MODESTO CITY COUNCIL  
RESOLUTION NO. 2007-426  

RESOLUTION AUTHORIZING THE MODESTO FIRE DEPARTMENT TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR APPARATUS BAY DOOR REPAIR AND MAINTENANCE SERVICES 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 $25,000 AND A ONE TIME COST OF UP TO $150,000 IN THE FIRST YEAR

WHEREAS, each Fire Station has at least one and up to eight bay doors, and

WHEREAS, the bay doors are the large roll up doors that are used to secure the fire apparatus, and

WHEREAS, some of the bay doors and remote opening systems are thirty years old, and

WHEREAS, in the past these doors have been repaired under the blanket purchase order system, and

WHEREAS, due to their age the repairs of these doors are becoming more frequent and costly, and

WHEREAS, many of the doors do not have the electronic eyes required by Cal OSHA for safety, and

WHEREAS, it is time to have the bay door system evaluated at each Fire Station and to implement a plan for bringing the doors up to the minimum standards required by state and local codes, and

WHEREAS, by soliciting bids, the City will meet the Modesto Municipal Code requirements for formal bid procedures and will obtain the best value.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Modesto Fire Department to issue the formal Request for Bids (RFB) for apparatus bay door repair and maintenance services 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 $25,000, and a one time cost of up to $150,000 in the first year.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: Stephanie Lopez, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
RESOLUTION AUTHORIZING THE DONATION OF SURPLUS PERSONAL PROTECTIVE EQUIPMENT FROM THE MODESTO FIRE DEPARTMENT TO VARIOUS ORGANIZATIONS IN NEED

WHEREAS, personal protective equipment is provided to our firefighters to protect them when fighting fires, and

WHEREAS, the California Occupational Safety and Health Administration and the National Fire Protection Association have establish guidelines for the quality of personal protective equipment, and

WHEREAS, personal protective equipment that is removed from service because it no longer meets the California Occupational Safety and Health Administration and the National Fire Protection Association guidelines does not serve a purpose at the Fire Department, and

WHEREAS, when personal protective equipment can no longer be utilized for active firefighting, it can be used for demonstration and training purposes, and

WHEREAS, personal protective equipment can be used in Explorer programs or in Fire Service outside the country, and

WHEREAS, it is requested that certain items of personal protective equipment be donated to various organizations in need.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the donation of surplus personal protective equipment from the Modesto Fire Department to various organizations in need.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE SALE OF SURPLUS PERSONAL PROTECTION EQUIPMENT FROM THE MODESTO FIRE DEPARTMENT TO THE YOSEMITE COMMUNITY COLLEGE DISTRICT, REGIONAL FIRE TRAINING CENTER

WHEREAS, personal protective equipment is provided to firefighters to protect them when fighting fires, and

WHEREAS, the California Occupational Safety and Health Administration and the National Fire Protection Association have establish guidelines for the quality of personal protective equipment, and

WHEREAS, personal protective equipment that is removed from service because it no longer meets the California Occupational Safety and Health Administration and the National Fire Protection Association guidelines does not serve a purpose at the Fire Department, and

WHEREAS, when this equipment can no longer be utilized for active firefighting, it can be used for demonstration and training purposes, and

WHEREAS, the Regional Fire Training Center (RFTC) has made a request to purchase the personal protective equipment which has been removed from service, and

WHEREAS, these items will be used by instructors at the RFTC, and

WHEREAS, we are requesting permission to sell the personal protective equipment for $100.00 per set to the RFTC.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the sale of surplus personal protective equipment from the
Modesto Fire Department to the Yosemite Community College District, Regional Fire Training Center.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST:  

( SEAL )  

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-429

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO CONDUCT A SOLE SOURCE ACQUISITION WITH HTEVAR TO PURCHASE AN IBM POWER6 MODEL M25 SERVER AND PROVIDE MIGRATION AND TRAINING SERVICES/SUPPLIES FOR THE EXISTING SUNGARD HTE UTILITY BILLING MISCELLANEOUS RECEIVABLES SYSTEM, FOR AN ESTIMATED TOTAL COST OF $112,010.00

WHEREAS, the existing Sungard HTE public administration software suite, which operates the City of Modesto Utility Billing System, has been hosted on the current IBM AS/400 Model 820 computer since September 2001, and

WHEREAS, the capacity of the current server has been stretched beyond the expected five-year lifecycle and is at or above recommended maximum levels for processor, memory and storage utilization, and

WHEREAS, Information Technology staff advises this upgrade is necessary to ensure ongoing service is provided to the City’s utility customers and that this upgrade will provide needed capacity for the existing applications as well as the capability for future upgrades, 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, there are exceptions to this rule. Modesto Municipal Code Section 8-3.204(b), states, “Where the Purchasing Agency’s requirements can be met solely by a single article or process,” and

