOCATED AT 800 HOUSER LANE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in 2004, the City Council allocated a $10,000 loan in Community Housing Development Organization (CHDO) set-aside HOME funds and a $640,000 loan from the Community Development Block Grant Revolving Fund to Habitat for Humanity to purchase a 1.85-acre parcel located at 800 Houser Lane, and

WHEREAS, in 2005 and 2007, the City Council allocated CHDO set-aside funds in the amounts of $206,372 and $196,611.75 to Habitat for Humanity to assist with the predevelopment of Hope Village, and

WHEREAS, in May 2008, Habitat for Humanity submitted a CFF Exemption Application for Hope Village, and

WHEREAS, the current CFF amount for a single family unit is $21,584, and

WHEREAS, exempting the payment of 20 units will result in the waiver of $431,680 in development impact fees, and

WHEREAS, staff has reviewed and established that the CFF application complies with City Council Resolution No.2008-070 ("CFF Policies and Procedures") which provides for the exemption of CFF for any low income or very low income housing units constructed or expanded by an entity, and
WHEREAS, the Housing Element adopted by Modesto City Council Resolution No. 2004-233 also established a multi-family developer incentive program as one of the goals to reduce government constraints, and

WHEREAS, this program exempts the non-profit sponsors of housing for very low and low income households from the City’s Capital Facility Fees, and

WHEREAS, staff is also recommending that the CFF exemption approval should be contingent on Habitat for Humanity obtaining all of the funding needed to complete the development of Hope Village by the time the Certificates of Occupancy are pulled, and

WHEREAS, a duly noticed public hearing was held by the Council on September 23, 2008, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider approving a Capital Facilities Fees ( “CFF”) Exemption/Deferral Agreement between the City of Modesto and Habitat for Humanity, Stanislaus (“Habitat for Humanity”) for 20 single-family affordable housing units, commonly known as Hope Village, located at 800 Houser Lane,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Capital Facilities Fees ( “CFF”) Exemption/Deferral Agreement between the City of Modesto and Habitat for Humanity, Stanislaus (“Habitat for Humanity”) for 20 single-family affordable housing units, commonly known as Hope Village, located at 800 Houser Lane.

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 23rd day of September, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:  

(SIGNATURE)

APPROVED AS TO FORM:

By:  

(SIGNATURE)

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-558

A RESOLUTION APPROVING THE CITY OF MODESTO CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) FOR FISCAL YEAR 2007-2008, AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL DOCUMENTS RELATED TO THE SUBMISSION OF THE CAPER, AND AUTHORIZING STAFF TO FORWARD THE REPORT TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) FOR REVIEW AND APPROVAL. (FUNDING SOURCE: CDBG FUND, HOME FUND, ESG FUND)

WHEREAS, the City of Modesto receives several Federal grants from the U.S. Department of Housing and Urban Development (HUD), and

WHEREAS, the Consolidated Annual Performance and Evaluation Report (CAPER) reflects the activities of the City and its sub-recipients for the period of July 1, 2007, through June 30, 2008, and

WHEREAS, each year the City must review and report on the performance of activities funded under the Community Development Block Grant (CDBG), HOME Investment Partnership Grant, and Emergency Shelter Grant (ESG) funds, and

WHEREAS, the CAPER must be made available for public review and comment for a minimum 15-day period, and

WHEREAS, the CAPER was made available for public review and comment from August 29, 2008, through September 23, 2008, and

WHEREAS, all public comments, and staff responses to these comments, must be presented to the City Council for review and approval, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on September 10, 2008, and reviewed and recommended the CAPER, and
WHEREAS, a duly noticed public hearing was held by the Council on September 23, 2008, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider approval of the CAPER,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Consolidated Annual Performance and Evaluation Report for Fiscal Year 2007-2008 is hereby approved, and a copy of said report is on file in the office of the City Clerk.

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

BE IT FURTHER RESOLVED that staff is hereby authorized to forward the report to the U.S. Department of Housing and Urban Development (HUD).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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

NOES:  Councilmembers:  None

ABSENT:  Councilmembers:  Mayor Ridenour

ATTEST:  

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-559

A RESOLUTION APPROVING THE REVENUE SHARING AGREEMENT BETWEEN THE CITY OF MODESTO AND BOYETT PETROLEUM, INC. FOR SALES TAX RebATES AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE SAID AGREEMENT

WHEREAS, California imposes a sales tax on every retailer of personal property at a rate of 6.25% and an additional 1% sales tax is levied based on the Bradley-Burns Uniform Local Sales and Use Tax Law (“Bradley-Burns 1%”) for a minimum statewide total sales tax rate of 7.25%, and

WHEREAS, beginning in 1957, the City of Modesto (“City”) has entered into a tax-sharing agreement with Stanislaus County whereby the City receives 95% of the “Bradley-Burns 1%” and the County receives the remaining 5%, and

WHEREAS, the “Bradley-Burns 1%” is collected based upon the location of the sale, not the destination of the goods sold and the “Bradley-Burns 1%” portion of the sales tax is available for sales tax revenue sharing agreements, and

WHEREAS, Boyett Petroleum sells wholesale taxable sales of fuels throughout California with an estimated annual taxable sales for all of the California offices estimated to be approximately $50 million, and

WHEREAS, Boyett Petroleum currently conducts its California sales in their office located at 601 McHenry Avenue in Modesto, CA, and

WHEREAS, Boyett Petroleum has requested that the City enter into a Revenue-Sharing Agreement (“Revenue Agreement”) with Boyett Petroleum wherein up to 65% of the City’s share of the “Bradley-Burns 1%” sales tax that the City would otherwise obtain from sales made at the Modesto office would be rebated to Boyett Petroleum, and
WHEREAS, the purpose of said Revenue Agreement is the generation of additional sales tax revenues to the City to use for various public services funded through General Fund revenues, and

WHEREAS, as a charter city, Modesto has the authority to enter into contractual agreements, including revenue-sharing agreements, with private companies, and

WHEREAS, said Revenue Agreement will terminate on December 31, 2028, unless it is extended by the mutual consent of both parties for two (2) five-year options, and

WHEREAS, the revenue sharing between the City and Boyett Petroleum will be as set forth in said Revenue Agreement,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL that the Revenue Sharing Agreement between the City of Modesto and Boyett Petroleum, Inc. is hereby approved.

BE IT FURTHER RESOLVED that the City Council does hereby authorize and direct its City Manager, or his/her designee, to execute said Revenue Sharing Agreement and any related documents on behalf of the City of Modesto.
The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 23rd day of September, 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, Olsen

NOES: Councilmembers: O’Bryant

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-560

RESOLUTION AMENDING THE FY 08-09 OPERATING BUDGET TO INCREASE THE ANTICIPATED SALES TAX REVENUE BEGINNING IN FY 08-09 AND TO CREATE AN EXPENDITURE APPROPRIATION ACCOUNT NO. 0100-510-9510-0235 FOR PURPOSES OF REVENUE SHARING PAYMENTS TO BOYETT PETROLEUM, INC. PURSUANT TO THE APPROVED REVENUE SHARING AGREEMENT WITH THE CITY OF MODESTO

WHEREAS, on September 23, 2008, the City of Modesto ("City") entered into a Revenue Sharing Agreement with Boyett Petroleum, Inc for the purpose of rebating a portion of the sales tax received by the City from sales of Boyett Petroleum, Inc. products within Modesto city limits, and

WHEREAS, in order to implement said Revenue Sharing Agreement, the City’s operating budget must be amended to increase the anticipated sales tax revenue by $475,000 beginning in FY 08-09, and

WHEREAS, in addition, expenditure appropriation account no. 0100-510-9510-0235 must be created for purposes of providing the revenue sharing payments to Boyett Petroleum, Inc., and

WHEREAS, the revenue sharing formula between the City and Boyett Petroleum will be as set forth in said Revenue Agreement,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL that the City’s operating budget is hereby amended to increase the anticipated sales tax revenue by $475,000 beginning in FY 08-09 and an expenditure appropriation account no. 0100-510-9510-0235 is hereby created for purposes of providing the revenue sharing payments to Boyett Petroleum, Inc. pursuant to the Revenue Sharing Agreement between the City and Boyett Petroleum, Inc.
The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 23rd day of September, 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, Olsen

NOES: Councilmembers: O’Bryant

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-561

A RESOLUTION APPROVING THE REVENUE SHARING AGREEMENT BETWEEN THE CITY OF MODESTO AND BRESHEARS PETROLEUM, INC. FOR SALES TAX REBATES AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE SAID AGREEMENT

WHEREAS, California imposes a sales tax on every retailer of personal property at a rate of 6.25% and an additional 1% sales tax is levied based on the Bradley-Burns Uniform Local Sales and Use Tax Law ("Bradley-Burns 1%") for a minimum statewide total sales tax rate of 7.25%, and

WHEREAS, beginning in 1957, the City of Modesto ("City") has entered into a tax-sharing agreement with Stanislaus County whereby the City receives 95% of the "Bradley-Burns 1%" and the County receives the remaining 5%, and

WHEREAS, the "Bradley-Burns 1%" is collected based upon the location of the sale, not the destination of the goods sold and the "Bradley-Burns 1%" portion of the sales tax is available for sales tax revenue sharing agreements, and

WHEREAS, Breshears Petroleum, Inc. sells wholesale taxable sales of fuels throughout California with an estimated annual taxable sales for all of the California offices estimated to be approximately $20 Million, and

WHEREAS, Breshears Petroleum, Inc. currently conducts its California sales in their office located at 720 "B" Street in Modesto, CA, and

WHEREAS, Breshears Petroleum has requested that the City enter into a Revenue-Sharing Agreement ("Revenue Agreement") with Breshears Petroleum wherein up to 65% of the City’s share of the "Bradley-Burns 1%" sales tax that the City would otherwise obtain from sales made at the Modesto office would be rebated to Breshears
Petroleum, and

WHEREAS, the purpose of said Revenue Agreement is the generation of additional sales tax revenues to the City to use for various public services funded through General Fund revenues, and

WHEREAS, as a charter city, Modesto has the authority to enter into contractual agreements, including revenue-sharing agreements, with private companies, and

WHEREAS, said Revenue Agreement will terminate on December 31, 2028, unless it is extended by the mutual consent of both parties for two (2) five-year options, and

WHEREAS, the revenue sharing between the City and Breshears Petroleum, Inc. will be as set forth in said Revenue Agreement,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL that the Revenue Sharing Agreement between the City of Modesto and Breshears Petroleum, Inc. is hereby approved.

BE IT FURTHER RESOLVED that the City Council does hereby authorize and direct its City Manager, or his/her designee, to execute said Revenue Sharing Agreement and any related documents on behalf of the City of Modesto.
The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 23rd day of September, 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, Olsen

NOES: Councilmembers: O’Bryant

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AMENDING THE FY 08-09 OPERATING BUDGET TO INCREASE THE ANTICIPATED SALES TAX REVENUE BEGINNING IN FY 08-09 AND TO CREATE AN EXPENDITURE APPROPRIATION ACCOUNT NO. 0100-510-9510-0235 FOR PURPOSES OF REVENUE SHARING PAYMENTS TO BRESHEARS PETROLEUM, INC. PURSUANT TO THE APPROVED REVENUE SHARING AGREEMENT WITH THE CITY OF MODESTO

WHEREAS, on September 23, 2008, the City of Modesto ("City") entered into a Revenue Sharing Agreement with Breshears Petroleum, Inc for the purpose of rebating a portion of the sales tax received by the City from sales of Breshears Petroleum, Inc. products within Modesto city limits, and

WHEREAS, in order to implement said Revenue Sharing Agreement, the City’s operating budget must be amended to increase the anticipated sales tax revenue by $180,000 beginning in FY 08-09, and

WHEREAS, in addition, expenditure appropriation account no. 0100-510-9510-0235 must be created for purposes of providing the revenue sharing payments to Breshears Petroleum, Inc., and

WHEREAS, the revenue sharing formula between the City and Breshears Petroleum will be as set forth in said Revenue Agreement,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL that the City’s operating budget is hereby amended to increase the anticipated sales tax revenue by $180,000 beginning in FY 08-09 and an expenditure appropriation account no. 0100-510-9510-0235 is hereby created for purposes of providing the revenue sharing payments to Breshears Petroleum, Inc. pursuant to the Revenue Sharing Agreement between the City and Breshears Petroleum, Inc.
The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 23rd day of September, 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, Olsen

NOES:       Councilmembers:   O'Bryant

ABSENT:     Councilmembers:   Mayor Ridenour

ATTEST:     STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PHASE 1A TERTIARY WASTEWATER TREATMENT PROJECT, ACCEPTING THE BID AND APPROVING A $19,148,562.50 CONTRACT WITH PACIFIC MECHANICAL CORPORATION FOR THE PHASE 1A TERTIARY WASTEWATER TREATMENT PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Phase 1A Tertiary Wastewater Treatment Project and City staff recommends approval to the City Council, and

WHEREAS, the bids received for the Phase 1A Tertiary Wastewater Treatment Project were opened at 11:00 a.m. on August 26, 2008, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $19,148,562.50 received from Pacific Mechanical Corporation be accepted as the lowest responsible bid and the contract be awarded to Pacific Mechanical Corporation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Pacific Mechanical Corporation in the amount $19,148,562.50, and hereby awards Pacific Mechanical Corporation the contract titled “Phase 1A Tertiary Wastewater Treatment Project.”

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 

(SIGNATURE)

APPROVED AS TO FORM:

By 

(SIGNATURE)

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING A MITIGATED NEGATIVE DECLARATION DATED JULY 2008 AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE PHASE 1A TERTIARY WASTEWATER TREATMENT PROJECT, AND ADOPTING A FINDING THAT THE CITY COUNCIL HAS REVIEWED AND CONSIDERED AND MADE FINDINGS REGARDING THE CEQA ENVIRONMENTAL REVIEW DOCUMENT

WHEREAS, the City Council, on March 13, 2007, by Resolution No. 2007-178, certified the Final Master Environmental Impact Report (MEIR) (SCH No. 2006052076) for the Modesto Wastewater Master Plan Update, and

WHEREAS, the Master Plan and MEIR identify certain improvements to be carried out in furtherance of enhanced treatment of wastewater, and

WHEREAS, construction of the Phase 1A Tertiary Wastewater Treatment Project will improve the quality of the effluent discharge and allow the City to discharge to the San Joaquin River and is specifically envisioned by the Modesto Wastewater Master Plan and its associated MEIR, and

WHEREAS, Sections 21157.1 and 21157.5 of CEQA provide for a lead agency to prepare an Initial Study on any proposed project being carried out subsequent to a Master EIR to analyze whether the project may cause any significant effect on the environment, and

WHEREAS, the City of Modesto Department of Public Works has prepared an Initial Study/Mitigated Negative Declaration (EA-PW No. 2008-13) as provided for by CEQA, and

WHEREAS, a 30-day public review period for the proposed Initial Study/Mitigated Negative Declaration began on July 22, 2008 and ended on August 21, 2008, and
WHEREAS, the City received four letters commenting on the draft Initial Study/Mitigated Negative Declaration (IS/MND), and

WHEREAS, the City prepared written responses to all written comments received on the draft IS/MND, and

WHEREAS, the Mitigation Monitoring and Reporting Plan (MMRP) for this project is attached to this resolution as Exhibit 1, and is hereby incorporated by reference and made a part of this resolution,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study/Mitigated Negative Declaration (EA/PW No. 2008-13) and Mitigation Monitoring and Reporting Plan prepared for the Phase 1A Tertiary Wastewater Treatment Project, and based on the substantial evidence provided in said Initial Study/Mitigated Negative Declaration makes the following findings:

1. The type of project is described in Chapter III of the MEIR.

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

3. The Statement of Overriding Considerations made pursuant to Public Resources Code Section 21091 and CEQA Guidelines Section 15091 et seq. in connection with adoption of the MEIR and found in Exhibit A to City Council Resolution No. 2007-178 remain in full force and effect and are hereby incorporated by reference into this Resolution. The significant and unavoidable impacts identified in the MEIR and associated with its implementation cannot be avoided or substantially reduced by feasible changes or alterations to the Project, other than by changes or alterations already adopted.

4. The Initial Study/Mitigated Negative Declaration prepared for the proposed project has identified additional potentially significant environmental effects beyond those identified in the MEIR.
5. Before the Initial Study/Mitigated Negative Declaration was released for public review, feasible mitigation measures were made by or agreed to by the City, which will avoid or mitigate the effects to a point where clearly no significant effect will occur.

6. There is no substantial evidence, in light of the whole record before the public agency, that the project, as revised, may have a significant effect on the environment.

7. The Initial Study/Mitigated Negative Declaration reflects the independent judgment of the lead agency.

8. The Initial Study/Mitigated Negative Declaration, Environmental Assessment (EA/PW 2008-13) provides the substantial evidence to support findings 1 through 6, above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the Mitigation Monitoring and Reporting Program as required by Public Resources Code Section 21081.6 et. seq., a copy of which is attached and made Exhibit 1 to this resolution, and

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the Initial Study/Mitigated Negative Declaration EA/PW 2008-13, a copy of which is on file with the City Clerk and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City of Modesto Public Works Department, Capital Improvement Services, is the custodian of the documents and other materials, which constitute the record of proceedings upon which its decision is based. The records are located at the office of the City of Modesto Public Works Deputy Director, 1010 Tenth Street, Fourth Floor, Modesto, CA 95354.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Public Works Director is hereby authorized and directed to file a Notice of Determination
within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 

SEAL

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
Phase 1A Wastewater Project
Mitigation Monitoring and Reporting Program

August 2008

<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Implementing Responsibility</th>
<th>Monitoring Responsibility</th>
<th>Monitoring Schedule</th>
<th>Verification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mitigation Measures from Wastewater master Plan MEIR Mitigation Measures drawn from the WWMP MEIR are included in the WWMP MEIR MMRP, which is incorporated by reference into this Program</td>
<td>As shown in WWMP MEIR MMRP</td>
<td>As shown in WWMP MEIR MMRP</td>
<td>As shown in WWMP MEIR MMRP</td>
<td></td>
</tr>
<tr>
<td>Mitigation Measure 1. American Badger potentially occurs in the ruderal areas and irrigated pasture within the Project Area. If found, impacts to American badger would be a potentially significant impact. The following measure is incorporated to reduce this measure to a less-than-significant level: A qualified biologist shall conduct a pre-construction survey for potential dens within the Project footprint. If an occupied den is present, it shall be avoided and the biologist shall monitor the den until the badger disperses out of the area. At that time, the den can be filled.</td>
<td>City of Modesto Public Works Department</td>
<td>City of Modesto Public Works Department</td>
<td>Prior to construction and as/if needed during construction</td>
<td></td>
</tr>
<tr>
<td>Mitigation Measure 2. Western Pond Turtle may occur in the slough located near the Project Site. Although the project will avoid wetland habitats, a dispersing turtle may be encountered in any upland habitat. The following measure is incorporated to reduce this impact to a less-than-significant level:</td>
<td>City of Modesto Public Works Department</td>
<td>City of Modesto Public Works Department</td>
<td>Prior to construction</td>
<td></td>
</tr>
</tbody>
</table>
### Mitigation Measure

All project personnel shall receive special status species training that includes procedures to avoid impacts to dispersing turtles. This training shall be conducted by a qualified biologist prior to project construction.

**Mitigation Measure 3.** In the project area, the most common and recognizable evidence of prehistoric archaeological resources are deposits of shell and/or bones, usually in fragments, and usually in a darker fine-grained soil (midden); chert, obsidian and other stone flakes left from manufacturing stone tools, or the tools themselves or ground stone (mortars, pestles, grinding slabs, arrowheads and spear points), other artifacts (shell beads, bone tools, etc.), and human burials, often as dislocated bones. Historic materials older than 45 years—bottles, artifacts, privy and disposal pits, structural remains, etc.—may also have scientific and cultural significance and should be more readily identified. The Modesto General Plan contains a requirement for a pre-construction survey prior to construction within any archaeological resource study area.

If during the proposed construction project any such evidence is uncovered or encountered, all excavations within 10 meters/30 feet should be halted long enough to call in a qualified archaeologist to assess the situation and propose appropriate measures.

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td></td>
<td>City of Modesto Public Works Department</td>
<td>City of Modesto Public Works Department</td>
<td>Throughout construction activities involving grading or trenching.</td>
<td></td>
</tr>
</tbody>
</table>
RESOLUTION AMENDING THE FY08/09 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO PROVIDE FUNDING NECESSARY FOR DESIGN SUPPORT DURING CONSTRUCTION, INCLUDING CITY STAFF TIME, BY DECREASING CIP ACCOUNT 6210-430-B812 “PRIMARY OUTFALL REHABILITATION” IN THE AMOUNT OF $900,000, AND REAPPROPRIATING THE SAME AMOUNT TO CIP ACCOUNT 6210-480-B805 “WASTEWATER TREATMENT-PHASE 1A TERTIARY”

WHEREAS, certain budgetary transactions are necessary in the amount of $900,000, in order to fully fund a Second Amendment with Carollo Engineers, P.C. (Carollo) for design support during construction, including City staff time to administer the Second Amendment, and budget for state sales tax on pre-purchased equipment for the Phase 1A Tertiary Wastewater Treatment Project, and

WHEREAS, due to the project’s complexity, and since Carollo is the primary design engineer of the Phase 1A Tertiary Wastewater Treatment Project, it will be necessary to amend Carollo’s Agreement to provide design support during construction, which includes equipment submittal review, responding to the contractor’s request for information (RFIs), and progress meetings, the FY08/09 Capital Improvement Program budget must be amended by decreasing CIP Account 6210-480-B812-6040 “Primary Outfall Rehabilitation” in the amount of $900,000, and returning the funds back to Account 6210-800-8000-8003 “Wastewater Fund Reserve,” then decreasing Account 6210-800-8000-8003 “Wastewater Fund Reserve” by the same amount and reappropriating $755,789 to Object 6010-Engineering/Design/Administration and $144,211 to Object 6040-Construction in CIP Account 6210-480-B805 “Wastewater Treatment-Phase 1A Tertiary” to perform the required design support during...
construction, including City staff time, and budget for state sales tax for pre-purchased equipment for the Phase 1A Tertiary Wastewater Treatment Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds in the amount of $900,000, as set forth herein, to perform the required design support for construction, including City staff time, and budget for state sales tax on pre-purchased equipment for the Phase 1A Tertiary Wastewater Treatment Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-566

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF DWIGHT BATEMAN FROM THE HUMAN RELATIONS COMMISSION

WHEREAS, DWIGHT BATEMAN was appointed a member of the Human Relations Commission on January 7, 2003, and

WHEREAS, DWIGHT BATEMAN has tendered his resignation from the aforementioned commission,

NOW, THEREFORE, BE IT RESOLVED that the resignation of DWIGHT BATEMAN from the Human Relations Commission 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 DWIGHT BATEMAN for his service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 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 NO. 2009-567

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 regular meeting of the Council of the City of Modesto held on the 7th day of October, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-568

A RESOLUTION OPPOSING THE PASSAGE OF PROPOSITION 5, ALSO KNOWN AS THE NONVIOLENT OFFENDER REHABILITATION ACT (NORA). THIS PROPOSITION WILL BE ON THE NOVEMBER 2008 STATEWIDE BALLOT

WHEREAS, the Drug Policy Alliance, who placed Proposition 36 on the ballot in 2000, has again gathered signatures to place Proposition 5, the Nonviolent Offender Rehabilitation Act, on the November 2008 ballot, and

WHEREAS, law enforcement professionals believe the passage of Proposition 5 (NORA) will increase crime and addiction levels resulting in a less safe community, and

WHEREAS, the California Police Chiefs’ Association, California Peace Officers’ Association, California District Attorneys’ Association, and Chief Probation Officers’ of California oppose the passage of Proposition 5,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby opposes the passage of Proposition 5, also known as the Nonviolent Offender Rehabilitation Act (NORA). This proposition will be on the November 2008 statewide ballot.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-569

A RESOLUTION SUPPORTING PROPOSITION 6: SAFE NEIGHBORHOODS ACT TO BE VOTED ON IN THE NOVEMBER 2008 GENERAL ELECTION

WHEREAS, the State Legislature’s failure to adopt a budget on time forces the City of Modesto, and other municipalities, to make assumptions as to what effect the final State budget will have on local funding for critical public safety programs, and

WHEREAS, there is over $1.5 million in jeopardy to the City of Modesto in critical frontline public safety funding that is being held hostage as the legislature engages in partisan bickering over the final budget adoption, and

WHEREAS, holding public safety funding hostage has become a standard practice in the State budget process and has cost local public safety millions of dollars, and

WHEREAS, this critical public safety funding represents less than 1% of the entire State budget, and

WHEREAS, Proposition 6 will require these critical frontline public safety monies to be funded and fully allocated to local public safety agencies,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby supports Proposition 6: Safe Neighborhoods Act, to be voted on in the November 2008 general election.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 7th day of October, 2008, by Councilmember Lopez,
who moved its adoption, which motion being duly seconded by Councilmember Marsh,
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]
STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
SUSANA ALCALA WOOD, City Attorney
A RESOLUTION ACCEPTING THE COPS 2008 TECHNOLOGY GRANT IN THE AMOUNT OF $133,280.25 FROM THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES, TO PROVIDE PARTIAL FUNDING FOR THE CITY OF MODESTO AND STANISLAUS OPERATIONAL AREA REGIONAL RADIO INTEROPERABILITY PROJECT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, on September 15, 2008, the Modesto Police Department received notification that the City of Modesto has been awarded $133,280.25 for the COPS 2008 Technology grant from the U.S. Department of Justice, Office of Community Oriented Policing Services, to provide partial funding for the City of Modesto and Stanislaus Operational Area Regional Radio Interoperability Project, and

WHEREAS, the regional communications between public safety agencies and Stanislaus County are inadequate, and

WHEREAS, this funding will enhance the existing interoperability channel, expand radio coverage through difficult terrain, replace aging equipment, and continue progress towards a radio system that meets the national standard for interoperability, and

WHEREAS, this will support the City and County’s joint efforts to respond to public safety incidents throughout California’s Central Valley and be prepared for a disaster situations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the COPS 2008 Technology grant in the amount of $133,280.25 from the U.S. Department of Justice, Office of Community Oriented Policing Services, to provide partial funding for the City of Modesto and Stanislaus Operational Area Regional Radio Interoperability Projects.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary program documents, including any extensions, amendments, or subsequent contracts with the U.S. Department of Justice, Office of Community Oriented Policing Services, in relation thereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-571


WHEREAS, on September 15, 2008, the Modesto Police Department received notification that the City of Modesto has been awarded $133,280.25 for the COPS 2008 Technology grant from the U.S. Department of Justice, Office of Community Oriented Policing Services to provide partial funding for the City of Modesto and Stanislaus Operational Area Regional Radio Interoperability Project, and

WHEREAS, the regional communications between public safety agencies and Stanislaus County are inadequate, and

WHEREAS, this funding will enhance the existing interoperability channel, expand radio coverage through difficult terrain, replace aging equipment, and continue progress towards a radio system that meets the national standard for interoperability, and

WHEREAS, this will support the City and County’s joint efforts to respond to public safety incidents throughout California’s Central Valley and be prepared for a disaster situations, and

WHEREAS, there is no local match required for this program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2008/2009 Multi-Year Budget is hereby amended as indicated below to initiate said grant project:
Expense:
To: 0410-190-2909-5000 $133,280.25 Technology Grant/Radio Interoperability

Revenue:
To: 0410-190-2909-3508 $133,280.25 Federal Police Grant

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 regular meeting of the Council of the City of Modesto held on the 7th day of October, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-572

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE FURNISHING AFTER HOURS ANSWERING SERVICES FOR THE PUBLIC WORKS DEPARTMENT, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $16,500

WHEREAS, the City of Modesto Water and Wastewater Divisions require after-hours answering service for customers needing to report possible emergencies or concerns related to the water and sewer utilities; and

WHEREAS, this service handles customer calls occurring after normal business hours and on weekends, and handles approximately 20,000 calls annually, and

WHEREAS, it is essential to have after-hours answering service for emergency calls, such as water main breaks, sewer blockages, flooding, and storm damage, and

WHEREAS, the Water and Wastewater Divisions currently contract this service at an annual cost of $16,500, and

WHEREAS, staff recommends moving to a multi-year contract to ensure the City gets the best price for the service, 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, and

WHEREAS, the issuance of a formal RFB for the furnishing of after-hours answering services for the Public Works Department conforms to the Modesto Municipal Code, and
WHEREAS, funds are budgeted in Account Numbers 6100-480-5016-0210 and 6210-480-5212-0210 for the furnishing of after-hours answering services,

NOW, THEREFORE, BE IT HEREBY 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 furnishing of after-hours answering services for the Public Works Department, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, 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 a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION FINDING THAT THE PROJECT TITLED, "MERLE AVENUE IMPROVEMENTS AT THE VILLAGE ONE CENTRAL BASIN," IS WITHIN THE SCOPE OF THE PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM EIR, AS AMENDED BY THE VILLAGE ONE SUPPLEMENTAL EIR AND THE ADDENDUM TO THE EIR (SCH NO. 90020181)

WHEREAS, the City Council has received and considered the Written Checklist, Environmental Assessment No. EA/PW No. 2008-15, that concludes that the project titled "Merle Avenue Improvement Project," is within the scope of the previously certified Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR and the Addendum to the EIR (SCH No. 90020181), and that pursuant to Sections 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required,

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

1. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this Project is within the scope of the projects covered by the Village One Program EIR, as amended by the 1994 Supplemental EIR and the 2003 Addendum to the EIR ("Program EIR") and no new environmental document or findings are required by CEQA.

2. There are no substantial changes proposed in the Project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Program EIR are required.

3. No substantial changes have occurred with respect to the circumstances under which the Project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and therefore, no major revisions to the Program EIR, are required.

4. There is no new information of substantial importance that was not known and could not have been known with the exercise of
reasonable diligence when the Program EIR, was adopted which shows any of the following:

a. one or more significant effects which is not discussed in the Program EIR; or,
b. significant effects which were previously examined will be substantially more severe than previously shown; or,
c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the Project proponents decline to adopt the mitigation measure or alternative; or,
d. mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the Project proponents decline to adopt the mitigation measure or alternative.

The City Council has received and considered the Written Checklist Environmental Assessment EA/PW No. 2008-15, which provides the substantial evidence to support findings 1-4 above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-574

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE MERLE AVENUE IMPROVEMENTS AT THE VILLAGE ONE CENTRAL BASIN PROJECT, ACCEPTING THE BID AND APPROVING A $229,910.41 CONTRACT WITH A. TEICHERT & SON, INC., DBA TEICHERT CONSTRUCTION FOR THE MERLE AVENUE IMPROVEMENTS AT THE VILLAGE ONE CENTRAL BASIN PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Merle Avenue Improvements at the Village One Central Basin project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Merle Avenue Improvements at the Village One Central Basin project were opened at 11:00 a.m. on September 9, 2008, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $229,910.41 received from A. Teichert & Son, Inc., dba Teichert Construction (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 approves the plans and specifications for the Merle Avenue Improvements at the Village One Central Basin project, accepts the bid of Teichert Construction in the amount of $229,910.41, and awards Teichert Construction the contract for the Merle Avenue Improvements at the Village One Central Basin 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
$229,910.41, for the Merle Avenue Improvements at the Village One Central Basin project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2008-575  

A RESOLUTION APPROVING A SECOND AMENDMENT TO AGREEMENT WITH CAROLLO ENGINEERS, P.C. (CAROLLO) FOR FINAL DESIGN SERVICES FOR PHASE 1A TERTIARY WASTEWATER TREATMENT FACILITY PROJECT TO INCLUDE DESIGN SUPPORT DURING CONSTRUCTION IN AN AMOUNT NOT TO EXCEED $732,600, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO AGREEMENT

WHEREAS, the City of Modesto operates and maintains a secondary treatment system and wastewater reclamation facility at 7007 Jennings Road, and

WHEREAS, based on the analysis prepared for the Wastewater Master Plan, the City expects that tertiary treatment will be required to meet anticipated regulatory requirements, and

WHEREAS, due to the lengthy process of implementing a full-scale tertiary facility, a phased approach is underway that will allow the City to comply with expected regulatory issues and continue with development within a short timeframe, and

WHEREAS, the City Council, on February 13, 2007, by Resolution 2007-110, approved an Agreement with Carollo Engineers, P.C. (Carollo) to complete the 35% design effort and a Preliminary Design Report (PDR) for the Phases 1A and 1B Tertiary Treatment Facilities Project, and

WHEREAS, the PDR serves as the basis of design for the two phases; the City Council, on June 26, 2007, by Resolution 2007-379 approved the final PDR as complete, and

WHEREAS, the City Council, on July 3, 2007, by Resolution 2007-408, approved an Agreement with Carollo for Final Design of the Phase 1A Tertiary Wastewater Treatment Facility Project, and
WHEREAS, the City Council, on February 12, 2008, by Resolution No. 2008-103, approved a first Amendment to Agreement to perform additional work as required in order to include the low-pressure in-vessel ultraviolet (UV) system as a bid alternative, and

WHEREAS, the Phase 1A Final Design was completed and bids were solicited in July 2008, and

WHEREAS, the City opened bids for the construction of the Phase 1A project on August 26, 2008, and

WHEREAS, the City Council awarded the construction contract to Pacific Mechanical Corporation (PMC) of Concord, CA on September 23, 2008, by Resolution No. 2008-563, and

WHEREAS, the project will include the low-pressure in-vessel UV system, and

WHEREAS, additional design support services by Carollo are required during the construction of the Phase 1A project, and

WHEREAS, in addition to providing design support during construction, there are funds included to design a bridge crane to simplify and safely remove wastewater treatment equipment for servicing, provide both start-up and training City staff on the operation and maintenance of the new tertiary wastewater treatment facility, and submit final recording drawings and specifications, and

WHEREAS, as the design firm for the Phase 1A project, Carollo is most familiar and best suited to provide additional design support services during construction, including submittal review and responding to Requests for Information (RFIs) from the contractor, and
WHEREAS, the additional cost for these design support services is necessary to help the construction manager maintain construction schedule and ensure overall facility quality and equipment performance, and

WHEREAS, a standard level of effort for construction support for wastewater treatment projects is 3 – 5 percent of the construction cost, and

WHEREAS, the total cost for construction support would be approximately 3.8% of the $19.1 million construction project, and

WHEREAS, selecting Carollo to perform the design support services during construction will maximize benefits to the City related to utilizing knowledge gained through the preliminary and final design efforts, and

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

WHEREAS, City staff recommends a Second Amendment to 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 design support services during construction for the Phase 1A Tertiary Wastewater Treatment Project and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Second Amendment to Agreement between City of Modesto and Carollo Engineers, P.C. for final design services for the Phase 1A Tertiary Wastewater Treatment Project to include design support during construction in the amount of $732,600.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Second Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-576

A RESOLUTION APPROVING AN AGREEMENT WITH GEORGE OSNER, AICP, FOR ON-CALL ENVIRONMENTAL PLANNING SUPPORT SERVICES FOR VARIOUS PUBLIC WORKS – CAPITAL IMPROVEMENT SERVICES PROJECTS FOR ONE YEAR, WITH THREE 1-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $85,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, AND UP TO THREE 1-YEAR EXTENSION OPTIONS

WHEREAS, the Public Works Department – Capital Improvement Services Division (CIS) performs a number of tasks requiring environmental planning support services that are beyond the ability of City’s engineering staff to accomplish in a timely manner, and

WHEREAS, CIS has found it necessary to utilize the services of specialized consulting environmental firms, and

WHEREAS, retaining an on-call environmental planning consultant allows the division to have quick access to specific environmental planning support 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 an experienced environmental planner provides a quick turnaround, which is essential to efficient response to the large undertaking of numerous projects, and

WHEREAS, the goal in having an on-call environmental planning support services consultant is to standardize the outcome of the review process, reduce response
time, and promote project cost savings, which is a positive budget impact to the Capital Improvement Program (CIP), and

WHEREAS, George Osner, AICP, former Planner for the City of Modesto, is familiar with the City’s existing infrastructure, and

WHEREAS, Mr. Osner provided prior services in conjunction with the City’s overall urban and environmental planning efforts, and has demonstrated satisfactory services to the City on past and current projects, and

WHEREAS, as an example, Mr. Osner provided planning services to the Community & Economic Development Department including interpreting and applying environmental quality laws and regulations to ensure that City projects are in compliance with state and federal laws, and

WHEREAS, Mr. Osner is currently providing environmental planning support services to the Public Works Department assisting in preparing requests for proposals, consultant selection, contract preparation and management for environmental services, preparing Initial Studies, and assisting in preparing or reviewing Environmental Impact Reports and other documents, and

WHEREAS, Mr. Osner is deemed the most qualified to provide the requested on-call environmental planning support services in a timely and cost effective manner, and

WHEREAS, Mr. Osner has an intimate knowledge of coordinating with City and agency staff to complete environmental planning services and conferring with and advising City staff regarding environmental laws, regulations and policies, and

WHEREAS, Mr. Osner will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and
WHEREAS, Mr. Osner will perform no service until Capital Improvement Services management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to Mr. Osner prior to commencement of services, and

WHEREAS, City staff recommends an On-call Environmental Planning Support Services Agreement with George Osner, AICP, be approved, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with George Osner, AICP, for On-call Environmental Planning Support Services for various Public Works – Capital Improvement Services projects for one year, with three 1-year extension options at the sole discretion of the City in an amount not to exceed $85,000 per year. Total cost for four years is not to exceed $340,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement with Mr. Osner, and up to three 1-year extension options.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: __________________________

SEAL

APPROVED AS TO FORM:

By: __________________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-577

A RESOLUTION AMENDING THE FISCAL YEAR 2008-09 ADOPTED BUDGET ESTIMATES FOR MAJOR AND NON-MAJOR REVENUES AND APPROVING THE MAYOR’S PROPOSED REVENUE ENHANCEMENTS AND SPENDING REDUCTIONS