WHEREAS, due to the technical specifications required by the Information Technology Department, including complete compatibility with previously authorized and procured Sungard HTE public sector application systems and the fact that HTEVAR
is the sole authorized vendor for Sungard HTE hardware and systems migration support, the procurement will be conducted as a sole source, and 

WHEREAS, the hardware is used primarily for utility billing purposes, it is appropriate to allocate $112,010.00 for this purchase equally to the Water and Sewer Enterprise Funds.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby authorizes the Purchasing Manager to conduct a sole source acquisition with HTEVAR to purchase an IBM Model Power6 M25 server and provide migration and training services/supplies for the existing Sungard HTE Utility Billing Miscellaneous Receivables System, for an estimated total cost of $112,010.00.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-430

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO CONDUCT A SOLE SOURCE ACQUISITION WITH SUNGARD HTE TO PURCHASE THE NAVILINE WEB UPGRADE, MIGRATION AND TRAINING SERVICES FOR SUNGARD HTE UTILITY BILLING AND MISCELLANEOUS RECEIVABLES SYSTEM FOR AN ESTIMATED TOTAL COST OF $85,000.00

WHEREAS, the existing Sungard HTE public administration software suite, which operates the City of Modesto Utility Billing System, has been operational since September 1999, and

WHEREAS, the vendor recently released information that upgrades are no longer available for the version of the software currently used by the City, and

WHEREAS, enhancements and improved performance components will not be developed for our current version of the Utility Billing System, and

WHEREAS, all HTE systems will require the Naviline web upgrade to receive system enhancements and improvements, and

WHEREAS, the Naviline upgrade will provide end-users with a Windows based environment, ease of administration and will facilitate simplified training methods while decreasing training time, 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, there are exceptions to this rule. Modesto Municipal Code Section 8-3.204(b), states, “Where the Purchasing Agency’s requirements can be met solely by a single article or process,” and

WHEREAS, due to the technical specifications required by the Information Technology Department, including complete compatibility with previously authorized
and procured Sungard HTE public sector application systems and the fact that Sungard HTE is the sole authorized vendor for Sungard HTE systems and support, the procurement will be conducted as a sole-source, and

WHEREAS, the software is used primarily for utility billing purposes, it is appropriate to allocate $85,000.00 for this purchase equally to the Water and Sewer Enterprise Funds.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby authorizes the Purchasing Manager to conduct a sole source acquisition with Sungard HTE to purchase the Naviline web upgrade, migration and training services for Sungard HTE Utility Billing and Miscellaneous Receivables System for an estimated total cost of $85,000.00.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen
NOES: Councilmembers: None
ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AMENDING THE FISCAL YEAR 08-09 OPERATING BUDGET TO TRANSFER $98,505 FROM 6100-800-8000-8003, WATER FUND RESERVES AND TRANSFER $98,505 FROM 6210-800-8000-8003, WASTEWATER FUND RESERVES TO THE INFORMATION TECHNOLOGY FUND RESERVES WHERE THESE FUNDS WILL BE APPROPRIATED TO 7130-070-0744-5452 FOR HARDWARE, MIGRATION AND TRAINING SERVICES FOR THE HTE SYSTEM UPGRADE

WHEREAS, the software and related hardware are used primarily for utility billing purposes it is appropriate to allocate the costs of this purchase to the Water and Sewer Enterprise Funds, and

WHEREAS, the total cost of approximately $197,010.00 will be shared equally between these funds, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 08-09 operating budget to transfer $98,505 from 6100-800-8000-8003, Water Fund Reserves and transfer $98,505 from 6210-800-8000-8003, Wastewater Fund Reserves to the Information Technology Fund Reserves where these funds will be appropriated to (account number here) for migration and training services for the existing HTE software upgrade.

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 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-432

A RESOLUTION AMENDING RESOLUTION NO. 2006-145 TO INCLUDE TAXES IN AMOUNT NOT TO EXCEED $12,000 PER YEAR TO THE RECURRING ANNUAL COSTS OF $160,000, FOR A TOTAL ANNUAL COST NOT TO EXCEED $172,000 TERM OF FIVE YEARS

WHEREAS, the City has an ongoing need to purchase Microsoft software utilized by the City of Modesto and managed by the Information Technology Department, and

WHEREAS, the City has an ongoing need to pay taxes on the Microsoft software which is utilized by the City of Modesto and managed by the Information Technology Department, and

WHEREAS, the expenditures for this agreement were approved by Council through Resolution No. 2006-145 in an amount not to exceed $160,000, and

WHEREAS, staff is requesting the Purchasing Manager to be authorized to add taxes to Resolution 2006-145 in an amount not to exceed $12,000 per year,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Resolution No. 2006-145 is amended to include taxes in an amount not to exceed $12,000 per year to the Recurring annual costs of $160,000, for a total annual cost not to exceed $172,000 for a term of five years.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