WHEREAS, on June 3, 2008, the Modesto City Council adopted the 2008-09 General Fund budget, and

WHEREAS, there have been changes in the revenue forecasts which require amending the previously adopted revenue projections for Fiscal Year 2008-09, and

WHEREAS, the recommendations, detailed in Attachment 1 attached hereto and incorporated herein by reference, will improve the City’s revenues by nearly $1.5 million dollars, and

WHEREAS, the recommended revenue improvements are coupled with approximately $5.1 million in expenditure reductions to improve the General Fund balance by $6.6 million, and

WHEREAS, the recommended adjustments to the adopted revenue estimates are detailed in Attachment 2 attached hereto and incorporated herein by reference, and

WHEREAS, on September 22, 2008, the Finance Committee reviewed and approved the current fiscal year General Fund revenues and recommended expenditure reductions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2008-09 revenue estimates for sales tax, property tax and other major revenues and approving the Mayor’s proposed revenue
enhancements and spending reductions detailed in Attachments 1 and 2 attached hereto and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 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, 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
<table>
<thead>
<tr>
<th>ID.</th>
<th>Dept.</th>
<th>Recommended Action</th>
<th>Revenue</th>
<th>Expense</th>
<th>Org.</th>
<th>Object</th>
<th>Change by Dept.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>CC</td>
<td>Recognize salary savings from vacant funded positions</td>
<td>45,787</td>
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<tr>
<td>2</td>
<td>CC</td>
<td>Reduce discretionary spending by 10%</td>
<td>7,096</td>
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<td>3</td>
<td>CITY COUNCIL SAVINGS</td>
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<td>52,885</td>
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<td>CMO</td>
<td>Recognize salary savings from vacant funded positions</td>
<td>67,574</td>
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<td>5</td>
<td>CMO</td>
<td>Reduce discretionary spending by 10%</td>
<td>12,265</td>
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<td>6</td>
<td>CITY MANAGER OFFICE SAVINGS</td>
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<td>79,839</td>
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<td>7</td>
<td>CATT</td>
<td>Recognize salary savings from vacant funded positions</td>
<td>182,288</td>
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<tr>
<td>8</td>
<td>CITY ATTORNEY OFFICE SAVINGS</td>
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<td>182,288</td>
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<td>9</td>
<td>CLK</td>
<td>Recognize salary savings from vacant funded positions</td>
<td>88,568</td>
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<td>10</td>
<td>CITY CLERK OFFICE SAVINGS</td>
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<td>88,568</td>
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<td>11</td>
<td>AUD</td>
<td>Recognize salary savings from vacant funded positions</td>
<td>79,924</td>
<td></td>
<td></td>
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<tr>
<td>12</td>
<td>AUD</td>
<td>Reduce discretionary spending by 10%</td>
<td>2,640</td>
<td></td>
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<tr>
<td>13</td>
<td>OFFICE OF CITY AUDITOR SAVINGS</td>
<td></td>
<td>82,564</td>
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<tr>
<td>14</td>
<td>CEDD</td>
<td>Recognize salary savings from vacant funded positions</td>
<td>489,689</td>
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<td>15</td>
<td>CEDD</td>
<td>Reduce discretionary spending by 10%</td>
<td>75,338</td>
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<tr>
<td>16</td>
<td>CEDD</td>
<td>Further reduction of discretionary spending.</td>
<td>272,747</td>
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<tr>
<td>17</td>
<td>CEDD</td>
<td>Recognize service credit revenue from the Infrastructure Financing Program work unit for work done by Administrative Office Assistant II (.5 FTE). This service credit comes about through the Council approved reorganization which moved this work unit to the Community &amp; Economic Development Department from the City Manager's Office. Support to the team is now being partially provided through existing CEDD office support staff.</td>
<td></td>
<td>23,250</td>
<td></td>
<td></td>
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<tr>
<td>18</td>
<td>CEDD</td>
<td>Eliminate funding for part-time vacant position because of development slow down.</td>
<td></td>
<td>15,000</td>
<td>1401</td>
<td>140</td>
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<tr>
<td>19</td>
<td>CEDD</td>
<td>Transfer Bldg Inspector II temporarily to PW to help in inspection of capital projects.</td>
<td></td>
<td>63,936</td>
<td></td>
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<tr>
<td>20</td>
<td>CEDD</td>
<td>Eliminate part-time assistance in Planning Division.</td>
<td></td>
<td>63,411</td>
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<td>21</td>
<td>CEDD</td>
<td>General Plan update</td>
<td></td>
<td>50,000</td>
<td></td>
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<tr>
<td>22</td>
<td>CEDD</td>
<td>Recognize service credit revenue from Infrastructure Financing Program work unit for administration/implementation and collection of Capital Facility Fees by building staff. This service credit acknowledges the current workload of building safety staff to collect fees at the time of permit issuance.</td>
<td></td>
<td>15,000</td>
<td>1401</td>
<td></td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>COMMUNITY AND ECONOMIC DEVELOPMENT DEPT. SAVINGS</td>
<td></td>
<td>1,068,371</td>
<td></td>
<td></td>
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<tr>
<td>24</td>
<td>FIN</td>
<td>Recognize salary savings from vacant funded positions</td>
<td>213,485</td>
<td></td>
<td></td>
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<tr>
<td>25</td>
<td>FIN</td>
<td>Reduce discretionary spending by 10%</td>
<td>112,877</td>
<td></td>
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<tr>
<td>26</td>
<td>FIN</td>
<td>Recognize revenue from increase in Return Check charge. This fee was approved by Council on June 3, is already being collected.</td>
<td></td>
<td>12,000</td>
<td>1225</td>
<td>8134</td>
<td></td>
</tr>
<tr>
<td>27</td>
<td>FIN</td>
<td>Recognize revenue from improved collection on aging Driving Under the Influence (DUI) invoices.</td>
<td></td>
<td>11,504</td>
<td>1225</td>
<td></td>
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<tr>
<td>28</td>
<td>FIN</td>
<td></td>
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<tr>
<td>29</td>
<td>FIRE</td>
<td>Recognize salary savings from vacant funded positions</td>
<td>383,788</td>
<td></td>
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<tr>
<td>30</td>
<td>FIRE</td>
<td>Reduce discretionary spending by 10%</td>
<td>183,976</td>
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<tr>
<td>31</td>
<td>FIRE</td>
<td>Eliminate funding for station runner between fire stations.</td>
<td>10,083</td>
<td>1810</td>
<td>140</td>
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<tr>
<td>32</td>
<td>FIRE</td>
<td>Convert fire engine purchase to lease/purchase.</td>
<td>150,000</td>
<td>1815</td>
<td>223</td>
<td></td>
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<tr>
<td>33</td>
<td>FIRE</td>
<td>Eliminate funding for part-time fire investigator position.</td>
<td>25,000</td>
<td>1820</td>
<td>110</td>
<td></td>
<td></td>
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<tr>
<td>34</td>
<td>FIRE</td>
<td>Eliminate Fire Prevention Technician II position. Incumbent recently retired.</td>
<td>56,739</td>
<td>1822</td>
<td>110</td>
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</tr>
</tbody>
</table>
Periodically, the personnel from engine 21 (downtown) will be utilized to fill vacancies occurring throughout the department, reducing the use of overtime. This will happen when the number of personnel vacancies exceeds the number of relief personnel available. When this happens, there will be one less engine company in the system for that 24 hour period. It is anticipated that this will occur approximately 70% of the time between December 1, 2008 and July 1, 2009.


Recognize service credit revenue from agreement with Parking Fund to provide enforcement activities in the parking facilities. Parks and Police staffs have negotiated an agreement to provide enhanced parking enforcement in the parking lots/garages through part-time parking attendants.

A transfer from Asset Forfeiture funds will partially offset the salary costs of one full-time Police Officer position (drug enforcement related).

Due to policing efforts over the past few years, a solid working relationship with the downtown businesses, the closure of a few problem generating venues and the constant evaluation of staffing needs, there has been realized a reduction in overtime expenditures in the DED area. This was accomplished through the addition of two full-time DED officers on Thursday, Friday and Saturday nights, a reduction in hours and later deployment times, a reduction in the number of officers, supervisors and equestrian units deployed. The number of overtime hours per weekend which includes Sergeants, officers and CSO's varies, but has decreased from 2007 by approximately 50-70 hours per week (depending on time of year, events and circumstances). Re-evaluation of DED staffing needs is an on-going process."

Reflects additional General Fund support needed for grant funded public safety positions beyond the annual $150K allocation.

Recognize service credit revenue from water and wastewater funds due to work done on disciplinary investigations by Personnel staff on behalf of PW. Disciplinary activity has increased to the point that Public Works staff are no longer able to handle the volume of work. Personnel staff has stepped in to handle these activities traditionally done at the department level. Should the volume of disciplinary actions diminsh, this service credit would no longer be needed.

Recognize salary savings from having Organizational Development Specialist working as an Intern in City Manager's Office for 16 hours/week (City Manager's Office incurs salary cost) through September.

Release encumbrance to Bryce Consulting for appeals related to Wall to Wall Study.
As part of the budget adoption in June, Personnel anticipated savings from the retirement of a Senior Personnel Analyst. That retirement is unlikely to occur in this Fiscal Year so the savings will not be realized.

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>49</td>
<td>PERS</td>
<td>Unrecognized savings - As part of the budget adoption in June, Personnel anticipated savings from the retirement of a Senior Personnel Analyst. That retirement is unlikely to occur in this Fiscal Year so the savings will not be realized.</td>
<td></td>
<td>-52,491</td>
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<td>50</td>
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<td><strong>PERSONNEL DEPARTMENT SAVINGS</strong></td>
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<td>54,385</td>
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<tr>
<td>51</td>
<td>PRN</td>
<td>Recognize salary savings from vacant funded positions</td>
<td>26,780</td>
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<tr>
<td>52</td>
<td>PRN</td>
<td>Reduce discretionary spending by 10%</td>
<td>168,444</td>
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<tr>
<td>53</td>
<td>PRN</td>
<td>Recognize service credit revenue for work done by Administrative Analyst Il on capital projects in the parks program. Administrative Analyst is spending more time providing fiscal oversight to capital projects.</td>
<td>21,882</td>
<td>3001</td>
<td>4909R</td>
<td></td>
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</tr>
<tr>
<td>54</td>
<td>PRN</td>
<td>Recognize service credit revenue for work done by part-time Public Information Technician on fund development activities. Staff will charge more time to a non-General Fund organization for activities related to fund development collaterals.</td>
<td>11,383</td>
<td>3001</td>
<td>4909R</td>
<td></td>
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<tr>
<td>55</td>
<td>PRN</td>
<td>Recognize service credit revenue for work done by part-time Public Information Technician on developing signs and other collateral materials for Parking Fund. These are new activities.</td>
<td>2,276</td>
<td>3001</td>
<td>4909R</td>
<td></td>
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<tr>
<td>56</td>
<td>PRN</td>
<td>Recognize service credit revenue for administrative activities related to the Carpenter Road landfill. Department administrative staff has not been charging for time related to oversight, including budgetary and fiscal activities.</td>
<td>16,674</td>
<td>3001</td>
<td>4909R</td>
<td></td>
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<tr>
<td>57</td>
<td>PRN</td>
<td>Recognize service credit revenue for case development of illegal dumping violations on behalf of the Solid Waste Division by staff from the Neighborhood Preservation Unit, a General Fund organization.</td>
<td>20,000</td>
<td>3770</td>
<td>4909R</td>
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<tr>
<td>58</td>
<td>PRN</td>
<td>Recognize service credit revenue for maintenance activities at the Carpenter Road landfill. Department staff has not been charging for time to provide maintenance of the property, to include discing, and litter pick up.</td>
<td>21,888</td>
<td>3522</td>
<td>4909R</td>
<td></td>
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<tr>
<td>59</td>
<td>PRN</td>
<td>Recognize anticipated revenue from the sale of property at Coldwell/ Virginia (former Recreation Program site) per appraisal.</td>
<td>325,000</td>
<td></td>
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<tr>
<td>60</td>
<td>PRN</td>
<td>Recognize anticipated revenue sale of 800 E. Morris. The appraisal for this property came in at $650,000 in 2007; $200,000 was already anticipated in the FY 2008-09 adopted budget with another $200,000 going to the Park Development Fund. This recommendation moves $85,000 of the anticipated Park Development Fund proceeds to the General Fund. The City does have interested buyers.</td>
<td>85,000</td>
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<tr>
<td>61</td>
<td>PRN</td>
<td>Reduce General Fund transfer to Centre Plaza Enterprise Fund by holding the Deputy Director position vacant through FY 08-09. This is the position left vacant with Bob Quintella's retirement.</td>
<td></td>
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<td>133,276</td>
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<tr>
<td>62</td>
<td>PRN</td>
<td>Reorganize the Housing Rehabilitation work unit eliminating one filled Sr. Housing Rehabilitation Specialist position and transferring one filled Code Enforcement Officer position to the CDBG Fund to provide sub-standard housing enforcement activities. This results in the lay-off of one filled position.</td>
<td>49,430</td>
<td>3770</td>
<td>0110/0188</td>
<td></td>
<td></td>
</tr>
<tr>
<td>63</td>
<td>PRN</td>
<td>Transfer one filled Administrative Office Assistant Il to vacant position in Solid Waste and consolidate clerical front-desk activities eliminating part-time staff. This will also change the front desk hours to 8:30-4:30.</td>
<td>57,869</td>
<td>3801</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>64</td>
<td>PRN</td>
<td>Utilize CDBG funds to pay for qualifying programs at Maddux.</td>
<td>15,000</td>
<td>3732</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>65</td>
<td>PRN</td>
<td>Utilize CDBG funds to pay for qualifying programs at Marshall.</td>
<td>15,000</td>
<td>3733</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ID.</td>
<td>Dept.</td>
<td>Recommended Action</td>
<td>Revenue</td>
<td>Expense</td>
<td>Org.</td>
<td>Object</td>
<td>Change by Dept.</td>
</tr>
<tr>
<td>-----</td>
<td>-------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------</td>
<td>---------</td>
<td>------</td>
<td>--------</td>
<td>-----------------</td>
</tr>
<tr>
<td>66</td>
<td>PRN</td>
<td>Eliminate weekday trash pick-up from Grover contract (3 weekdays) and replace with trash pick-up by City staff (2 weekdays)</td>
<td></td>
<td>50,000</td>
<td>3522</td>
<td>235</td>
<td></td>
</tr>
<tr>
<td>67</td>
<td>PRN</td>
<td>Utilize existing City staff to maintain Capital Facilities District funded Fairview Park site.</td>
<td>40,000</td>
<td></td>
<td>3522</td>
<td>5101R</td>
<td></td>
</tr>
<tr>
<td>68</td>
<td>PARKS, RECREATION, &amp; NEIGHBORHOODS DEPT. SAVINGS</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>69</td>
<td>PW</td>
<td>Recognize salary savings from vacant funded positions</td>
<td>14,004</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>70</td>
<td>PW</td>
<td>Reduce discretionary spending by 10%</td>
<td>92,874</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>71</td>
<td>PW</td>
<td>Recognize service credit revenue from internal reorganization that moves supervision/oversight of street redesign resources to the Traffic Service Division per Council approved reorganization plan.</td>
<td>43,000</td>
<td></td>
<td>4301</td>
<td>4909</td>
<td></td>
</tr>
<tr>
<td>72</td>
<td>PW</td>
<td>Recognize as revenue the replacement dollars returned to the General Fund from the Fleet Fund through the elimination of vehicles/equipment in Community Forestry used for services no longer performed such as tree planting and other service areas reduced such as tree/stump removal and tree preservation.</td>
<td>25,000</td>
<td></td>
<td>4301</td>
<td>4909</td>
<td></td>
</tr>
<tr>
<td>73</td>
<td>PW</td>
<td>Recognize as revenue from Safe Law Enforcement Supplement Funding (SLESF) for overtime. This revenue comes from the State and thus, is dependent on positive resolution within the State budget process.</td>
<td>83,170</td>
<td></td>
<td>4712</td>
<td>269</td>
<td></td>
</tr>
<tr>
<td>74</td>
<td>PW</td>
<td>Eliminate use of temporary laborers in Community Forestry. This reduction will result in some delays in the cycle pruning efforts as staff is pulled away on occasion to deal with other issues such as responding to citizen inquiries, etc.</td>
<td>42,974</td>
<td></td>
<td>4712</td>
<td>269</td>
<td></td>
</tr>
<tr>
<td>75</td>
<td>PW</td>
<td>Recognize revenue from Safe Law Enforcement Supplement Funding (SLESF) for overtime. This revenue comes from the State and thus, is dependent on positive resolution within the State budget process.</td>
<td>350,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>76</td>
<td>STATE</td>
<td>Booking Fees savings due to State budget</td>
<td>320,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>77</td>
<td>SUB-TOTAL:</td>
<td>FURTHER ANALYSIS RECOMMENDED</td>
<td>1,481,915</td>
<td>5,096,967</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>78</td>
<td>TOT</td>
<td>FY 2008-09 REVENUE OPTIONS - FURTHER ANALYSIS RECOMMENDED</td>
<td>6,578,882</td>
<td>6,578,882</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### General Fund - (0100) Major & Construction Revenue Adjustments - FY 2008-09