BY: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-433

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER TO DELL CORPORATION UNDER THE STATE OF CALIFORNIA, DEPARTMENT OF GENERAL SERVICES AND THE WESTERN STATES CONTRACTING ALLIANCE (WSCA) FOR A MICROSOFT ENTERPRISE AGREEMENT (EA) TRUE UP IN THE AMOUNT NOT TO EXCEED $62,000

WHEREAS, the City has an ongoing need to purchase Microsoft software utilized by the City of Modesto and managed by the Information Technology Department, and

WHEREAS, the City has an ongoing need to True Up Microsoft software annually which is utilized by the City of Modesto and managed by the Information Technology Department, and

WHEREAS, the expenditures for this agreement were approved by Council through Resolution No.2006-145, and

WHEREAS, staff is requesting the Purchasing Manager be authorized to purchase the True Up from Dell Corporation in an amount not to exceed $62,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Manager is hereby authorized to issue a purchase order to Dell Corporation under the State of California, Department of General Services and the Western States Contracting Alliance for a Microsoft Enterprise Agreement True Up in an amount not to exceed $62,000.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

BY: [Signature]
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-434

A RESOLUTION APPROVING AN ADDITIONAL SIXTY (60) DAY EXTENSION TO A SIX-MONTH PROVISIONAL APPOINTMENT FOR JEANETTE MAURER AS ADMINISTRATIVE ANALYST/TECHNOLOGY SOLUTIONS ANALYST

WHEREAS, the Information Technology Department has a vacant Administrative Analyst/Technology Solutions Analyst position, and

WHEREAS, Jeanette Maurer was provisionally appointed as Administrative Analyst/Technology Solutions Analyst on July 24, 2007, and

WHEREAS, unforeseen delays in the adoption of the Bryce wall-to-wall study have caused a delay in filling the vacant Technology Solutions Analyst position, and

WHEREAS, the City Council on January 8, 2008, by Resolution No 2008-028, approved a sixty (60) day extension to the six-month provisional appointment for Jeanette Maurer as Administrative Analyst/Technology Solutions Analyst, and

WHEREAS, the City Council on April 1, 2008, by Resolution No 2008-177, approved an additional sixty (60) day extension to the six-month provisional appointment for Jeanette Maurer as Administrative Analyst/Technology Solutions Analyst, and

WHEREAS, the City Council on May 27, 2008, by Resolution No 2008-302, approved an additional sixty (60) day extension to the six-month provisional appointment for Jeanette Maurer as Administrative Analyst/Technology Solutions Analyst, and

WHEREAS, this current extension is expires on August 1, 2008, and

WHEREAS, the Information Technology Department desires an additional extension to the provisional appointment of Jeanette Maurer for another sixty (60) days
until a successful candidate can be hired in the capacity of Technology Solutions Analyst, and

WHEREAS, Modesto Personnel Rule 7.5 (c) requires Council approval if a provisional appointment is to exceed the six-month period authorized by said rule, and

WHEREAS, staff is requesting that the City Council approve an additional sixty (60) day extension to this provisional appointment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an additional sixty (60) day extension to the six-month provisional appointment of Jeanette Maurer to the position of Administrative Analyst/Technology Solutions Analyst.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

[SUSANA ALCALA WOOD, City Attorney]
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-435

A RESOLUTION APPROVING THE FY 2008-2009 BUDGET FOR THE
STANISLAUS RESOURCE RECOVERY (WASTE-TO-ENERGY)
FACILITY, AS AMENDED

WHEREAS, on December 17, 1985, the City of Modesto and County of
Stanislaus entered into an agreement for administration of the City/County Services
Agreement with the Stanislaus Waste Energy Company (now Covanta Stanislaus) for
supply and acceptance of solid waste, and

WHEREAS, the City has been a partner with Stanislaus County and Covanta
Stanislaus in the Stanislaus Resource Recovery Facility (the "Waste-to-Energy" or
"WTE" Facility), and

WHEREAS, the Agreement established a Solid Waste-to-Energy Executive
Committee ("Executive Committee"), which prepares an annual budget for each fiscal
year, and submits said annual budget to the City Council and Board of Supervisors for
approval by August 1st of a year, and

WHEREAS, said Executive Committee may also recommend adjustments to an
approved annual budget as necessary to provide sufficient funding for project activities,
and

WHEREAS, the Committee initially approved the 2008-09 budget for the facility
in March, 2008, and

WHEREAS, the recent turmoil in the bond markets required that the City/County
Financing Agency convene a special meeting to consider paying off the project debt in
advance of the original December 31, 2009, term, and
WHEREAS, this action, in turn, required a significant adjustment to the project budget, which was approved by the Committee for submittal to the Council and Board on July 10, 2008, and

WHEREAS, the Fiscal Year 2008-09 WTE budget was based on the Assumptions, Revenues, Expenditures and Tip Fee Calculation shown on Exhibits “1” and “2”, copies of which are attached hereto and incorporated herein by reference, and