<table>
<thead>
<tr>
<th>Revenue</th>
<th>2008-09</th>
<th>Variance - Adopted to Revised ($)</th>
<th>Variance - Adopted to Revised (%)</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Final Adopted 6.30.08</td>
<td>Revised Projection</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales Tax</td>
<td>$25,697,193</td>
<td>$25,697,193</td>
<td>$1,029,237</td>
<td>-3.65%</td>
</tr>
<tr>
<td>Sales Tax</td>
<td>$18,158,618</td>
<td>$18,158,618</td>
<td>$721,730</td>
<td>-3.65%</td>
</tr>
<tr>
<td>Triple Lift</td>
<td>$6,558,574</td>
<td>$6,558,574</td>
<td>$(307,508)</td>
<td>-4.84%</td>
</tr>
<tr>
<td>Property Tax:</td>
<td>$13,762,188</td>
<td>$13,762,188</td>
<td>$2,353,315</td>
<td>-14.60%</td>
</tr>
<tr>
<td>Current Secured</td>
<td>$12,646,692</td>
<td>$12,646,692</td>
<td>$(1,245,336)</td>
<td>-10.57%</td>
</tr>
<tr>
<td>Delinquent Tax</td>
<td>$30,000</td>
<td>$30,000</td>
<td>-</td>
<td>-0.00%</td>
</tr>
<tr>
<td>Current Unsecured</td>
<td>$574,895</td>
<td>$574,895</td>
<td>$(67,979)</td>
<td>$74.66%</td>
</tr>
<tr>
<td>Supplemental Roll</td>
<td>$200,000</td>
<td>$200,000</td>
<td>$(500,000)</td>
<td>-100.00%</td>
</tr>
<tr>
<td>In-Lieu Tax</td>
<td>$6,000</td>
<td>$6,000</td>
<td>-</td>
<td>-0.00%</td>
</tr>
<tr>
<td>State Hiway Rental Tax</td>
<td>$305,000</td>
<td>$305,000</td>
<td>$(200,000)</td>
<td>-39.60%</td>
</tr>
<tr>
<td>Property Transfer Tax</td>
<td>$14,500,000</td>
<td>$14,500,000</td>
<td>$(458,000)</td>
<td>-3.14%</td>
</tr>
<tr>
<td>VLF Lift</td>
<td>$19,615,000</td>
<td>$19,615,000</td>
<td>$(515,000)</td>
<td>-2.61%</td>
</tr>
<tr>
<td>Utility Users Tax</td>
<td>$4,000,151</td>
<td>$4,000,151</td>
<td>$(265,600)</td>
<td>-6.21%</td>
</tr>
<tr>
<td>Franchise Fees:</td>
<td>$4,000,000</td>
<td>$4,000,000</td>
<td>$(264,000)</td>
<td>-6.68%</td>
</tr>
<tr>
<td>Towing</td>
<td>$300,000</td>
<td>$300,000</td>
<td>$(180,000)</td>
<td>-60.00%</td>
</tr>
<tr>
<td>Parks Concessions</td>
<td>$4,000</td>
<td>$4,000</td>
<td>$(1,000)</td>
<td>-25.00%</td>
</tr>
<tr>
<td>Cable TV Franchise</td>
<td>$1,004,000</td>
<td>$1,004,000</td>
<td>$(264,000)</td>
<td>-26.32%</td>
</tr>
<tr>
<td>PG &amp; E Franchise</td>
<td>$535,000</td>
<td>$535,000</td>
<td>$(40,000)</td>
<td>-7.55%</td>
</tr>
<tr>
<td>PG &amp; E Franchise (58272)</td>
<td>$127,045</td>
<td>$127,045</td>
<td>$(12,000)</td>
<td>-9.33%</td>
</tr>
<tr>
<td>Garbage Service Fee</td>
<td>$1,572,506</td>
<td>$1,572,506</td>
<td>$(40,000)</td>
<td>-2.55%</td>
</tr>
<tr>
<td>Railroad Franchise</td>
<td>$6,200</td>
<td>$6,200</td>
<td>$(1,800)</td>
<td>-29.03%</td>
</tr>
<tr>
<td>Thurman Field Franchise</td>
<td>$105,000</td>
<td>$105,000</td>
<td>$(16,000)</td>
<td>-15.38%</td>
</tr>
<tr>
<td>VLF:</td>
<td>$1,650,000</td>
<td>$1,650,000</td>
<td>$(209,100)</td>
<td>-12.61%</td>
</tr>
<tr>
<td>Abandoned Vehicle</td>
<td>$150,000</td>
<td>$150,000</td>
<td>$(209,100)</td>
<td>-12.61%</td>
</tr>
<tr>
<td>Motor Vehicle License</td>
<td>$1,109,190</td>
<td>$1,109,190</td>
<td>$(209,100)</td>
<td>-12.61%</td>
</tr>
<tr>
<td>Business License/Mill Tax:</td>
<td>$9,593,111</td>
<td>$9,593,111</td>
<td>$(1,948,981)</td>
<td>-17.77%</td>
</tr>
<tr>
<td>Business License Registration</td>
<td>$983,904</td>
<td>$983,904</td>
<td>$(3,904)</td>
<td>-0.40%</td>
</tr>
<tr>
<td>Business License Mill Tax</td>
<td>$9,040,207</td>
<td>$9,040,207</td>
<td>$(1,948,981)</td>
<td>-17.77%</td>
</tr>
<tr>
<td>Transient Occupancy Tax</td>
<td>$2,050,000</td>
<td>$2,050,000</td>
<td>$(172,000)</td>
<td>-7.47%</td>
</tr>
<tr>
<td>Major Revenue Subtotal</td>
<td>$97,139,985</td>
<td>$97,139,985</td>
<td>$(8,051,323)</td>
<td>-8.32%</td>
</tr>
<tr>
<td>Construction Related</td>
<td>$3,255,850</td>
<td>$3,255,850</td>
<td>$(700,000)</td>
<td>-21.50%</td>
</tr>
<tr>
<td>Total Major &amp; Construction Revenue</td>
<td>$100,395,835</td>
<td>$100,395,835</td>
<td>$(8,751,323)</td>
<td>-8.72%</td>
</tr>
</tbody>
</table>
A RESOLUTION APPROVING THE REQUEST BY THE CITIES OF PATTERSON, HUGHSON, NEWMAN, AND WATERFORD TO EXPAND THE GEOGRAPHIC BOUNDARIES OF THEIR ENTERPRISE ZONES BY A COMBINED TOTAL OF 778.5 ACRES AND DIRECT THE STANISLAUS ECONOMIC DEVELOPMENT AND WORKFORCE ALLIANCE, AS THE STANISLAUS ENTERPRISE ZONE ADMINISTRATOR, TO SUBMIT FOR EACH CITY THE WRITTEN REQUEST TO EXPAND AND REQUIRED ACCOMPANYING DOCUMENTATION TO THE CALIFORNIA DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT

WHEREAS, the County of Stanislaus currently has an Enterprise Zone that was established on November 16, 2005 and has jurisdiction over the existing zone, as well as the proposed expansion area, and

WHEREAS, existing law allows an Enterprise Zone to expand its geographic boundaries up to a maximum of 15% of the original zone boundaries, and

WHEREAS, the Stanislaus Enterprise Zone is comprised of 67,508 acres and has an expansion capacity of approximately 10,126 acres, and

WHEREAS, the Cities of Patterson (64 acres), Hughson (54.5 acres), Newman (401 acres) and Waterford (259 acres) wish to expand the boundaries of their Enterprise Zones by a combined total of 778.5 acres, and

WHEREAS, land included within the proposed expansion areas is zoned for industrial or commercial use, and

WHEREAS, basic infrastructure is available to the areas that would be included in the proposed expansion area, and

WHEREAS, the Cities of Patterson, Hughson, Newman and Waterford will provide the same or equivalent local incentives in the expansion areas as provided to the existing Enterprise Zone, and
WHEREAS, the Cities of Patterson, Hughson, Newman and Waterford will submit a written request as required to the California Department of Housing & Community Development to have their respective enterprise zone boundaries expanded,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that this Enterprise Zone Expansion Request by the Cities of Patterson, Hughson, Newman and Waterford is hereby approved.

BE IT FURTHER RESOLVED that the Council of the City of Modesto does hereby direct the Stanislaus Economic Development and Workforce Alliance, as the Stanislaus EZ Administrator, to submit the written request and required accompanying documentation to expand the Enterprise Zone for the Cities of Patterson, Hughson, Newman and Waterford.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 14th 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

Signed:

APPROVED AS TO FORM:

By:

SUSANA ALCALA WOOD, City Attorney

(Seal)
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-579

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF WATER METERS FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, TO BADGER METER, INC., MILWAUKEE, WI, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE AN ANNUAL PURCHASE AGREEMENT FOR A PERIOD OF TWO (2) YEARS, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $1,600,000

WHEREAS, the Public Works Department, Water Division installs water meters of various sizes at residential sites, and at commercial and industrial businesses within the City, and

WHEREAS, these meters are part of an existing meter replacement program for non-operable and non-repairable water meters, as well as installation for new metered service in new subdivisions, and

WHEREAS, on July 1, 2008, Council approved Resolution No. 2008-400, authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of water meters for the Public Works Department, Water Division, and

WHEREAS, on July 11, 2008, the Purchasing Division issued Request for Bid No. 0809-01, for the purchase of water meters to twenty-seven (27) prospective bidders, two (2) of which were local companies, posted the bid on the City’s web site, and formally advertised as required by law, and

WHEREAS, on August 12, 2008, RFB’s were formally opened in the City Clerk’s office. Of the twenty-seven (27) prospective bidders, four (4) companies chose to respond, one company was a local bidder. Of the four (4) bids received three (3) were considered responsive and responsible, and
WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of water meters for the Public Works Department, Water Division, to Badger Meter, Inc., Milwaukee, WI, and authorizing the Purchasing Manager to issue an annual purchase agreement for a period of two (2) years, with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $1,600,000, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of water meters for the Public Works Department, Water Division, to Badger Meter, Milwaukee, WI, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in account 6180-480-W416 for the purchase of water meters,

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 water meters for the Public Works Department, Water Division, to Badger Meter, Inc., Milwaukee, WI.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue an annual purchase agreement for a period of two (2) years, with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $1,600,000.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th 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]

STEWANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-580

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF CHEMICAL FEED METERING PUMPS FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $60,000

WHEREAS, the City uses chemical feed metering pumps as its primary source for chlorination, and

WHEREAS, these pumps pump a 12.5% sodium hypochlorite solution in to the discharge lines of the water pumping station to disinfect drinking water, and

WHEREAS, using chemical feed metering pumps will ensure the water quality supply for the City’s water system and meet the compliance requirements set forth by the California Department of Public Health, and

WHEREAS, a contract for an extended period of time will ensure better pricing for the City and enable the Water Division to purchase chemical feed metering pumps on an as-needed basis, 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, and

WHEREAS, the issuance of a formal RFB for the purchase of chemical feed metering pumps for the Public Works, Water Division conforms to the Modesto Municipal Code, and

WHEREAS, funds are budget for the purchase of chemical feed metering pumps in FY 2008/09 Operating Budget Account No. 6100-480-5013-0312,
NOW, THEREFORE, BE IT HEREBY 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 chemical feed metering pumps for the Public Works Department, Water Division, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, 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 14th 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-581

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED “DOWNSTREAM WATER SYSTEM IMPROVEMENTS - TIER 2, WEST TANK 12 WATER TRANSMISSION MAINS,” ACCEPTING THE BID AND APPROVING A $2,387,300 CONTRACT WITH D.A. WOOD CONSTRUCTION, INC. FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS - TIER 2 WEST TANK 12 WATER TRANSMISSION MAINS 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 Water Transmission Mains 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 Water Transmission Mains 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 that the bid of $2,387,300 received from D.A. Wood Construction, Inc. be accepted as the lowest responsible bid and the contract be awarded to D.A. Wood Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Downstream Water System Improvements-Tier 2, West Tank 12 Water Transmission Mains project, accepts the bid of D.A. Wood Construction, Inc. in the amount of $2,387,300, and awards D.A. Wood Construction, Inc. the contract for the Downstream Water System Improvements-Tier 2, West Tank 12 Water Transmission Mains project.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with D.A. Wood Construction, Inc., in the amount of $2,387,300, for the Downstream Water System Improvements-Tier 2, West Tank 12 Water Transmission Mains project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th 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]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-582

A RESOLUTION TO MAKE CERTAIN FINDINGS CONCERNING MITIGATION MEASURES, MAKE FINDINGS CONCERNING ALTERNATIVES, ADOPT A STATEMENT OF OVERRIDING CONSIDERATIONS, AND CERTIFY THE FINAL MASTER ENVIRONMENTAL IMPACT REPORT FOR THE URBAN AREA GENERAL PLAN (SCH No. 2007072023)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto re-certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, the City's Community and Economic Development Department ("City") prepared an amendment to the Urban Area General Plan ("Project"), and

WHEREAS, the City, on July 8, 2007, published a Notice of Preparation for the Project, which identified potentially significant environmental impacts attributable to the Project, on which basis the City determined that an Environmental Impact Report ("EIR") was required for the Project, and

WHEREAS, on July 18, 2007, the City held a public scoping meeting to receive public comments on the scope and content of the Master EIR, and

WHEREAS, the City published and distributed a Draft Master EIR for the Project (SCH No. 2007072023) for public comment on March 24, 2008, in accordance with Section 21091 of the California Environmental Quality Act ("CEQA"), and

WHEREAS, the Draft Master EIR was available for public comment for a period of 45 days as required by Section 21091 of CEQA, the close of the public comment period being May 9, 2008, and

WHEREAS, during the 45-day public comment period the City received thirteen letters commenting on the Draft Master EIR, and
WHEREAS, the City prepared written responses to all written comments received on the Draft Master EIR, said responses being contained in a Final Master EIR for the Urban Area General Plan Update (SCH No. 2007072023) ("Final MEIR") prepared pursuant to Section 15089 of the CEQA Guidelines, and

WHEREAS, the Final MEIR was published and distributed on August 4, 2008, and consists of the Draft EIR, a list of commentors, copies of all written comments received, responses to those comments that raise environmental issues, and any revisions to the text of the Draft Master EIR made in response to the comments, as required by Section 15132 of the CEQA Guidelines, and

WHEREAS, CEQA requires that, in connection with the approval of a project for which an EIR has been prepared which identifies one or more significant environmental effects, the decision-making agency make certain findings regarding those effects, and

WHEREAS, a public hearing on the Project was held by the Planning Commission on September 8, 2008, at 7:00 p.m. in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, the Planning Commission has received and considered the Final MEIR for the Urban Area General Plan Update (SCH No. 2007072023) that analyzed the potential environmental effects of the proposed Project and adopted a resolution recommending the City Council make certain findings, adopt a statement of overriding considerations, and certify the Final Master Environmental Impact Report, and
WHEREAS, a public hearing on the Project was held by the City Council on October 14, 2008, at 5:30 p.m., in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence, both oral and documentary, was received and considered, and

WHEREAS, the City Council has received and considered the Final MEIR for the Urban Area General Plan Update (SCH No. 2007072023) that analyzed the potential environmental effects of the proposed Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council, that it hereby has reviewed and analyzed the Final MEIR and other information in the record, and has taken such other actions as are necessary and appropriate to make the following findings in respect to the Final MEIR, and make said findings:

1. That the Final MEIR has been completed in compliance with CEQA; that the City Council has reviewed and analyzed the Final MEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the Final MEIR and the Project, prior to acting upon or approving the Project; and that the Final MEIR represents the independent judgment of the City of Modesto; and

2. That the Findings and recommendations set forth in Exhibit “A”, and incorporated herein by reference, are made by the City Council as the City’s findings under the California Environmental Quality Act (“CEQA”) (Pub. Resources Code § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., title 14, §15000 et seq.) relating to the Project. The Findings provide the written analysis and conclusions of the City Council regarding the Project’s environmental impacts, mitigation measures and alternatives to the Project.

3. That pursuant to Public Resources Code Section 21081 and CEQA Guidelines Sections 15091 et seq., the City Council of the City of Modesto adopts and makes the following statement of overriding considerations regarding the remaining unavoidable impacts of the Project and the anticipated economic, social and other benefits of the Project.
a. Significant Unavoidable Impacts

With respect to the foregoing findings, as set forth in Exhibit A, and in recognition of those facts which are included in the record, the City has determined the following:

i. that the Project will cause significant, unavoidable impacts to Traffic and Circulation, Generation of Noise; Agricultural Lands, Archaeological and Historical Sites, and Energy, as described in Exhibit B.

ii. that the Project will contribute to significant, unavoidable cumulative impacts to Air Quality, Generation of Noise, Agricultural Lands, Long-Term Water Supplies, Sensitive Wildlife and Plant Habitat, Storm Drainage, Energy, Visual Resources, and Climate Change, as described in Exhibit B.

These impacts cannot be avoided or substantially reduced by feasible changes or alterations to the Project, other than the changes or alterations already adopted.

b. Overriding Considerations

The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project includes all feasible measures that would eliminate or substantially lessen the significant impacts of the Project on the environment, and that the remaining significant, unavoidable impacts of the Project are acceptable in light of the environmental, economic, social and other considerations set forth herein because the benefits of the Project outweigh the significant and adverse impacts of the Project. The City Council finds that each of the overriding considerations set forth below, and each of the overriding considerations set forth in Exhibit B, constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant adverse environmental impacts and sets forth an overriding consideration warranting approval of the Project. These matters are supported by evidence in the record.

c. Benefits of Proposed Project

The City Council has considered the Final Master EIR, the public record of proceedings on the proposed Project and other written materials presented to the City as well as oral and written testimony at all public hearings related to the Project, and does hereby determine that implementation of the Project as specifically provided in the Project documents would result in the substantial public benefits set forth below and in Exhibit B.
i. The stabilization of City finances by collecting revenues in accordance with State law sufficient to fund construction and maintenance of public infrastructure and services; and

ii. Accurately reflect the practices and policies of the City Council and provide improved guidance for future development; and

iii. Incorporate new policies and information from the most recent sewer, water, and storm drainage master plans into the Urban Area General Plan; and

iv. Incorporate new information from the traffic model into the Urban Area General Plan; and

v. Update the 1995 Urban Area General Plan, as amended, to allow its continued use until such time as a comprehensive general plan update is undertaken and completed.

The City Council has weighed the benefits of the proposed Project against its unavoidable environmental risks and adverse environmental effects identified in the Final MEIR and hereby determines that those benefits outweigh the risks and adverse environmental effects and, therefore, further determines that these risks and adverse environmental effects are acceptable.

4. The City Council hereby finds and recognizes that the Final MEIR contains additions, clarifications, modifications and other information in its responses to comments on the Draft Master EIR for the Project and also incorporates information obtained by the City since the Draft Master EIR was issued. This Council hereby finds and determines that such changes and additional information are not significant new information as that term is defined under the provisions of the California Environmental Quality Act, because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the Project and do not reflect any substantial increase in the severity of any environmental impact; that no feasible mitigation measures considerably different from those previously analyzed in the Draft Master EIR have been proposed that would lessen significant environmental impacts of the Project; and that no feasible alternatives considerably different from those analyzed in the Draft Master EIR have been proposed that would lessen significant environmental impacts of the Project. Accordingly, this Council hereby finds and determines that recirculation of the Final MEIR for further public review and comment is not warranted; and

5. The City Council does hereby designate the Community and Economic Development Director of the City of Modesto, at his office at 1010 Tenth Street, Modesto, California 95354, as the custodian of documents and record of proceedings on which the decision is based; and
6. The City Council does hereby make the foregoing findings with respect to the significant effects on the environment of such Project, as identified in the Final MEIR, with the stipulations that all information in these findings is intended as a summary of the full administrative record supporting the Final MEIR, which full administrative record should be consulted for the full details supporting these findings, and that any mitigation measures and/or alternatives that were suggested by commenters to the Draft Master EIR and were not adopted as part of the Final MEIR are hereby expressly rejected for the reasons stated in the responses to the comments set forth in the Final MEIR and elsewhere in the record.

BE IT FURTHER RESOLVED by the City Council that it hereby certifies the Final Master Environmental Impact Report for the Urban Area General Plan Update (SCH No. 2007072023), attached as Exhibit “C”.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
EXHIBIT "A"

STATEMENT OF FINDINGS OF SIGNIFICANT IMPACTS AND REJECTION OF ALTERNATIVES
EXHIBIT "B"

STATEMENT OF OVERRIDING CONSIDERATIONS
STATEMENT OF FINDINGS OF SIGNIFICANT IMPACTS
AND REJECTION OF ALTERNATIVES

Pursuant to Public Resources Code Section 21081 and Section 15091 of the State CEQA Guidelines (14 California Code of Regulations 15000, et seq.), the City of Modesto cannot approve a project for which an Environmental Impact Report (EIR) has been certified which identifies significant effects on the environment unless it adopts findings with respect to each significant effect. Prior to approving the project, the City must also find that there are specific considerations that make infeasible the project alternatives identified in the EIR.