WHEREAS, at its July 10, 2008, meeting, the Executive Committee also considered the proposed FY 2008-09 Budget, as amended, as shown on Exhibit “2”, a copy of which is attached hereto and incorporated herein by reference, and the Executive Committee unanimously approved forwarding this proposed FY 2008-09 budget to the Modesto City Council and the Stanislaus County Board of Supervisors for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the FY 2008-09 Waste-to-Energy Project Budget, a copy of which is attached hereto as Exhibits “1” and “2” and incorporated herein by reference, as recommended by the Executive Committee.
## EXHIBIT 1
Stanislaus Waste to Energy Project
Proposed Budget FY 2008-2009

<table>
<thead>
<tr>
<th>Expenditures</th>
<th>$</th>
<th>Revenues</th>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating &amp; Maintenance Expense</td>
<td>11,965,529</td>
<td>Electric Credit Revenue from Electric Sales</td>
<td>8,463,068</td>
</tr>
<tr>
<td>Pass-Through Costs</td>
<td>$</td>
<td>Fixed Capacity Charge</td>
<td>3,179,500</td>
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<tr>
<td>Ash Disposal</td>
<td>$</td>
<td>Gross Electric Revenues</td>
<td>11,642,568</td>
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<tr>
<td>Process Rejects</td>
<td>4,043</td>
<td>Total Electric Credit</td>
<td>$ 10,478,312</td>
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<tr>
<td>Recovered Materials (Credit)</td>
<td>-59,018</td>
<td>RRA Interest Earnings</td>
<td>$ 951,743</td>
</tr>
<tr>
<td>Insurance</td>
<td>264,029</td>
<td>Disposal Fees</td>
<td>$ 6,869,000</td>
</tr>
<tr>
<td>Nonferrous Metals</td>
<td>25,250</td>
<td>Supplemental Waste Disposal</td>
<td>$ 425,000</td>
</tr>
<tr>
<td>Property Tax</td>
<td>$</td>
<td>Use of RRA Fund Balance</td>
<td>$ 6,641,978</td>
</tr>
<tr>
<td>Sales Tax</td>
<td>$</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Site Lease</td>
<td>198,000</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Air Permit Fees</td>
<td>10,672</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>County Fees/Other Fees</td>
<td>264,029</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Franchise Fees</td>
<td>264,029</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Carbon Expense</td>
<td>10,672</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Dolomitic Lime Expense</td>
<td>204,084</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Total Pass-Through Costs</td>
<td>$ 2,963,734</td>
<td></td>
<td>$</td>
</tr>
</tbody>
</table>

## Debt Service Expense

| Bond Principal Payment Due January 1st       | 7,370,000 | Bond Interest Expense                  | 789,734 |
| Liquidity Fee                               | 34,292    | Remarketing Fee                        | 10,542  |
| DSRF Interest Earnings                      | 368,596   |                                        | $        |
| Principal Account Interest Earnings         | 217,950   |                                        | $        |
| Net Debt Service Expense                    | $ 7,687,052 |                                        | $        |

## Annual Administrative Expenses

<table>
<thead>
<tr>
<th>Item Description</th>
<th>$</th>
<th>Item Description</th>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td>60400-Communications</td>
<td>0</td>
<td>64140-Contributions to other agencies (HHW and AR939 surcharges)</td>
<td>0</td>
</tr>
<tr>
<td>61600-Maintenance</td>
<td>0</td>
<td>65000-Public/Legal Notices</td>
<td>500</td>
</tr>
<tr>
<td>62200-Memberships (IEPA)</td>
<td>21,961</td>
<td>65110-Office Equipment</td>
<td>0</td>
</tr>
<tr>
<td>62410-Rebates &amp; Refunds (Arbitrage Liability)</td>
<td>107,123</td>
<td>65300-Office/Structural</td>
<td>0</td>
</tr>
<tr>
<td>62500-Office Supplies</td>
<td>530</td>
<td>65780-Education/Training</td>
<td>3,214</td>
</tr>
<tr>
<td>62760-Books/Periodicals</td>
<td>536</td>
<td>67040-Travel Expenses (Wte cont.)</td>
<td>8,035</td>
</tr>
<tr>
<td>63000-Professional &amp; Special Services</td>
<td>214,245</td>
<td>74060-Central Services Printing</td>
<td>0</td>
</tr>
<tr>
<td>(Leg. Lobbyist, Audits, FIA’s, Energy Consultant)</td>
<td>0</td>
<td>74250-County Council</td>
<td>21,425</td>
</tr>
<tr>
<td>63280-Contracts</td>
<td>0</td>
<td>74360-County Auditor</td>
<td>114</td>
</tr>
<tr>
<td>63410-City of Modesto Admin.</td>
<td>220,187</td>
<td>74392-County Purchasing</td>
<td>476</td>
</tr>
<tr>
<td>63500-Legal Services (outside Counsel)</td>
<td>200,000</td>
<td>74570-County Stores</td>
<td>0</td>
</tr>
<tr>
<td>65000-Public/Legal Notices</td>
<td>500</td>
<td>74592-County Admin. (Incl. project position)</td>
<td>325,974</td>
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<tr>
<td>65110-Office Equipment</td>
<td>0</td>
<td>74681-A-87 Charges</td>
<td>393</td>
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<tr>
<td>65300-Office/Structural</td>
<td>0</td>
<td>82130-Office Equipment</td>
<td>0</td>
</tr>
<tr>
<td>65780-Education/Training</td>
<td>3,214</td>
<td>84420-Personal Computer Equipment</td>
<td>0</td>
</tr>
<tr>
<td>67040-Travel Expenses (Wte cont.)</td>
<td>8,035</td>
<td>73010-Contributions to other agencies:</td>
<td>1,470,000</td>
</tr>
<tr>
<td>74060-Central Services Printing</td>
<td>0</td>
<td>(HHW and AR939 surcharges)</td>
<td>$</td>
</tr>
<tr>
<td>74250-County Council</td>
<td>21,425</td>
<td>Total Administrative Expenses</td>
<td>$ 2,710,718</td>
</tr>
<tr>
<td>74360-County Auditor</td>
<td>114</td>
<td>Total Expenditure</td>
<td>$ 28,357,033</td>
</tr>
<tr>
<td>74392-County Purchasing</td>
<td>476</td>
<td>Total Revenue</td>
<td>$ 28,357,033</td>
</tr>
</tbody>
</table>
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O'Bryant, Olsen