In Section A below, the City will make the following finding for each of the significant effects identified in the Master EIR:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Section 15091 provides that when a project will have a significant and unavoidable impact, the following finding is to be made relative to mitigation measures:

Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures identified in the EIR. (emphasis added)

This Master EIR contains no discrete mitigation measures. Instead, it relies upon the policies being proposed as part of the Urban Area General Plan (UAGP) to limit potential impacts. Since there are no mitigation measures identified in the Master EIR, this finding cannot be made.

In Section B below, the City will make the following finding regarding each of the alternatives identified in the Master EIR.

Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the Master EIR.

Section 21081 provides that the City may also find that “changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.” That finding does not apply to any of the significant effects identified in the Master EIR.

A. FINDINGS REGARDING SIGNIFICANT IMPACTS

Traffic and Circulation Needs Impact: The project will result in an increase in traffic, with a related reduction in the level of service (LOS) to below LOS D on various streets within the planning area.
Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

The city has not adopted discrete mitigation measures as part of the Master EIR. However, proposed UAGP update policies described as items TC-17 through TC-64 in Chapter V of the Master EIR will mitigate these effects. In particular, these include policies for efficient use of existing roadways, requirements for enhancing and improving roadways to meet increased demand due to growth, preparation of a Citywide Transportation Improvement Plan, and provision and improvement of facilities for non-auto transportation, including walking, biking, and transit to reduce auto trips.

The Initial Study prepared for each subsequent project under the Master EIR (as required by Public Resources Code Section 21157.1) will determine whether the projected traffic from the subsequent project would exceed the applicable LOS standard under the UAGP and, if so, would require an analysis and mitigation of the excess traffic.

City policies identified as items TC-42 through TC-46 in Master EIR Chapter V applicable in the Redevelopment and Baseline Developed Areas and TC-50 in the Planned Urbanizing Area require that subsequent projects that will exceed the allowable LOS D standard will be subject to additional analyses. Where the project would take place on a road segment projected for LOS F and would cause further substantial degradation of traffic conditions, or would involve adoption of a Specific Plan within a Comprehensive Planning District (CPD), a comprehensive traffic study will be required if the project generates more than 100 peak-hour trips greater than the number of trips expected to occur with development consistent with the UAGP and the MEIR or which requires a general plan amendment in order to assess the level of impact of the project. Under certain circumstances, individual site-specific development will be required to prepare a site access study to identify potential impacts.

These policies will reduce the impact, but not to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.

The anticipated increase in traffic giving rise to this potential impact is the result of social and economic conditions that favor continued automobile-dependent growth within California and Stanislaus County. State Planning Law, in particular the requirements for housing elements, requires Modesto to plan for its fair share of future housing needs (Government Code Section 65580 et seq.). The City cannot choose to restrict housing opportunities below those identified in its regional housing need allocation. Accordingly, the City is legally bound to plan for additional growth.
Traffic and Circulation Needs Cumulative Impact: The project will contribute to the substantial cumulative impacts of the proposed Stanislaus County Regional Transportation Plan (RTP) road network improvements.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

City policies identified as items TC-17 through TC-64 in Chapter V of the Master EIR would reduce the UAGP’s contribution to the cumulative impacts. Nonetheless, there will be cumulative impacts to which Modesto development will make a considerable contribution. These policies will reduce the impact, but not to a less-than-significant level. No further feasible mitigation is available to reduce this impact to a less-than-significant level, and the impact remains significant and unavoidable.

The UAGP traffic and circulation element and the amendments being proposed are consistent with the RTP. StanCOG’s current population projection for Modesto in 2025 is 439,750. This is within about 2 percent of the City’s estimated capacity under the UAGP of approximately 428,000 residents.

The EIR prepared for StanCOG’s 2007 RTP analyzed the potential impacts of the proposed RTP road network improvements. StanCOG analyzed future traffic volumes to 2025 based on its travel demand model. Significance findings were based on whether the RTP projects would result in an LOS in excess of LOS D in urban areas and LOS C in rural areas of the county. StanCOG identified numerous significant and unavoidable impacts that would result from its 2007 RTP.

The anticipated increase in traffic giving rise to this potential cumulative impact is the result of conditions that favor continued automobile-dependent growth within California and Stanislaus County. State Planning Law, in particular the requirements for housing elements, requires the County and its cities, including Modesto, to plan for its fair share of future housing needs (Government Code Section 65580 et seq.). Neither the County nor the city may choose to restrict housing opportunities.

Degradation of Air Quality Cumulative Impact: The SJVAB is an air quality non-attainment area for ozone and particulate matter. Any contribution to air pollution in a non-attainment area is considered a significant cumulative air quality impact. Motorized traffic from development in the City of Modesto would contribute, with motorized traffic from other new development in the County and region, toward a cumulative increase in roadside air pollutant levels on major roads and highways throughout the County. Within the City itself, the traffic analysis and corresponding traffic air pollutant analysis takes into account cumulative traffic volumes and is inherently cumulative in nature:
The traffic study data includes cumulative traffic volumes which were utilized as an input to the air quality modeling analysis.

Due to the size of Modesto and the future growth projected under its General Plan, it will make a considerable contribution to this cumulative effect. The San Joaquin Valley Air Basin is an air quality non-attainment area for ozone and particulate matter. Planned growth in Modesto under the amended UAGP will make a considerable contribution to the cumulative air quality impact within the Air Basin.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Activities within the City of Modesto are subject to regulation by the SJVAPCD. These regulations are designed to improve regional air quality over time so that the basin will reach air quality attainment. However, in the shorter term, these measures do not avoid the cumulative effect. The City of Modesto policies described as items AQ-1 through AQ-56 in Chapter V of the Master EIR will reduce the UAGP's contribution to the cumulative impact, but not to a less-than-significant level. No further feasible mitigation is available to reduce this impact to a less-than-significant level, and the impact remains significant and unavoidable.

Generation of Noise Impact: Traffic noise levels under future conditions have the potential to result in exceedances of the City's noise significance standards.

Findings:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Implementation of the UAGP policies will reduce construction-related, transportation related, and industrial/commercial noise impacts, with the exception of aircraft noise, to less-than-significant levels.

The City has adopted, as part of its Urban Area General Plan, various policies, described as items N-1 - N14 in Chapter V of the Master EIR, which moderate the effects of increased traffic and growth on noise. These include the Modesto City Noise Ordinance, which limits noise to daytime hours and prohibits the production of loud noises from stationary engines, and General Plan policies requiring mitigation of noise in new development in the existing City limits and Planned Urbanizing Area through setbacks, building standards, and noise buffers. These policies are implemented through the Initial Study analysis that is applied to all discretionary projects undertaken under the General Plan. With implementation of these policies, the impact is reduced to a less-than-significant level.
Generation of Noise Impact: Aircraft noise levels under future conditions after 2015 have the potential to result in exceedances of the City’s noise significance standards.

Findings:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

UAGP Policies described as items N-11 and N-12 in Chapter V of the Master EIR require specific studies of airport and aircraft noise and development of mitigation measures for new construction to meet the noise compatibility standards of the UAGP. However, since the airport master plan has not yet been completed, future airport operations are not sufficiently known to allow full analysis of impacts and the development of specific mitigation measures, compatible with Federal Aviation Administration regulations. These policies will reduce the impact, but not to a less-than-significant level. No further feasible mitigation is available to reduce this impact to a less-than-significant level, and the impact remains significant and unavoidable.

Generation of Noise Impact: Traffic from development in the City of Modesto would contribute, with traffic from new development in the County and region, toward a cumulative increase in roadside noise levels on major roads and highways throughout the County. Within the City itself, the traffic analysis and corresponding traffic noise analysis take into account cumulative traffic volumes. The traffic study data includes cumulative traffic volumes, which were utilized as an input to the noise modeling analysis. Noise level projections based on the traffic levels anticipated in the UAGP indicate that noise will exceed the UAGP and noise ordinance standards. This is a significant cumulative effect. The development allowable under the UAGP will make a considerable contribution to that effect.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Although the policies of the UAGP will reduce noise impacts, cumulative future noise is projected to exceed UAGP standards, even with implementation of the UAGP policies described as items N-11 and N-12 in Chapter V of the Master EIR. No further feasible mitigation is available and the impact remains significant and unavoidable.

As described above in the discussion of air quality impacts, California Planning Law and the County’s growth rate combine to limit the ability of the City to restrict growth and avoid increases in noise associated with additional growth (including traffic). Individual project contributions, although moderated by the City Noise Ordinance and General Plan policies described above, would be sufficient to result in a cumulative exceedance of City noise standards in some situations.
Effects on Agricultural Land Impact: The Urban Area General Plan will convert land from agricultural to urban use, particularly in the Planned Urbanizing Area. This impact is less-than-significant in the Baseline Developed and Redevelopment Areas since this conversion has already taken place. Development under the UAGP would convert substantial areas of farmland to urban uses within the Planned Urbanizing Area.

The UAGP would also place urban uses in proximity to existing agricultural activities, creating a potential conflict between urban and agricultural land uses, which could indirectly result in the conversion of additional areas of farmlands from agricultural uses to other uses.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

The UAGP policies described as items AL-15 through AL-21 in Chapter V of the Master EIR require the orderly conversion of agricultural land as available developable land is occupied within the city. The City has adopted policies intended to encourage compact growth, including the policies of Section III.C.3 of the Urban Area General Plan. While these policies will result in higher densities of development than would otherwise occur without those policies, thereby reducing the total amount of farmland that would otherwise be converted to meet growth projections, the existing built area of the City cannot absorb the projected increase in City population during the planning period. These policies will reduce the impact, but not to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.

As described above in the discussion of air quality impacts, California Planning Law and the County’s growth rate combine to limit the ability of the City to restrict growth and avoid conversion of agricultural land associated with additional growth. Individual project contributions, although moderated by the General Plan policies described above, would be sufficient to result in conversion of agricultural lands.

Effect on Agricultural Land Impact: Modesto’s growth will contribute to the cumulative impact of County-wide growth on agricultural lands.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.
Supporting Evidence:

As described above in the discussion of air quality impacts, California Planning Law and the County’s growth rate combine to limit the ability of the City to restrict growth and avoid the conversion of agricultural land associated with additional growth (including traffic). The City has adopted policies intended to encourage compact growth, including the policies of Section III.C.3 of the Urban Area General Plan. While these policies will result in higher densities of development than might occur without those policies, thereby reducing the total amount of farmland that must be converted to meet growth projections, the existing built area of the City cannot absorb the projected increase in City population during the planning period. These policies will reduce the impact, but not to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.

Increased Demand for Long-Term Water Supplies Impact: Future development under the Urban Area General Plan will contribute to the cumulative impact of future (2020) groundwater overdraft within the San Joaquin River basin during drought years.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

The population of Stanislaus County is projected to increase at a rate similar to Modesto. The California Department of Finance (DOF) estimates that the county population, approximately 521,500 persons in 2007 will reach approximately 857,900 persons by 2030 (Finance does not have a 2025 projection). This will result in substantial additional demands on the available water supplies. Cumulative impacts to water supplies could occur from increased groundwater extraction adjacent to the Modesto planning area boundaries that may result in overdrafting of the aquifer.

Starting in 2005, the City began retrofitting single-family, flat-rate customers to meters at a rate of 6% per year. Based on the City’s metering plan, existing single-family flat-rate customers will be gradually converted to metered rates once all non-metered, flat-rate customers have been converted to metered use. Charging customers by their level of water consumption rather than at a flat rate will ultimately decrease the amount of per capita water use.

However, during drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.
Implementation of the UAGP policies described as items WS-10 – WS-37 in Chapter V of the Master EIR, which include requirements for water conservation, obtaining new surface water supplies, and implementing a conjunctive groundwater/surface water management program, will reduce the impact, but not to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.

As described above in the discussion of air quality impacts, California Planning Law and the County’s growth rate combine to limit the ability of the City to restrict growth and water consumption associated with additional growth. Individual project contributions, although moderated by the General Plan policies described above, would be sufficient to result in this impact.

Loss of Sensitive Wildlife and Plant Habitat Impact: Development under the Urban Area General Plan will result in the loss or degradation of sensitive wildlife and plant habitat, and may result in impacts on valley foothill riparian, riverine, fresh emergent wetland and vernal pool habitats in the Planned Urbanizing Area.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid these significant effects on the environment.

Supporting Evidence:

Except for lands within the designated riparian corridors (protected from development under the Urban Area General Plan’s Comprehensive Planning District [CPD] policies, and specifically UAGP Policy VIIE.3[c]), lands within the Baseline Developed Area and the Redevelopment Area are of limited habitat value. Impact within these areas are less-than-significant.

Within the Planned Urbanizing Area, development will be subject to further environmental review through CEQA, as well as the federal Clean Water Act, the state and federal Endangered Species Acts, and the California Fish & Game Code, when CPDs are proposed for development. During the preparation of the specific plan for each CPD, appropriate measures will be required, including urban design and development standards, to avoid taking of listed species. Urban Area General Plan policies, including policies VII-E.3a, b, and c (and requiring implementation of Table 7-1 of the Master EIR) and measures in the Tuolumne River Regional Park (TRRP) Master Plan will protect sensitive habitats. With implementation of these policies, the impact is reduced to a less than significant level.

Loss of Sensitive Wildlife and Plant Habitat Impact: Development under the Urban Area General Plan will contribute to the cumulative loss of sensitive wildlife and plant habitat.
Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Within the Planned Urbanizing Area, development will be subject to further environmental review through CEQA, as well as the federal Clean Water Act, the state and federal Endangered Species Acts, and the California Fish & Game Code, when CPDs are proposed for development. During the preparation of the specific plan for each CPD, appropriate measures will be required, including urban design and development standards, to avoid taking of listed species. Urban Area General Plan policies, including policies VII-E.3a, b, and c (and requiring implementation of Table 7-1 of the Master EIR) and measures in the TRRP Master Plan will protect sensitive habitats. These policies will reduce the impact, but not to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.

As described above in the discussion of air quality impacts, California Planning Law and the County’s growth rate combine to limit the ability of the City to restrict growth and thereby avoid loss of some habitat lands. The amount of growth that is forecast to arrive in the San Joaquin Valley, Stanislaus County, and Modesto by the year 2020 portends significant losses of habitat within the region.

Potential Disturbance of Archaeological or Historical Sites Impact: Substantial changes to existing historical resources and structures resulting from Zoning Ordinance requirements such as parking and landscaping, or demolition of such a structure could have a significant effect.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Known historical resources are primarily located within the Baseline Developed Area, which is already developed. Impacts of new construction, therefore, apply to development within 100 feet of a structure more than 50 years old because activities may affect that structure. If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years old, the impacts may be significant. The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of UAGP policies described as items AH-3
through AH-17 in Chapter V of the Master EIR. In particular, UAGP policies AH-4 through AH-8 require protection of existing archaeological and historical resources within the planning area through implementation of existing federal and state regulations, preparation inventories of significant resources, requiring specific evaluation of potential resources prior to construction, and adopting flexible zoning regulations for historic structures.

Demolition of a significant building cannot be mitigated to a less-than-significant level, and, even with implementation of the policies, the impact would be significant and unavoidable.

Potential Disturbance of Archaeological or Historical Sites Impact: Construction could result in impacts to currently unknown archaeological resources within and outside of riparian corridors.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Implementation of the UAGP policies described as items AH-3 – AH-17 in Chapter V of the Master EIR, which require investigation and assessment of potential archaeological or historic resources at the time of application for development involving effects on structures of 50 years of age or more or earthmoving, will reduce this effect to less-than-significant levels. The General Plan policies require protection of archaeological and historical resources within the planning area.

Increased Demand for Storm Drainage Impact: New development will require improvements to existing storm water drainage systems.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

The potential impacts on storm drainage that could occur from the project were qualitatively evaluated with respect to several factors, including the extent of the projected increase in urban surface area compared to undeveloped ground, the magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions, the regulatory criteria and guidelines, and professional judgment. Based on the above threshold of significance, the potential impacts of the UAGP on storm drainage are considered less than significant because the UAGP includes policies that require new development in all three sections of the planning area to install approved drainage facilities. These policies are identified as items SD-2 through SD-17 in Chapter V of the Master EIR.
New development is required under the policies of the UAGP to install storm drainage facilities that restrict the amount of post-development runoff from exceeding predevelopment conditions. In the Planned Urbanizing Area, this will include the installation of dual-use facilities that will provide recreational opportunities as well. Additionally, the UAGP includes policies for the City to maintain and upgrade storm drainage facilities as needed. Pursuant to the RWQCB’s recent directive to the City to incorporate Low Impact Development (LID) design elements into new development policies, small, onsite infiltration will be utilized wherever possible, allowing large, regional basins and other storm drainage structures to be downsized. Implementation of the UAGP policies will reduce the impact to a less than significant level.

**Increased Demand for Storm Drainage Impact:** Development in Modesto and the County will contribute to a cumulative impact on the capacity of Modesto Irrigation District and Tuolumne Irrigation District canals to convey drainage waters.

**Finding:**

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

**Supporting Evidence:**

The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm drainage. Cumulative hydrologic impacts of stormwater flows from Modesto urban areas and other areas of the county could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing stormwater runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point that would allow the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas.

This impact is considered significant. While implementation of the UAGP policies described above and described as items SD-2 – SD-17 in Chapter V of the Master EIR will reduce the impact, it will not be reduced to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.

As described above in the discussion of air quality impacts, California Planning Law and the County’s growth rate combine to limit the ability of the City to restrict growth and thereby avoid increased volumes of storm drainage water.
Flooding and Water Quality Impact: Increased development could contribute to runoff, contributing to flooding problems in the urban area. Development of urban areas could increase discharges of erosion and wastes to surface waters through urban runoff, affecting surface water quality.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

UAGP policies described as items FWQ-5 – FWQ-10 in Chapter V of the Master EIR, including policies to restrict development in the floodplain and thus avoiding exposing persons and property to flood hazards, and requiring new development under the UAGP install stormwater drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions will reduce this impact to a less than significant level.

City policies and capital improvement projects for stormwater drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City’s implementation policies for the municipal NPDES stormwater permit require new development to implement an appropriate selection of permanent pollution control measures. Implementation of the UAGP policies will reduce erosion and water quality impacts to a less than significant level.

Flooding and Water Quality Impact: Cumulative impacts could occur from the project’s contributions to runoff and discharges of waste and erosion.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

UAGP policies described as items FWQ-5 – FWQ-10 in Chapter V of the Master EIR, including policies to restrict development in the floodplain and thus avoiding exposing persons and property to flood hazards, and requiring new development under the UAGP install stormwater drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions will reduce the project’s contribution to the cumulative impact to less than cumulatively considerable.
City policies and capital improvement projects for stormwater drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City’s implementation policies for the municipal NPDES stormwater permit require new development to implement an appropriate selection of permanent pollution control measures. Implementation of the UAGP policies will reduce the project’s contribution to the cumulative impact to less than cumulatively considerable.

**Increased Demand for Parks and Open Space Impact:** Increased population under the Urban Area General Plan would increase demand for park and open space facilities, requiring new facilities to be constructed in the Planned Urbanizing Area and contributing to a significant cumulative impact.

**Finding:**

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

**Supporting Evidence:**

UAGP goals and policies described as items POS-2 – POS-46 in Chapter V of the Master EIR, including the goals and policies in UAGP sections V-G.2, V-G.3, and V-G.4, require the provision of park facilities as new development occurs in the Planned Urbanizing Area. The required minimum acreages can be met through the application of existing policies and regulations, including also Government Code Section 66474, which enables the City to require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. With implementation of the UAGP policies, the direct impact on the demand for parks and open space in the Planned Urbanizing Area will be reduced to less than significant and the UAGP’s contribution to a cumulative impact will be reduced to less than cumulatively considerable.

**Increased Demand for Police Services Impact:** Additional demand for police services/facilities will be created by increased population under the Urban Area General Plan.

**Finding:**

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

**Supporting Evidence:**

Complying with the UAGP policies described as items PS-2 – PS-15 in Chapter V of the Master EIR, particularly the policy that requires a long-range financing strategy for each Comprehensive Planning District, will allow the City to provide the resources necessary to extend service to the newly growing Planned
Urbanizing Area and maintain services in the Baseline Developed Area. Implementation of the UAGP policies will reduce impacts related to police services to a less-than-significant level through increased staffing and better building design and site planning.

Increased Demand for Fire Protection Services Impact: Annexations under the Urban Area General Plan could contribute to a cumulative impact on fire protection services.

Finding:

The City disagrees with the conclusion of the drafters of the Master EIR that the project could contribute to a cumulative impact on fire protection services. Specifically, the drafters concluded that cumulative impacts on fire services may occur should some or all of the existing fire protection districts become insolvent as a result of the loss of property tax revenues due to annexation of territory to the City. The City disagrees with this conclusion for the following reasons. First, the insolvency of one or more rural fire protection districts due to annexation of their territory to the City is not a significant environmental impact appropriate for environmental review under CEQA. Under CEQA, a significant environmental effect is defined as a substantial or potentially substantial adverse change in the environment. See Pub. Resources Code § 21100(b)(1); CEQA Guidelines § 15126, 15126.2. While the economic effects of City annexations on the finances of rural fire protection districts is undoubtedly a significant policy consideration for the City and LAFCO when evaluating possible annexations, it is not a “significant environmental effect” requiring evaluation under CEQA.

Second, any indirect effects of currently-proposed and future annexations on the ability of rural fire protection districts to maintain levels of service to their territories are adequately addressed by current City and LAFCO policies applicable to City annexations. Among other things, these policies require:

- The City’s Fire Chief and the Fire Chiefs of adjoining rural fire protection districts to meet on an as-needed basis to discuss the financial impacts of annexations on the rural fire protection districts and how to prevent the erosion of fire protection and emergency services provided by those districts.
- Property tax allocation agreements between the City and all affected rural fire protection districts, which agreements are subject to the approval of the governing board of the fire protection district and of the City Council.
- A ‘plan for services’ as part of any annexation application demonstrating how existing levels of service will be maintained.
- Denial of any annexation application that would reduce existing levels of service in the annexation areas.

The City hereby finds that the appropriate implementation of these policies by the City and LAFCO will reduce any indirect impacts on fire protection services to less-than-significant levels, and ensure that the project’s contribution to any cumulative impact on fire protection services is not cumulatively considerable.
Generation of Hazardous Materials Impact: Impacts from the generation, transportation, storage, and disposal of hazardous materials within the Baseline Developed Area and the Planned Urbanizing Area could contribute to the cumulative impact of past activities where spills or contamination have occurred.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Urban Area General Plan policies as described as items HM-3 - HM-26 in Chapter V of the Master EIR, including policies V-M.2 and V-E.3, require avoidance of impacts in new development. In addition, federal and state laws regulating the transportation, storage, disposal, and clean-up of hazardous materials and wastes, including those programs administered by Stanislaus County, are described in Section V-16 of the Master EIR. Together, these reduce the UAGP's contribution to the cumulative impact to less than cumulatively considerable.

Geologic Hazards Impact: New construction could be subject to hazards from expansive soils.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Impacts related to the location of new development on expansive soils within the Modesto planning area would be assessed through the City’s development review process and mitigated through UAGP Policy VI-B.2 [a], which requires conformance with the most recent UBC standards; and UAGP Policy VI-E.1 [a], which requires the preparation of site-specific geotechnical studies for new subdivisions. With these policies and their outcomes in place, impacts related to expansive soils would be reduced substantially, and any residual impact is considered less than significant.

Energy Impact: Continued development in the Planned Urbanizing Area would increase demand for energy.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.
Supporting Evidence:

Continued development within the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of the increase in population of 1.7 times that of the current population. UAGP Policies described as items E-6 through E-42 in Chapter V of the Master EIR would promote energy-saving strategies and would help to reduce energy-related impacts resulting from continued development of the Modesto planning area. Title 24 CCR (California Building Standards – including energy efficiency standards) also would reduce energy use and infrastructure impacts by ensuring that continued development in the UAGP would not exceed local, state, and federal energy standards for new construction. Additionally, the City, in partnership with the Modesto Irrigation District, is in a better position to manage its own energy supply portfolio and ensure that supplies are adequate for its users than are similar cities that do not have access to hydroelectric power. However, these measures cannot be quantified in order to determine whether the impact has been reduced to a less than significant level on a direct or cumulative level. No additional feasible mitigation is available to reduce this impact to a less than significant level or to reduce the UAGP’s contribution to the cumulative impact to less than considerable, and the impacts remain significant and unavoidable.

Visual Impact: Continued development in the Planned Urbanizing Area would alter the visual character of the area.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

The UAGP would allow urban development on currently flat or vacant land or land that is developed with agricultural uses. Such new development would change the visual character of the land. Implementation of UAGP Policy III-C.1 (h) would help to ensure the visual compatibility of new development: “Establish and maintain an orderly and compatible land use pattern. Evaluate land use compatibility, noise, traffic, and other environmental hazards when making land use decisions.”

Overall, the UAGP incorporates policies described as items VR-2 – VR10 in Chapter V of the Master EIR place value on the preservation of visual resources and important vistas and viewsheds. The proposed planning principles encourage the visual enhancement of neighborhoods, planning districts, and parks. The UAGP has specific policies guiding the visual quality of riverside parks under the proposed River Greenway Program, which emphasizes the preservation of views from these parks, which would include the City’s two river parks, Dry Creek Park and the TRRP. With implementation of these policies, the impact is reduced to a less than significant level.
Visual Impact: Continued development in the Planned Urbanizing Area would increase light and glare and contribute to a cumulative impact.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Adoption of the Growth Strategy Diagram for the Planned Urbanizing Area, as presented in Chapter II of the Master EIR, would lead to new development in areas that are currently vacant or used for agricultural purposes. This would lead to the introduction of light and glare in areas that are not illuminated currently. Additionally, the adoption of proposed UAGP actions and policies that would lead to an expanded street system and enhanced transit system would increase light and glare in the planning area. The City has adopted Guidelines for Small-Lot Single-Family Residential Developments and Design Guidelines for Commercial & Industrial Development that include standards for the design of outdoor lighting fixtures. These standards (UAGP Policy III-C.3[j]) limit the size of fixtures and require that fixtures focus their light to avoid spilling onto nearby properties. This will reduce the potential for light and glare impacts from new development in the Planned Urbanizing Area, however, the impacts will not be reduced to a less than significant level. No additional feasible mitigation is available to reduce the UAGP’s contribution to the cumulative impact to less than considerable.

Climate Change Impact: Continued development in the Planned Urbanizing Area would increase energy consumption and vehicle miles traveled (VMT) in the City and region, increasing the volume of greenhouse gas (GHG) emissions generated in the City and region and contributing to a cumulative impact.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Increased energy use and VMT from future development under the amended UAGP will contribute GHG emissions that add to the existing problem. As part of the traffic analysis prepared for the Master EIR, VMT in the planning area is estimated to reach 12,447,000 by 2025. This represents an 82 percent increase over the estimated 2005 VMT. Therefore, future development under the UAGP will make a cumulatively considerable contribution to global climate change. UAGP policies described as items CL-3 – CL-24 in Chapter V of the Master EIR will reduce the levels of GHG emissions that might otherwise result from the projected level of growth; however, these will not reduce the UAGP’s contribution to the cumulative impact to less than considerable, and its contribution to this cumulative impact will remain significant and unavoidable.
Because the state has not adopted its full slate of regulations intended to reduce GHG emissions to 1990 levels, there is no guidepost by which to measure whether local general plans would interfere with the ability to meet that objective. However, the level of GHG emissions reduction needed (73 million metric tons or 15 percent below the 2007 emissions level) in the face of an anticipated 17 percent increase in California's population by 2020 establishes a formidable target. The extent of reductions required will necessitate utilizing local land use regulations to minimize new GHG emissions by improving energy conservation and reducing VMT through sensitive urban design and planning.

**Growth-Inducing Impact:** The Urban Area General Plan will have a growth-inducing impact by removing regulatory obstacles to growth.

**Finding:**

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

**Supporting Evidence:**

State Planning Law requires each city and county to adopt a general plan for its future development. This general plan must consider land use, transportation, housing, conservation, open-space, noise, and safety issues. Under the Housing Element, State Law requires the City of Modesto, to plan for its fair share of future housing needs (Government Code Section 65580 et seq.). Fair share housing need allocations are assigned on the basis of population projections for the region. The California Department of Finance projects that the population of Stanislaus County will increase by approximately 56.6 percent by the year 2020 (Interim County Population Projections -- June 2001).

State law prohibits the City from adopting a general plan that does not provide for this future growth.

As described in Chapter VI of the Master EIR, the City has adopted a number of policies intended to control the rate of its growth, and to encourage higher-than-usual density of development so that the urban area will develop compactly. These policies will channel the direction and form of growth, but will not prevent it. The impact is significant and unavoidable.

**B. FINDINGS SUPPORTING REJECTION OF ALTERNATIVES**

The Final MEIR discussed and evaluated a range of alternatives as required by CEQA Guidelines Section 15126.6. In order to reject an alternative, the City must find:

Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the Master EIR.
Following are the findings supporting rejection of each of the alternatives.

**Alternative 1. No Project Alternative:** The No-Project Alternative is the continuation of the 1995 UAGP, as amended, into the future. The No-Project Alternative would not include any of the new policies being added to the UAGP with the current update.

Finding for rejection:

Specific legal and fiscal considerations make infeasible the alternative identified in the Master EIR.

Supporting Evidence:

The California Planning and Zoning Law (Government Code Section 65300, et seq.) requires each City to adopt a long-term general plan for its physical development. The general plan is expected to be comprehensive, internally consistent, and have a long-term perspective (Chapter 1, *State General Plan Guidelines*. Office of Planning and Research. 1998). Furthermore, the provisions of the circulation element must be “correlated” with the land use element (Government Code Section 65302(b)). In addition, in a charter city such as Modesto, subdivisions of land, specific plans, development agreements, capital improvement plans, and comprehensive plans must be consistent with the general plan (Government Code Sections 66474, 65454, 65867.5, 65103, and 65300.5, respectively). Generally, a city is expected to update its general plan at least every ten years. The current UAGP Amendment responds to changes in federal, state, and local policies that have occurred since the General Plan was adopted by the Modesto City Council in 1995 and amended in 2003. It is not a comprehensive update to the UAGP. No major land use changes are proposed as part of the amendment. The horizon of the UAGP remains 2025. The amendment to the UAGP would extend the useful life of the UAGP until a comprehensive update is completed.

Since the 1995 adoption of the Urban Area General Plan, the City has revised its job generation estimates, refined its traffic model, and identified numerous cultural resources, among other things. These will change the way in which the City considers land use projects. Accordingly, these changes must be represented in revisions to the General Plan roadway network (in order to maintain correlation with the land use element), cultural resources section, and other policies in the Urban Area General Plan so that they may be reflected in the review of subdivisions, specific plans, and other City actions that require consistency with the General Plan. In order to ensure that the general plan consistently reflects proposed changes to the City’s roadway network, cultural resources preservation policies, and other policies described in Chapter III (Project Description) of the Master EIR, the City is required to incorporate these proposed changes into the General Plan itself.

The California Environmental Quality Act provides that a Master EIR must be examined within 5 years of its original certification to ensure that it continues to reflect the environment and current information about environmental effects.
(Public Resources Code Section 21157.6). Since the certification of the Master EIR for the Urban Area General Plan in 1995, the City has consistently cross-referenced new information from later environmental analyses, such as the EIR prepared for the Kaiser Medical Center and the Master EIR for the Wastewater Master Plan, to the Urban Area General Plan Master EIR. Furthermore, the "No Project" alternative would not allow the City to address climate change and State legislative actions by adopting climate change policies into the Urban Area General Plan and implementing them. In order to ensure that its Master EIR meets the spirit, as well as the letter, of the law Modesto is updating its General Plan and certifying this update of its Master EIR.

**Alternative 2: No Changes to Street Designations**

The proposed UAGP update includes revisions to the currently planned configurations of six streets, Dale Road, Bangs Avenue, Claratina Expressway, Carpenter Road, Claus Road, and Sylvan Avenue. Under Alternative 2, the City would not revise the designations of these streets, and they eventually would be constructed as currently planned. This would reduce noise impacts along those streets in comparison to the proposed UAGP.

Finding:

Specific legal and technical considerations make infeasible the alternative identified in the Master EIR.

Supporting Evidence:

This alternative would reduce proposed transportation improvements proposed in the draft UAGP. Under this alternative greater transportation impacts along those roads would occur than under the proposed project (the draft UAGP). Additionally, the transportation improvements that would not occur would reduce opportunities for non-auto transportation, an essential part of addressing key impacts on traffic, air quality, and climate change, and the objective of many of the policies of the UAGP.

Government Code Section 65300.5 states that "the general plan and elements and parts thereof [must] comprise an integrated, internally consistent and compatible statement of policies for the adopting agency." Alternative 2 is rejected because it would not provide for bicycle transportation in that it would not alter the designation of Carpenter Road to a principal arterial with bike lanes and would not allow for improved bicycle facilities on some of the other affected roadways. This would make the UAGP internally inconsistent in not complying with policies such as UAGP Policy V-B.6, concerning transportation demand management and encouraging non-auto forms of transportation.
STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to Public Resources Code Section 21081 and Section 15093 of the State CEQA Guidelines (14 California Code of Regulations 15000, et seq.), the City of Modesto cannot approve a project for which an Environmental Impact Report (EIR) has been certified which identifies significant unavoidable effects on the environment, unless it adopts a statement of overriding considerations that finds that specific overriding economic, legal, social, technological or other benefits of the project outweigh its significant effects on the environment.

A. SIGNIFICANT UNAVOIDABLE IMPACTS

The Master EIR identified the following adverse effects of the project that cannot be mitigated below a level of significance:

- Traffic and Circulation Needs (direct and cumulative impacts)
- Degradation of Air Quality (cumulative impacts)
- Generation of Noise (direct and cumulative impacts)
- Loss of Productive Agricultural Land (direct and cumulative impact)
- Increased Demand for Long Term Water Supplies (cumulative impact)
- Loss of Sensitive Wildlife and Plant Habitat (cumulative impact)
- Potential Demolition of Significant Historical Structures (direct impact)
- Increased Demand for Storm Drainage (cumulative impact)
- Increased Demand for Energy (direct and cumulative impact)
- Increased Light and Glare (cumulative impact)
- Climate Change (cumulative impact)
- Growth-Inducement

B. STATEMENT OF OVERRIDING CONSIDERATIONS

The City Council has determined that the update Modesto Urban Area General Plan should be approved and that any remaining unmitigated environmental impacts attributable to the Modesto Urban Area General Plan are outweighed by the following specific benefits.

Overriding Considerations Relating To All Significant And Unavoidable Impacts (direct and cumulative impacts)

California Planning and Zoning Law requires the City to adopt a general plan for its long-range physical development (Government Code Section 65300 et seq.). Substantial population increases are projected to occur in Stanislaus County and the City of Modesto during the planning period. The California Department of Finance projects that the population of Stanislaus County will increase by approximately 33 percent by 2020, increasing to 699,144 from its current population of 525,903 and 63 percent by 2030 (projected 2030 population - 857,893) (State of California, Department of Finance, Population Projections for California and its Counties 2000-2050, Sacramento, California, July 2007; and State of California, Department of Finance, E-1 Population Estimates for Cities, Counties and the State with Annual Percent Change — January 1, 2007 and 2008, Sacramento, California, May 2008). The level of development proposed under the proposed Urban Area General offers the planning benefit of directing how the expected population increase will be efficiently located within the City through compact...
development policies contained in the plan, and describing City policies for the provision of future infrastructure and other needs. State laws and the countywide growth rate combine to limit the ability of the City to restrict growth. The contributions of individual projects to cumulative impacts, although moderated by policies contained in the Urban Area General Plan, would still result in environmental impacts.

The development associated with the Urban Area General Plan would result in approximately 130,000 new employment opportunities in total within the planning area in the planning horizon year. The increased number of local jobs has the benefit of reducing chronic local unemployment levels that are currently at 10.9 percent (California Employment Development Department Labor Market Information Division July 18, 2008 REPORT 400 M - Monthly Labor Force Data for California Counties and Metropolitan Statistical Areas June 2008 – Preliminary), which is more than one and a half times the current statewide average of 7.0 percent. The increase in housing will economically, socially and legally benefit the community by helping it meet its future regional fair share housing allocations, as required under Government Code Section 65580 et seq.

The City of Modesto’s Redevelopment Plan, adopted in 1991, contains numerous goals and policy statements, which would not be achieved without the promotion of significant employment opportunities. The proposed project benefits the City economically by enabling the creation of nearly 45,000 new employment opportunities and new housing opportunities for 5,700 residents in the central city area.

Primary among these redevelopment goals are the following:

- The replanning, redesign and development of undeveloped areas, which are stagnant or improperly utilized.

- The strengthening of retail and other commercial functions in the Project Area.

- The strengthening of the economic base of the Project Area and the community by the installation of needed site improvements to stimulate new commercial expansion, employment and economic growth.

- The expansion of the supply of housing for low- and moderate-income persons.

Additional Overriding Considerations Relating to Traffic and Circulation Needs, Noise, and Air Quality (direct and cumulative impacts)

The proposed Urban Area General Plan traffic and circulation element and the amendments being proposed are consistent with the Stanislaus County Regional Transportation Plan. Thus, although the project will exceed Level of Service standards along numerous road segments within the Planning Area and contribute to regional cumulative traffic impacts, the it will also contribute to improvements in the movement of goods and people throughout the region and ensure internal consistency within the General Plan and correlation of the Circulation and Land Use elements, as required under Government Code Section 65300.5.