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: Keating, Mayor Ridenour

(Seal)

(Seal)

**APPROVED AS TO FORM:**

By 

SUSANA ALCALA WOOD, City Attorney
MODesto City Council
Resolution Number 2008-436

A Resolution Approving an Agreement with the Stanislaus County Probation Department in the Amount of $91,670 for One Police Officer to Provide High Risk Offender/Juvenile Warrant Enforcement Program for Fiscal Year 2008/09, and Authorizing the City Manager, or His Designee, to Execute the Agreement

WHEREAS, since July 1, 2001, the City of Modesto has continued to renew its Agreement with Stanislaus County Probation Department to provide the services of one police officer, with direct compensation being made to the City on an annual basis, and

WHEREAS, the program provides for intensive supervision of, and intervention with, high risk probationers, and

WHEREAS, the program also promotes accountability by aggressively targeting outstanding juvenile court warrants, allowing juvenile wards to increase their chances of successfully completing probation, and

WHEREAS, the 2009 budgeted salary and benefits for a full-time officer is $108,264.00 with revenue to remain at $91,670, or 85 percent reimbursement of salary and benefits, and

WHEREAS, the term of this Agreement is July 1, 2008 through June 30, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with the Stanislaus County Probation Department in the amount of $91,670 for one Police Officer to provide High Risk Offender/Juvenile Warrant Enforcement Program for fiscal year 2008/09.

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 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2008-437

A RESOLUTION AMENDING THE FISCAL YEAR 2008/09 OPERATING BUDGET BY APPROPRIATING $16,594 FROM THE GENERAL FUND RESERVE TO FULLY COVER THE COST OF THIS PROGRAM

WHEREAS, the Police Department would like to continue the Agreement with the Stanislaus County Probation Department for one police officer position allocated to execute the High Risk Offender/Juvenile Warrant Enforcement Program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the FY 2008/09 Operating Budget is hereby amended as indicated below to initiate said program:

APPROPRIATIONS:

FROM: 09-0100-190-1941-0184 0100R ($16,594) GF Reserves

TO: 09-0420-190-2983-0181 0420R $16,594 Police Outside Agreements

TRANSFERS BETWEEN FUNDS:

FROM: 09-0100-700-2983-7042 0100G $16,594 Gen’l Fund Transfer to Police Outside Agreements

TO: 09-0420-700-2983-9010 $16,594 Police Outside Agreements Transfer from Gen. Fund

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 6th day of August, 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, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-438

A RESOLUTION APPROVING A STANISLAUS DRUG ENFORCEMENT AGENCY JOINT POWERS AGREEMENT IN THE AMOUNT OF $786,690 TO PROVIDE A COORDINATED MULTI-AGENCY SPECIALLY TRAINED POLICE UNIT TO ASSIST EACH OF THE PARTICIPATING PARTIES TO ENFORCE DRUG LAWS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on September 15, 1999, the County of Stanislaus and the cities of Modesto, Oakdale, Ceres, Turlock, Hughson, Patterson, Waterford and Newman entered into an Agreement entitled, “Stanislaus Drug Enforcement Agency Joint Powers Agreement” (Agreement), and

WHEREAS, the purpose of the Agreement is to provide a coordinated multi-agency specially trained police unit to assist each of the participating agencies to enforce drug laws and narcotics enforcement, and

WHEREAS, the governing body for the Stanislaus Drug Enforcement Agency consists of a committee comprised of the Sheriff of Stanislaus County, the District Attorney of Stanislaus County, the Chief Probation Officer of Stanislaus County, and the Chief of Police of each participating agency, and

WHEREAS, the parties now desire to replace the Stanislaus Drug Enforcement Agency Joint Powers Agreement with a new Agreement to become effective July 1, 2008, and

WHEREAS, under the new Agreement the Fiscal Year 2008/2009 City contribution will be $786,690, and will be made up of cash and in-kind personnel services, and
WHEREAS, funds have been budgeted in the City’s General Fund Operating Budget for the Police Department, and

WHEREAS, the term of the Agreement will be July 1, 2008 to June 30, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Stanislaus Drug Enforcement Agency Joint Powers Agreement in the amount of $786,690 to provide a coordinated multi-agency specially trained police unit to assist each of the participating agencies to enforce drug laws..

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 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers:  None

ABSENT: Councilmembers:  Keating, Mayor Ridenour

ATTEST:  [Signature]
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  [Signature]
SUSANA ALCALA WOOD, City Attorney

08/06/08/Police/DSunday/Item 17            2008-438
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-439

A RESOLUTION APPROVING AN AGREEMENT WITH SYLVAN UNION SCHOOL DISTRICT IN THE AMOUNT OF $54,374 FOR THE PROVISION OF ONE HALF OF A MODESTO POLICE OFFICER’S/SCHOOL RESOURCE OFFICER’S (SRO) SALARY AND BENEFITS TO PROVIDE DIRECT LAW ENFORCEMENT SERVICES, EXPERTISE AND TRAINING AT THE SCHOOLS WITHIN THE DISTRICT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Sylvan Union School District (District) requires one Modesto Police Officer/School Resource Officer (SRO) to provide direct law enforcement services, Campus Supervisor training, in services, and consultations with site staff and District administrators, and liaison between Modesto Police Department and Sylvan Union Schools, and

WHEREAS, the Modesto Police Department can provide a specially trained, uniformed police officer and take any enforcement action at the school site, if warranted, and

WHEREAS, the officer’s presence with the students provides mentoring and protection of youth in our community, and

WHEREAS, the term of this agreement is August 25, 2008 to June 5, 2009, and

WHEREAS, District and Modesto Police Department would like to continue the 50/50 partnership to share the cost to fund a Modesto Police Officer/SRO at the schools in the Sylvan Union School District, and

WHEREAS, District will reimburse the City of Modesto $54,374 for the services of one-half a Modesto Police Officer’s/School Resource Officer’s salary and benefits,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between the City of Modesto and the Sylvan Union School District.
School District in the amount of $54,374 for the provision of one-half of a Modesto Police Officer/School Resource Officer's salary and benefits to provide direct law enforcement service, expertise and training at the schools within the District through the services of a School Resource Officer.

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 6th day of August, 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, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: 

(SIELD)

APPROVED AS TO FORM:

By 

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING AN AMENDMENT TO THE CITY/COUNTY PARTY PATROL AGREEMENT TO EXTEND THE TERMINATION DATE BY NINETY (90) DAYS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on December 4, 2007, the City Council, by Resolution No. 2007-720, approved an agreement with Stanislaus County Behavioral Health and Recovery Services, to provide Party Patrol Police Officers and conduct juvenile alcohol education, prevention and intervention programs for the City of Modesto and Stanislaus County, and

WHEREAS, the term of the Agreement was October 1, 2007 through June 30, 2008, and

WHEREAS, the parties wish to amend the agreement to extend the termination date by ninety (90) days, and

WHEREAS, this extension will allow for the completion of services/activities for Party Patrol Police Officers, juvenile alcohol education and intervention programs, and

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

WHEREAS, the Amendment extends the termination date of the Agreement to September 30, 2008, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the City/County Party Patrol Agreement to extend the termination date by ninety (90) days.

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 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-441

A RESOLUTION APPROVING A LONGITUDINAL PIPELINE ENCROACHMENT AGREEMENT WITH THE UNION PACIFIC RAILROAD COMPANY TO ALLOW THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A WATER TRANSMISSION PIPELINE ALONG THE UNION PACIFIC RAILROAD’S RIGHT-OF-WAY BETWEEN PELANDALE AVENUE AND BANGS AVENUE IN THE AMOUNT OF $15,320, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto desires to construct, operate, and maintain a water transmission line along the Virginia Avenue Corridor, and

WHEREAS, the portion of the Virginia Avenue Corridor between Pelandale Avenue and Bangs Avenue is still within the active Union Pacific Railroad Company right-of-way, and

WHEREAS, the Union Pacific Railroad Company requires a Longitudinal Pipeline Encroachment Agreement prior to the construction of the pipeline within their right-of-way, and

WHEREAS, the Union Pacific Railroad Company also requires a one-time License Fee payment of $15,320 to grant the City of Modesto the right to construct, operate, and maintain the underground water transmission line, and