Overriding Considerations Relating to Loss of Productive Agricultural Land (direct and cumulative impact)
Agriculture is a leading industry in Stanislaus County and San Joaquin County; the value of Stanislaus County’s agricultural commodities totaled approximately $1.98 billion in 2005, and San Joaquin County’s totaled $1.74 billion (California Department of Food and Agriculture 2006). The agriculture, forestry, and fishing industries rank second only to the public sector in number of jobs in the San Joaquin Valley, with 181,300 jobs in 2007. In 2005, Stanislaus and San Joaquin Counties ranked as the sixth and seventh most agriculturally productive counties in California, respectively, based on the value of agricultural products sold (California Department of Food and Agriculture 2006). Nonetheless, agriculture is a seasonal occupation and is one reason for Stanislaus County’s relatively high unemployment rate. High unemployment rates are common among the agricultural-dependent counties of the San Joaquin Valley, as well as Imperial County (Civilian Labor Force, Employment and Unemployment. Employment Development Department. January 15, 2003).

As explained above, the project has the social and economic benefits of encouraging significant new employment opportunities outside of agriculture, as the business parks identified in the Urban Area General Plan are developed. In the planning horizon year, the plan would allow up to 130,000 new employment opportunities in total within the planning area. This will create a more diversified job market. It will also enable the City to meet the economic development goals of its general plan calling for diversification of its economic base and provision of economic development opportunities (Policy II-B.1[a]).

Additional Overriding Considerations Relating to Increased Demand for Long Term Water Supplies (cumulative impact)

The General Plan and Urban Water Management Plan (UWMP) identify a number of actions that the City is currently conducting or planning to implement to reduce demands on the water supply. These measures include Urban Area General Plan policies described as items WS-10 through WS-37 in Chapter V of the Master EIR, which include requirements for water conservation, obtaining new surface water supplies, and implementing a conjunctive groundwater/surface water management program. The project facilitates the City’s efforts to implement these actions to conserve and more efficiently utilize the City’s existing and future water supplies.

Additional Overriding Considerations Relating to Loss of Sensitive Wildlife and Plant Habitat (cumulative impact)

The policies of the Urban Area General Plan relating to the CPDs and protection of special status species within the riparian corridors and the Planned Urbanizing Areas offer the benefit of enabling the City to undertake comprehensive planning of large areas. This will provide opportunities for programmatic, large-scale approaches to the protection of special status species and their habitats.

Additional Overriding Considerations Relating to Potential Demolition of Significant Historical Structures (direct impact)

Urban Area General Plan policies described as items AH-4 through AH-8 in Chapter V of the Master EIR require protection of archaeological and historical resources within the planning area through implementation of existing federal and state regulations, preparation inventories of significant resources, requiring specific evaluation of potential resources prior to construction, and adopting flexible zoning regulations for historic
structures. The identified impact is associated only with those future projects that may affect existing historic structures. Most historic structures in the City are located in the existing urban core. Effects on existing historic structures would likely occur as a part of the redevelopment and intensification of the existing urban core, consistent with Urban Area General Plan policies directed toward creating more compact development, reducing auto travel, and encouraging non-auto travel including pedestrian and transit modes.

Additional Overriding Considerations Relating to Increased Demand for Storm Drainage (cumulative impact)

Substantial population increases are projected to occur in Stanislaus County and the City of Modesto during the planning period. The level of development proposed under the proposed Urban Area General Plan offers the planning benefit of directing how this increased population will be efficiently located within the City through compact development policies contained in the plan, and describing City policies for the provision of future infrastructure and other needs.

The Urban Area General Plan CPD policies give the City the opportunity to undertake comprehensive planning of large areas identified for future development. This provides the benefit of being able to develop large-scale drainage facilities as part of these plans, in cooperation with other affected agencies. This has the planning benefit of creating programmatic solutions to drainage within those CPDs. The City is currently completing a Stormwater Master Plan that will describe the schematic layout of future storm drainage systems in all of the Planned Urbanizing Area. In addition, the City is participating with MID and other local agencies on the preparation of an Integrated Water Resources Management Plan that will address water resources planning and management in the region for surface water, groundwater, wastewater, and storm drainage.

Additional Overriding Considerations Relating to Increased Demand for Energy and Air Quality (direct and cumulative impacts)

Urban Area General Plan Policies described as items E-6 through E-42 in Chapter V of the Master EIR would promote energy-saving strategies and would help to reduce energy-related impacts resulting from continued development of the Modesto planning area. Title 24 CCR (California Building Standards − including energy efficiency standards) also would reduce energy use and infrastructure impacts by ensuring that continued development in the Urban Area General Plan would not exceed local, state, and federal energy standards for new construction. Energy use would, however necessarily increase as housing, jobs, and population increase in the City and the region.

Additional Overriding Considerations Relating to Increased Light and Glare (cumulative impact)

The City has adopted Guidelines for Small-Lot Single-Family Residential Developments and Design Guidelines for Commercial & Industrial Development that include standards for the design of outdoor lighting fixtures. These standards (UAGP Policy III-C.3[[]]) limit the size of fixtures and require that fixtures focus their light to avoid spilling onto nearby properties. This will reduce the potential for light and glare impacts from new development in the Planned Urbanizing Area. However, as land uses change from rural and agricultural to urban, light and glare would necessarily increase.
Additional Overriding Considerations Relating to Climate Change and Air Quality (cumulative impacts)

Development under the proposed Urban Area General Plan will, as it increases vehicle travel and energy use, contribute to the cumulative impact generation of greenhouse gases has been determined to have on climate change. The Urban Area General Plan includes policies and land use design elements designed to reduce the City’s use of energy and to reduce auto trips. Given the existing setting and available technology, new development, including construction of housing and public services, and economic activity, will necessarily increase trips and energy use.
EXHIBIT “C”

FINAL MASTER ENVIRONMENTAL IMPACT REPORT FOR THE URBAN AREA GENERAL PLAN UPDATE


Original Exhibit "C" kept on file and available from the Modesto City Clerk's office upon request.
A RESOLUTION APPROVING AN AMENDMENT TO THE MODESTO URBAN AREA GENERAL PLAN (COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT)

WHEREAS, on August 15, 1995, by Resolution No. 95-408, the City Council certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 92052017) for the Modesto Urban Area General Plan, and

WHEREAS, a General Plan for the City of Modesto entitled "City of Modesto Urban Area General Plan", was adopted by the City Council by Resolution No. 95-409 on August 15, 1995, in accordance with Section 65300 of the Government Code, and


WHEREAS, Government Code Section 65358 permits the amendment of General Plans by the legislative body, and

WHEREAS, the Community and Economic Development Department ("Applicant") filed the Amendment to the Urban Area General Plan ("Project") (File No. P-GPA-06-002) to:

1. incorporate as policies various practices that are regularly approved and have effectively become policy;
2. include new policies to provide direction for anticipated issues; and
3. incorporate adopted policies that have not been amended into the General Plan.
WHEREAS, a Final Master Environmental Impact Report was prepared for the Urban Area General Plan Update (SCH No. 2007072023) which analyzed the potential environmental effects of the proposed Project, and

WHEREAS, on September 8, 2008, the Planning Commission held a duly noticed public hearing at 7:00 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary relating to this proposed amendment to the Modesto Urban Area General Plan was considered, and

WHEREAS, a public hearing on the Project was held by the City Council on October 14, 2008, at 5:30 p.m., in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence, both oral and documentary, was received and considered; and

WHEREAS, after said public hearing the Planning commission adopted Resolution No. 2008-39, recommending to the City council an amendment to the Modesto Urban Area General Plan.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Modesto that it hereby finds and determines that the proposed amendment to the Modesto Urban Area General Plan as described in Exhibit “A,” attached hereto and incorporated herein by reference, is required for the public health, safety, and welfare of the citizens of Modesto.
BE IT FURTHER RESOLVED by the Council of the City of Modesto that the proposed amendment to the Modesto Urban Area General Plan is consistent with the Final Master Environmental Impact Report for the Urban Area General Plan (SCH No. 2007072023) and has been adequately analyzed by the Master Environmental Impact Report.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the proposed amendment to the Urban Area General Plan as described in Exhibit “A,” attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community and Economic Development Department Director is hereby authorized and directed to forward certified copies of this resolution and said amendment to the Urban Area General Plan to the Board of Supervisors, and file a Notice of Determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALÁ WOOD, City Attorney
EXHIBIT "A"

GENERAL PLAN AMENDMENT


Original Exhibit "A" kept on file and available from the Modesto City Clerk's office upon request.
A RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO (CITY) AND THE MODESTO CITY EMPLOYEES ASSOCIATION (MCEA) FOR A TERM OF JULY 22, 2008 THROUGH JUNE 22, 2009

WHEREAS, the Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto City Employee’s Association (MCEA) expired on June 23, 2007, and

WHEREAS, representatives of the CITY and the MCEA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the MOU provides as follows:

SECTION 1. HEALTH, DENTAL AND VISION BENEFITS. The City's contribution to employees' Health, Dental and Vision coverage shall be as follows:

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<th>Family</th>
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<tr>
<td>Single</td>
<td>$535</td>
</tr>
<tr>
<td>Opt Out</td>
<td>$425</td>
</tr>
</tbody>
</table>

Effective July 22, 2008, for employees enrolled in the City-sponsored High Deductible Health Plan, the City shall deposit any balance of the above contribution not needed to pay for the employee's premiums, into the employee's Health Savings Account.

SECTION 2. LABOR MARKET SURVEY. A market survey and a classification study have been completed. The parties agree to implement initial classification and market salary range changes, effective January 6, 2009. Said market
salary changes shall be for those classes which the parties agree are more than 15% "under market."

SECTION 3. ADDITIONAL LEAVE. Provides each MCEA represented employees a one time allotment of sixteen (16) hours of additional leave that will have no cash-out value and must be used within twelve (12) months from adoption by Council.

SECTION 4. ADDITIONAL CHANGES. Other negotiated additions, deletions or amendments to the text of the Memorandum of Understanding deal with language changes including differential pay for commercial driver’s licenses, amending waiting period for health coverage for new hires from six pay periods to four pay periods, reimbursing cost of new Homeland Security required background process for hazardous material endorsement, safety shoe allowance, as well as language changes regarding commercial driver’s licenses, time bank deductions and leaves of absence. Additionally the parties have agreed to continue negotiations related to the Retiree Health Program, health plans for active employees and impacts of the unblending of retiree premiums, and potential work furloughs.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Memorandum of Understanding (MOU) between the City of Modesto and the Modesto City Employee’s Association (MCEA), which covers a term from July 22, 2008 through June 22, 2009, and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th 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]

(S Seal)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES AS SET FORTH IN EXHIBIT “A” ATTACHED HERETO EFFECTIVE JULY 22, 2008, AND ADOPTED CONCURRENTLY WITH RESOLUTION NO. 2008-584 APPROVING THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO (CITY) AND THE MODESTO CITY EMPLOYEE’S ASSOCIATION (MCEA)

WHEREAS, on October 14, 2008, the City Council adopted Resolution No. 2008-584 approving the MOU between the CITY and MCEA.

WHEREAS, Council desires to establish a Class Range Table for said classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Class Range Table for General Non-Sworn Classes, entitled “City of Modesto Class Range Table General Non-Sworn Classes, Effective July 22, 2008”, which is attached hereto as Exhibit “A” and made a part hereof as though set forth in full herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th 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

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>101</td>
<td>Custodian I</td>
</tr>
<tr>
<td>103</td>
<td>Administrative Office Assistant I</td>
</tr>
<tr>
<td>104</td>
<td></td>
</tr>
<tr>
<td>105</td>
<td></td>
</tr>
<tr>
<td>106</td>
<td></td>
</tr>
</tbody>
</table>
| 107   | Administrative Office Assistant II  
         Custodian II  
         Exhibits Coordinator |
| 108   | |
| 109   | Customer Services Account Clerk I |
| 110   | Security Officer  
         Maintenance Worker I |
| 111   | Account Clerk  
         Administrative Office Assistant III  
         Customer Services Account Clerk II |
| 112   | |
| 113   | Administrative Technician  
         Computer Operator  
         Drafting and Graphics Technician |
| 114   | Electrical Technician I  
         Equipment Service Technician  
         Maintenance Worker II  
         Production Technician  
         Storeskeeper |

Exhibit "A"
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 115   | Accounting Technician  
Administrative Services Technician I  
Customer Services Account Clerk III  
Senior Administrative Office Assistant |
| 116   | Equipment Operator  
Motor Sweeper Operator  
Traffic Operations Technician  
Used Oil Coordinator  
Wastewater Collection System Operator  
Water Distribution Operator I |
| 117   | Electrical Technician II |
| 118   | Customer Services Accounting Technician  
Fleet Procurement Specialist  
Parking Lot Maintenance Crewleader  
Parks Crewleader  
Recreation Coordinator  
Senior Storeskeeper  
Tree Trimmer  
Water Distribution Operator II |
| 119   | Administrative Services Technician II  
Assistant Buyer  
Building Maintenance Mechanic  
Civil Engineering Technician I  
Code Enforcement Officer-Neighborhood Preservation I  
Maintenance Mechanic – Parks  
Maintenance Mechanic – Pumps  
Public Information Technician |
| 120   | Accountant I  
Assistant Electrician  
Laboratory Analyst I  
Senior Equipment Operator  
Traffic Painter Crewleader  
Wastewater Treatment Plant Operator I  
Water Resource Specialist I  
Welder/Fabricator |
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>121</td>
<td>Solid Waste Enforcement Officer</td>
</tr>
</tbody>
</table>
| 122   | Equipment Mechanic  
Fire Equipment Mechanic  
Tree Trimmer Crewleader |
| 123   | Airport Maintenance Crewleader  
Civil Engineering Technician II  
Code Enforcement Officer-Neighborhood Preservation II  
Maintenance Mechanic Crewleader – Parks |
| 124   | Community Development Program Specialist I  
Cross Connection Specialist  
Environmental Compliance Inspector I  
Heavy Equipment Mechanic  
Laboratory Analyst II  
Operation and Maintenance Crewleader  
Planning Assistant  
Plant Mechanic  
Wastewater Treatment Plant Operator II  
Water Conservation Specialist  
Water Distribution Operator III  
Water Production Operator I  
Water Resource Specialist II  
Water Services Equipment Operator I |
| 126   | Equipment Mechanic Crewleader  
Housing Financial Specialist  
Housing Rehabilitation Specialist I  
Wastewater Treatment Plant Operator III |
| 127   | Civil Engineering Assistant  
Senior Fire Equipment Mechanic |
| 128   | Building Inspector I  
Community Development Program Specialist II  
Electrician  
Environmental Compliance Inspector II  
Heavy Equipment Mechanic Crewleader  
Instrument Repair Technician  
Water Production Operator II |

Exhibit “A”
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Water Services Equipment Operator II</td>
</tr>
<tr>
<td>129</td>
<td>Construction Inspector</td>
</tr>
<tr>
<td>130</td>
<td>Housing Rehabilitation Specialist II</td>
</tr>
<tr>
<td>130</td>
<td>Laboratory Analyst III</td>
</tr>
<tr>
<td>130</td>
<td>Senior Wastewater Treatment Plant Operator</td>
</tr>
<tr>
<td>131</td>
<td>Senior Civil Engineering Assistant</td>
</tr>
<tr>
<td>132</td>
<td>Building Inspector II</td>
</tr>
<tr>
<td>132</td>
<td>Environmental Review Specialist</td>
</tr>
<tr>
<td>132</td>
<td>Senior Environmental Compliance Inspector</td>
</tr>
<tr>
<td>133</td>
<td>Water Division Crewleader</td>
</tr>
<tr>
<td>134</td>
<td>Plan Review Engineer</td>
</tr>
<tr>
<td>134</td>
<td>Senior Construction Inspector</td>
</tr>
<tr>
<td>136</td>
<td>Senior Building Inspector</td>
</tr>
</tbody>
</table>

Exhibit "A"
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-586

A RESOLUTION AMENDING THE FISCAL YEAR 08-09 OPERATING BUDGET TO TRANSFER $99,300 FROM 0100-800-8000-8003, GENERAL FUND RESERVE, AND $182,800 FROM OTHER FUNDS RESERVES, TO VARIOUS SALARY AND BENEFIT ACCOUNTS TO PROVIDE FUNDING FOR THE NEGOTIATED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO CITY EMPLOYEE'S ASSOCIATION

WHEREAS, the City Council desires to authorize salary and benefit changes as part of the negotiated Memorandum of Understanding between the City of Modesto and the Modesto City Employees’ Association, effective July 22, 2008, and

WHEREAS, the FY 08-09 costs associated with these changes are estimated at $324,900 effective July 22, 2008, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2008-09 Operating Budget is hereby amended to transfer $99,300 from 0100-800-8000-8003, General Fund Reserve, and $182,800 from other Funds reserves to various salary and benefit accounts, to fund said salary and benefit changes negotiated as part of the Memorandum of Understanding between the City of Modesto and the Modesto City Employee’s Association.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th 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 THE 2009 CITY COUNCIL MEETING CALENDAR

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the 2009 City Council Meeting Calendar, attached hereto as “Exhibit A”, is hereby approved.

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
## City Council Calendar 2009

### January 2009

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>6th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>13th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>20th</td>
<td>NO MEETING</td>
</tr>
<tr>
<td>27th</td>
<td>Council Meeting (regular)</td>
</tr>
</tbody>
</table>

### February 2009

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>3rd</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>10th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>17th</td>
<td>NO MEETING</td>
</tr>
<tr>
<td>24th</td>
<td>Council Meeting (regular)</td>
</tr>
</tbody>
</table>

### March 2009

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>3rd</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>10th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>17th</td>
<td>NO MEETING</td>
</tr>
<tr>
<td>24th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>31st</td>
<td>NO MEETING – 5th Tuesday</td>
</tr>
</tbody>
</table>

### April 2009

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>7th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>14th</td>
<td>CANCELLED*</td>
</tr>
<tr>
<td>21st</td>
<td>NO MEETING</td>
</tr>
<tr>
<td>28th</td>
<td>Council Meeting (regular)</td>
</tr>
</tbody>
</table>

### May 2009

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>5th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>12th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>19th</td>
<td>NO MEETING</td>
</tr>
<tr>
<td>26th</td>
<td>Council Meeting (regular)</td>
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</table>

### June 2009

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>2nd</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>9th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>16th</td>
<td>NO MEETING</td>
</tr>
<tr>
<td>23rd</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>30th</td>
<td>NO MEETING – 5th Tuesday</td>
</tr>
</tbody>
</table>

### July 2009

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>7th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>14th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>21st</td>
<td>NO MEETING</td>
</tr>
<tr>
<td>28th</td>
<td>NO MEETING</td>
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</tbody>
</table>

### August 2009

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>5th</td>
<td>Council Meeting (special)**</td>
</tr>
<tr>
<td>11th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>15th</td>
<td>NO MEETING</td>
</tr>
<tr>
<td>25th</td>
<td>NO MEETING</td>
</tr>
</tbody>
</table>

### September 2009

<table>
<thead>
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<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>8th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>15th</td>
<td>NO MEETING</td>
</tr>
<tr>
<td>22nd</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>29th</td>
<td>NO MEETING – 5th Tuesday</td>
</tr>
</tbody>
</table>

### October 2009

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>6th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>13th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>20th</td>
<td>NO MEETING</td>
</tr>
<tr>
<td>27th</td>
<td>Council Meeting (regular)</td>
</tr>
</tbody>
</table>

### November 2009

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>4th</td>
<td>Council Meeting (special)***</td>
</tr>
<tr>
<td>10th</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>17th</td>
<td>NO MEETING</td>
</tr>
<tr>
<td>24th</td>
<td>Council Meeting (regular)</td>
</tr>
</tbody>
</table>

### December 2009

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>Council Meeting (regular)</td>
</tr>
<tr>
<td>9th</td>
<td>Council Meeting (special)****</td>
</tr>
<tr>
<td>15th</td>
<td>CANCELLED per MMC 2-1.01</td>
</tr>
<tr>
<td>22nd</td>
<td>CANCELLED per MMC 2-1.01</td>
</tr>
<tr>
<td>29th</td>
<td>CANCELLED per MMC 2-1.01</td>
</tr>
</tbody>
</table>

---

*April 14th due to Spring Break
**August 5th Wednesday Meeting due to National Night Out on August 4th
***November 4th Wednesday Meeting due to Election Day on November 3rd
****December 9th Wednesday Meeting due to Run-Off Election on December 8th
A RESOLUTION SUPPORTING PROPOSITION 1A, THE SAFE, RELIABLE HIGH-SPEED PASSENGER TRAIN BOND ACT, AND PROPOSITION 11, REDISTRICTING, TO BE VOTED ON IN THE NOVEMBER 2008 GENERAL ELECTION

WHEREAS, the California Legislature has placed on the November 2008 ballot, Proposition 1A, the Safe, Reliable High-Speed Train Bond Act for the 21st Century, which would finance construction of a High-Speed Rail System in California, and

WHEREAS, Proposition 1A will put California on track to build a clean, efficient high-speed rail network connecting all of the State’s major population centers, and

WHEREAS, Proposition 1A will allow the State to raise $9.95 billion in bond funding for a private-public partnership that will benefit California and its residents by making the most of every dollar California invests by allowing the bond money to be used only after private and federal dollars are raised for the project, and

WHEREAS, Proposition 1A will ease congestion on our highways and in our airports. With three of the national’s top five congested metropolitan areas congestion costs California some $20 billion in wasted fuel and lost time each year. High-speed trains will remove millions of car miles from our packed highways and millions of passengers from our stressed airports, and

WHEREAS, Proposition 1A will save valuable energy. High-speed trains use one-third of the energy of air travel and one-fifth of the energy of auto travel and combined that could reduce our dependence on foreign oil by up to 12.7 million barrels per year, and
WHEREAS, Proposition 1A will help clean and protect California’s environment by annually eliminating more than 12 billion pounds of the greenhouse gas emissions that causes global warming; equal to removing more than a million cars from our roads for a year, and

WHEREAS, Proposition 1A would create new jobs. The plan, design and build phases of the 800-mile long network will create as many as 160,000 new construction related jobs in California, and more than 400,000 additional permanent jobs are expected to be created as a result of economic growth the new system will bring, and

WHEREAS, Proposition 11, Redistricting, would strip the Legislature of its power to draw the lines for Assembly and Senate districts and turns the task over to a 14-person citizens’ commission, and

WHEREAS, partisan gridlock has prevented our state lawmakers from effectively addressing California’s most pressing issues such as the state budget, health care reform, education, the impending water crisis, and the environment, and

WHEREAS, contributing greatly to the policy logjam in the state is the fact that state legislators currently draw the boundaries of the districts in which they subsequently compete, and

WHEREAS, the current redistricting process results in a 99% re-election rate in California legislative races and gives little incentive for elected officials to be responsive to voter needs, and

WHEREAS, California voters deserve increased responsiveness and accountability among our state lawmakers, and
WHEREAS, for several years the California legislature has promised, but failed to deliver, true redistricting reform, and

WHEREAS, Proposition 11 will change the way legislative districts are drawn to increase accountability among our elected officials and help break the partisan gridlock that paralyzes our state government, and

WHEREAS, Proposition 11 will ensure redistricting is conducted in an open manner with real opportunities for public dialogue and feedback, and

WHEREAS, Proposition 11 will ensure the integrity of neighborhoods, communities of interest, and cities when districts are drawn, and

WHEREAS, Proposition 11 will ensure redistricting is conducted by a qualified, independent citizen commission that is representative of the racial, ethnic, geographic and gender diversity of California, and

WHEREAS, Proposition 11 is in accordance with the Voting Rights Act of 1965, and

WHEREAS, a broad-based, diverse and bi-partisan coalition of California organizations and individuals support Proposition 11, which will appear on the November 2008 General Election Ballot, and

WHEREAS, the City of Modesto wants to help ensure that our state government will be held accountable and will be more effective in addressing the pressing needs of our constituents,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby supports Proposition 1A, the Safe, Reliable High-Speed Passenger Train Bond Act and Proposition 11, Redistricting, to be voted on in the November 2008 General Election.

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 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. 2008-589

A RESOLUTION OPPOSING THE PASSAGE OF PROPOSITION 2,
STANDARDS FOR CONFINING FARM ANIMALS, TO BE VOTED ON
IN THE NOVEMBER 2008 GENERAL ELECTION

WHEREAS, a Washington, D.C.-based special interest group has qualified an
initiative for the November 4, 2008 statewide ballot that would ban current safe and
humane farming practices in California, particularly regarding housing requirements for
egg-laying hens, and

WHEREAS, this unnecessary initiative would place new, extreme mandates on
how egg-laying hens are housed, banning almost all modern egg production in California,
which would have dangerous and expensive consequences for our state, and

WHEREAS, existing laws and standards already protect animal welfare and food
safety, and

WHEREAS, modern housing systems, which constitute about 95% of U.S. egg
production, were developed by animal scientists to ensure the fundamental components
of sound animal care – optimal feed, light, air, water, space and sanitation for egg-laying
hens, and

WHEREAS, as drafted, Proposition 2 yields a message that farmers caring for
egg-laying hens treat their birds poorly, when the reality is that local farmers know their
success depends on healthy and content animals and without advanced animal welfare
practices egg production would diminish and farms would likely fail, and

WHEREAS, non-cage production costs are simply too far above the costs of the
cage systems used in other states to allow California producers to compete with imported
eggs in the conventional egg market, which could result in the elimination of almost all of the California and local egg industry over a few years, and

WHEREAS, the potential impact to the California and local farm industry is the almost complete elimination of egg production in California within the five-year adjustment period, and

WHEREAS, from an environmental and economic standpoint, the value of locally produced farm products is high. As drafted, Proposition 2 has the potential to chase away local farmers only to have our needs met by eggs trucked hundreds of miles from other states, and

WHEREAS, the economics of this issue are critical to the local family farmers who stand to lose their livelihoods and their hundreds of employees who stand to lose their jobs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby opposes the passage of Proposition 2, Standards for Confining Farm Animals, to be voted on in the November 2008 General Election.
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 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 CAPITAL FACILITIES FEES “LIKE FOR LIKE” CREDIT AGREEMENT BETWEEN THE CITY OF MODESTO AND MCHENRY-BRIGGSMORE REAL ESTATE INVEST GROUP, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR RETAIL DEVELOPMENT LOCATED AT THE SOUTHWEST CORNER OF BRIGGSMORE AVENUE AND MCHENRY AVENUE AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT (FUNDING SOURCE: CAPITAL FACILITIES FEES)

WHEREAS, on February 5, 2008, the City Council adopted Resolution No. 2008-070 updating and amending its Capital Facilities Fees Policies and Procedures, and provided for Capital Facilities Fees (“CFF”) to be credited for former buildings, and

WHEREAS, McHenry-Briggsmore Real Estate Invest Group, a California Limited Liability Company, (the “Developer”) is constructing a retail development at the southwest corner of McHenry Avenue and Briggsmore Avenue (“Project”) in the City of Modesto, (“City”), and

WHEREAS, Developer will be eligible for a CFF credit based on its using fewer square feet for its retail operations than were previously used for retail operations in the same shell building, and

WHEREAS, in a separate Agreement entitled “CFF Right of Way and Improvement Reimbursement Agreement”, Developer is also being required to construct certain street improvements in order to obtain its building permit, and

WHEREAS, Developer and City wish to provide the manner in which Developer will pay the required CFF and be reimbursed for the “like for like” retail building credit and for constructing certain street improvements,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that:

1. The Project’s total CFF obligation to CITY is $527,320 ("Total CFF").

2. Developer is entitled to a “like for like” credit of 9,814 square feet against its Total CFF to compensate for the reduced retail square footage in its building in the sum of $193,827.

3. Total CFF required to be paid at issuance of Developer’s building permit shall be reduced by the credit sum so that the net payment to account for CFF from Developer to City to be paid at issuance of Developer’s building permit shall be $333,498.

4. Developer agrees that prior to receiving its Certificate of Occupancy, it will install street improvements in accordance with the CFF Right of Way and Improvement Reimbursement Agreement approved by Council on October 14, 2008 and a Notice to Proceed issued by the City. If these requirements are not fulfilled, and the infrastructure is installed, it will be deemed dedicated to the CITY, and no reimbursement will be due to Developer.

BE IT FURTHER RESOLVED that the CFF “Like for Like” Credit Agreement between the City of Modesto and McHenry-Briggsmore Real Estate Invest Group, a California Limited Liability Company is hereby approved.

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]

(S SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-591

A RESOLUTION APPROVING A CAPITAL FACILITIES FEES RIGHT OF WAY AND IMPROVEMENT REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND BRIGGSMORE-MCHENRY REAL ESTATE INVEST GROUP, A CALIFORNIA LIMITED LIABILITY COMPANY, WITH A MAXIMUM REIMBURSEMENT AMOUNT OF $153,413 FOR RIGHT OF WAY DEDICATION AND CONSTRUCTION OF CERTAIN STREET IMPROVEMENTS AT THE SOUTHWEST CORNER OF BRIGGSMORE AVENUE AND MCHENRY AVENUE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT (FUNDING SOURCE: CAPITAL FACILITIES FEES)

WHEREAS, Briggsmore-McHenry Real Estate Invest Group, a California Limited Liability Company, (the “Developer”) has a legal interest in property located at the southwest corner of Briggsmore Avenue and McHenry Avenue (“Project) in the City of Modesto (“City”), and

WHEREAS, in connection with the development of said Project, Developer is required to construct certain street improvements on McHenry Avenue along the frontage of the Property (the “Improvements”), and

WHEREAS, as a condition of approval of the Project, the Developer is required to dedicate 2,954 square feet of right of way along McHenry Avenue (the “Dedication”), and

WHEREAS, all or a portion of the Improvements and Dedication are reimbursable through the City’s Capital Facilities Fees (“CFF”) program, and

WHEREAS, the City and the Developer are proposing to enter into a CFF Right of Way and Improvement Reimbursement Agreement (“Agreement”) between the City of Modesto and Developer to provide for reimbursement for the right of way to be dedicated and improvements to be constructed, and
WHEREAS, said Agreement shall have a maximum reimbursement amount of $153,413, which will be allocated from the Streets CFF fund as follows, not later than thirty (30) days after completion and acceptance of Improvements and not later than sixty (60) days after recordation of the Dedication, as follows:

<table>
<thead>
<tr>
<th>ITEM</th>
<th>QTY,</th>
<th>UNIT</th>
<th>FUND</th>
<th>TOTAL COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>McHenry ROW</td>
<td>2,954 sf</td>
<td>$8.34/sf</td>
<td>1410-Streets</td>
<td>$ 24,646.00</td>
</tr>
<tr>
<td>McHenry Improvements</td>
<td></td>
<td></td>
<td></td>
<td>$ 128,767.00</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$153,413.00</strong></td>
</tr>
</tbody>
</table>

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

1. The proposed CFF Right of Way and Improvement Reimbursement Agreement between the City of Modesto and Briggsmore-McHenry Real Estate Invest Group, a California Limited Liability Company ("Project") is consistent with the Modesto Urban Area General Plan.

2. The reimbursement for the proposed right of way is included in the 2006 CFF Program.

3. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this Project is within the scope of the projects covered by the General Plan Master EIR ("Program EIR") and no new environmental document or findings are required by CEQA.

4. There are no substantial changes proposed in the Project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Program EIR, are required.

5. No substantial changes have occurred with respect to the circumstances under which the Project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Program EIR, are required.
6. There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Program EIR, was adopted which shows any of the following:
   a. one or more significant effects which is not discussed in the Program EIR; or,
   b. significant effects which were previously examined will be substantially more severe than previously shown; or,
   c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the Project proponents decline to adopt the mitigation measure or alternative; or,
   d. mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the Project proponents decline to adopt the mitigation measure or alternative.

BE IT FURTHER RESOLVED that the CFF Right of Way and Improvement Reimbursement Agreement between the City of Modesto and McHenry-Briggsmore Real Estate Invest Group, a California Limited Liability Company, is hereby approved.

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. 2008-592

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO
SOLICIT BIDS FOR NEW VEHICLES AND HEAVY EQUIPMENT
THROUGHOUT FY 08/09 THROUGH VARIOUS COMPETITIVE PROCESSES
AND IN A CUMULATIVE AMOUNT NOT TO EXCEED THE BUDGETED
AMOUNT OF $1,779,000

WHEREAS, the City has an ongoing need to purchase vehicles and heavy
equipment throughout the year, and

WHEREAS, the expenditures for vehicles and heavy equipment have been
approved by Council through the budget process, and

WHEREAS, the vehicles and heavy equipment are purchased by means of formal
and informal bid processes, auction, negotiation, and by “piggybacking” off State
contracts and other agencies’ competitively bid contracts, and

WHEREAS, in past years Council has authorized the Purchasing Manager to
solicit bids and go to auction for said vehicles and heavy equipment without having to go
before the Finance Committee and the Council for authorization to issue bids, and

WHEREAS, by authorizing the Purchasing Manager or his designee to solicit bids
for vehicles and heavy equipment for the entire fiscal year without having to go before
Council for bid/purchasing approval the City will save substantial staff and processing
time, and

WHEREAS, the request for authorization to award bids and contracts for new
vehicles and equipment will still come before Council, and conform to Modesto
Municipal Code Section 8-3.203(a), and
WHEREAS, upon approval by Council, the Purchasing Manager will solicit bids for new vehicles and heavy equipment throughout FY 08/09 through various competitive processes and in a cumulative amount not to exceed the budgeted amount of $1,779,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Manager is hereby authorized to solicit bids for new vehicles and heavy equipment throughout FY 08/09 through various competitive processes and in a cumulative amount not to exceed the budgeted amount of $1,779,000, returning to Council for authorization to award bids and contracts on new vehicles and heavy equipment.

The foregoing resolution was introduced at a 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. 2008-593

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF DIESEL PARTICULATE FILTERS TO A-Z EMISSIONS SOLUTION, SACRAMENTO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $139,063

WHEREAS, funds are budgeted in Fleet Management Fund Account 7200-480-5812-0365-05 in the amount of $139,063 for the purchase of diesel particulate filters, and

WHEREAS, in 2000, the California Air Resources Board (CARB) approved the Diesel Risk Reduction Plan, which focused on reducing diesel particulate matter (PM) emissions. This plan targets 1960 to 2006 model year on-road diesel powered vehicles, and

WHEREAS, beginning in 2007, the implementation of the Diesel Risk Reduction Plan affected only municipalities and utilities, and

WHEREAS, in 2007, twenty percent (20%) of City’s seventy-one (71) vehicles were affected by these regulations with the entire fleet compliant by 2011, and

WHEREAS, on September 22, 2008, the CARB issued a deadline for the installation of diesel particulate filters that do not comply with the 2009 Nitrogen Dioxide Emission Limits, and

WHEREAS, the diesel particulate filters that are needed by the City must be purchased by October 31, 2008, and installed before February 28, 2009, due to the revised CARB requirements, 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, and
WHEREAS, one exception to the Modesto Municipal Code, Section 8-3.204 (c), allows for the Purchasing Manager, in his discretion, to determine that calling for bids on a competitive basis as set forth in Section 8-3.203 is undesirable due to exigent circumstances, and

WHEREAS, due to the manufacturer requirements that all orders be placed by October 31, 2008, and the installation deadline from the CARB, an Informal Bid was issued for the purchase of diesel particulate filters for the Public Works Department, Fleet Services Division, which conforms to the Modesto Municipal Code, and

WHEREAS, based on being deemed the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of diesel particulate filters to A-Z Emission Solutions, Sacramento, CA, for an estimated total cost of $139,063,

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 diesel particulate filters to A-Z Emissions Solutions, Sacramento, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for an estimated total cost of $139,063.
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: ____________________________

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ____________________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-594

A RESOLUTION APPROVING AN AMENDMENT TO THE EXISTING LICENSE AGREEMENT WITH THE MODESTO NUTS PROFESSIONAL BASEBALL CLUB TO EXTEND THE DEADLINE FOR STADIUM IMPROVEMENTS AT JOHN THURMAN FIELD BY ONE YEAR TO OCTOBER 24, 2010, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AMENDMENT TO AGREEMENT

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

WHEREAS, on October 24, 2006, by Resolution No. 2006-691, the City Council approved a ten-year license agreement between the City of Modesto and the Modesto Nuts Professional Baseball Club for the lease of John Thurman Field, and

WHEREAS, it is the desire of the City of Modesto and the Modesto Nuts Professional Baseball Club to continue with stadium improvements at John Thurman Field, and

WHEREAS, the existing license agreement requires stadium improvements to be completed by October 24, 2009, and

WHEREAS, both the City of Modesto and the Modesto Nuts Professional Baseball Club wish to extend the deadline for stadium improvements by one year, and

WHEREAS, the new expiration date for the completion of stadium improvements at John Thurman Field will be October 24, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Amendment to the License Agreement between the City of Modesto and the Modesto Nuts Professional Baseball Club is hereby approved.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment to agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 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: SUSANÁ ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-595

A RESOLUTION APPROVING A LEASE AGREEMENT BETWEEN PROJECT SENTINEL AND THE CITY OF MODESTO FOR THE PROPERTY LOCATED AT 412 DOWNEY AVENUE FOR ONE DOLLAR ($1.00) FOR A ONE-YEAR TERM TO PROVIDE FAIR HOUSING SERVICES; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE LEASE AGREEMENT

WHEREAS, Project Sentinel provides fair housing services for the City of Modesto and is funded through the Community Development Block Grant (CDBG), and

WHEREAS, on November 13, 2007, the Modesto City Council directed staff to look for a way to assist Project Sentinel to help ease the reduction in CDBG funding, and

WHEREAS, the City of Modesto owns and manages the property located at 412 Downey Avenue, and

WHEREAS, staff has determined that by allowing Project Sentinel to lease the property located at 412 Downey Avenue for One Dollar ($1.00) for a one-year term, they will be able to utilize their current CDBG funding to provide fair housing services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a Lease Agreement between Project Sentinel and the City of Modesto for the property located at 412 Downey Avenue for One Dollar ($1.00) for a term of one year is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the Lease 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)

APPROVED AS TO FORM:

By 

SUSANA ALCALA WOOD, City Attorney