WHEREAS, staff at the City of Modesto has reviewed the Agreement and recommends City Council approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Longitudinal Pipeline Encroachment Agreement with the Union Pacific Railroad Company to allow the construction, operation, and maintenance of a water transmission pipeline along the Union Pacific Railroad’s right-of-way between Pelandale Avenue and Bangs Avenue in the amount of $15,320.
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 6th day of August, 2008, by Councilmember ?, who moved its adoption, which motion being duly seconded by Councilmember ?, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: ___________________________ 
__________________________
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By ____________________________
SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AUTHORIZING EXPENDITURE OF THE CURRENTLY BUDGETED STANISLAUS & TUOLUMNE RIVERS' GROUNDWATER BASIN ASSOCIATION (STRGBA) - GROUNDWATER MANAGEMENT PLAN (GWMP) - SECONDARY FUNDS (APPROXIMATELY $49,950) TO CONTINUE PARTICIPATION IN ONGOING GROUNDWATER MANAGEMENT RELATED ACTIVITIES

WHEREAS, the City Council, on January 27, 2004, by Resolution No. 2004-061, authorized staff to participate in the development of Groundwater Management Plans and authorized the initial expenditure of budgeted funds for the development of Groundwater Management Plans for both of the two groundwater sub-basins underlying the City of Modesto, and

WHEREAS, the City of Modesto is currently participating in two groundwater associations, the Stanislaus and Tuolumne Rivers’ Groundwater Basin Association (STRGBA) and the Turlock Groundwater Basin Association (TGBA), to discuss groundwater issues within these respective basins, and

WHEREAS, the City has experienced a decline in groundwater quality at a number of well sites, which has resulted in those wells being taken out of service, and

WHEREAS, on June 28, 2005, the City Council, by Resolution No. 2005-340, adopted an Integrated Regional Groundwater Management Plan (IRGMP) with the STRGBA that provides a framework for overseeing and coordinating both groundwater and surface water management activities within the Modesto Groundwater Sub-basin, and

WHEREAS, on April 1, 2008, the City Council, by Resolution No. 2008-206, adopted a Groundwater Management Plan (GMP) with the TGBA that provides a
framework for overseeing and coordinating both groundwater and surface water management activities within the Modesto Groundwater Sub-basin, and

WHEREAS, additional expenditures by the City are required to continue participating in ongoing groundwater management related activities in order to: 1) make payment to the Modesto Irrigation District (MID) for the City’s fair share ($21,000) of the $195,000 ongoing United States Geological Survey (USGS) – Phase V, Groundwater Flow Modeling project (“Modeling project”); 2) make payment to MID for the City’s fair share ($21,000) of the $195,000 USGS – Phase VI, Modeling project; and 3) expend the balance of the budgeted funds (approximately $7,950) for other groundwater management related work in both the Modesto Groundwater Sub-basin and the Turlock Groundwater Sub-basin, including City staff charges, and

WHEREAS, City desires to pay the amount for the total additional expenditures, which is approximately $49,950, and

WHEREAS, sufficient funds have been budgeted in CIP account – 6180-430-W620-6010 “STRGBA-GWMP-Secondary” to support said ongoing activities, and

WHEREAS, the Public Works Director recommends approving the expenditures to continue participation in ongoing groundwater management related activities.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes expenditures of currently budgeted funds, in the estimated amount of $49,950 as requested above to continue participating in ongoing groundwater management related activities.

BE IT FURTHER RESOLVED that the Council hereby authorizes the expenditure of said currently budgeted funds for ongoing groundwater management
related activities for the Modesto Groundwater Sub-basins underlying the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST:  

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-443

A RESOLUTION ACCEPTING THE WORK BY PRESTON PIPELINES, INC. FOR THE LA LOMA AVENUE SANITARY SEWER LIFT STATION REPLACEMENT PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $1,823,139.62

WHEREAS, a report has been filed by the Public Works Director that the project titled “La Loma Avenue Sanitary Sewer Lift Station Replacement” has been completed by Preston Pipelines, Inc. in accordance with the contract agreement dated January 23, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “La Loma Avenue Sanitary Sewer Lift Station Replacement” is hereby accepted as complete from said contractor Preston Pipelines, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory periods, and that payment of amounts totaling $1,823,139.62 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 6th day of August, 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, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2008-444  

A RESOLUTION APPROVING AN AGREEMENT WITH HDR ENGINEERING, INC. TO PREPARE A FINAL PROJECT DESIGN FOR THE EL RIO SEWER REPLACEMENT PROJECT, IN AN AMOUNT NOT TO EXCEED $139,363 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $13,937 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM TOTAL AMOUNT OF $153,300, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City Council, on December 7, 2004, by Resolution No. 2004-644, approved a Second Amendment to the La Loma Lift Station Project with HDR Engineering to complete the design for the replacement of the El Rio Sewer Line, and

WHEREAS, the City Council, on September 26, 2006, by Resolution No. 2006-624, changed the procedures that Public Works uses for projects with a total CIP budget of more than $1 million, and

WHEREAS, because the anticipated budget of the El Rio Sewer Replacement Project exceeded $1 million, HDR Engineering was directed to change the scope of work to develop a 35% design effort and a Preliminary Design Report (PDR) for the project, and

WHEREAS, the PDR serves as the basis of design for the El Rio Sewer Replacement Project and the final PDR was accepted by Council on July 24, 2007, and

WHEREAS, the next step is to complete the final design for the El Rio Sewer Replacement Project, and

WHEREAS, this Agreement will allow for the final design, development of biddable documents, and assistance during the bid period for the Project, and
WHEREAS, HDR has completed the preliminary design satisfactorily, and within the approved budget, and

WHEREAS, the budgeted preliminary design fee is $41,358, or less than 2.5% of the construction cost, which is within the expected range of 2% to 3%. The preliminary design did meet the expectations of the City, and

WHEREAS, in addition, less effort regarding survey and geotechnical investigations is required for a sewer replacement project. Therefore, the level of effort on the preliminary design fee is thought to be within a reasonable range, and

WHEREAS, the estimated construction cost included in the PDR ranges from $1.5 million to $2.1 million (in July 2007 costs), depending on the replacement method chosen, and

WHEREAS, the design fee proposed for identified scope of services by HDR is $139,363 or 10% of the estimated construction costs, and

WHEREAS, this design fee is within the expected range of 9% to 11% of construction costs, and

WHEREAS, selecting HDR to complete the final design will maximize benefits to the City related to utilizing knowledge gained through the preliminary design effort, and

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

WHEREAS, City staff recommends an Agreement with the consulting firm of HDR Engineering, Inc. as the City does not have the staffing level or subject matter
expertise to complete the final project design services for El Rio Sewer Replacement and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with HDR Engineering, Inc. for final project design services for El Rio Sewer Replacement, in an amount not to exceed $139,363, for the identified scope of services, plus $13,937 for additional services (if needed) for a maximum total amount of $153,300.

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 6th day of August, 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, Lopez, Marsh, O'Bryant, Olsen
NOES: Councilmembers: None
ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2008-445 

A RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, P.C. TO PREPARE A FINAL PROJECT DESIGN OF THE DIGESTER GAS TREATMENT SYSTEM PROJECT, IN AN AMOUNT NOT TO EXCEED $44,247 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $4,425 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM TOTAL AMOUNT OF $48,672, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT 

WHEREAS, the City Council, on September 26, 2006, by Resolution No. 2006-622, approved an agreement with California Energy Commission (CEC) to perform energy audits of the Sutter Avenue and Jennings Road Treatment Plant Facilities, and 

WHEREAS, CEC contracted with Digital Energy to perform these energy audits and Digital Energy found that by installing a digester gas treatment system to feed an existing low emissions boiler burner the City would see a reduction in natural gas usage, and 

WHEREAS, the Digester Gas Treatment project will replace the use of natural gas in the boiler operation with digester gas that is already produced at the Treatment Plant, and 

WHEREAS, this project will require the installation of a system that will remove hydrogen sulfide and moisture from the digester gas, and require a new permit for boiler operation from the San Joaquin Valley Air Pollution Control District (SJVAPCD), and 

WHEREAS, it is estimated that the utility bill savings from this project will be approximately $147,000 annually, and
WHEREAS, the City Council, on November 7, 2007, by Resolution No. 2007-650, approved the solicitation of proposals for the design of the Digester Gas Treatment System, and

WHEREAS, Public Works Department – Capital Improvement Services Division, Engineering Design Unit received three quotes for this work, and

WHEREAS, Carollo Engineers proposed doing the work at a base cost of $44,247 for the identified scope of services which was the low bid for this work, and

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

WHEREAS, City staff recommends an Agreement with the consulting firm of Carollo Engineers, P.C. as the City does not have the staffing level or subject matter expertise to complete the final project design services of the Digester Gas Treatment System and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Carollo Engineers, P.C. for final project design services of the Digester Gas Treatment System, in an amount not to exceed $44,247 for the identified scope of services, plus $4,425 for additional services (if needed) for a maximum total amount of $48,672.

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 6th day of August, 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, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: ______________________________

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By ______________________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-446

A RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, P.C. FOR PREPARING THE ANAEROBIC DIGESTER NO. 1 EVALUATION, IN AN AMOUNT NOT TO EXCEED $49,664 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $4,966 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM TOTAL AMOUNT OF $54,630, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the existing Anaerobic Digester No. 1 is located at the Primary Water Quality Control (WQC) Plant on Sutter Road, and

WHEREAS, the steel-tank digester is over forty years old, and has suffered severe deterioration both structurally and operationally, and

WHEREAS, the digester is currently out-of-service due to corrosion on its walls, and needs to be relined, and

WHEREAS, this necessary rehabilitation gave the City of Modesto a great opportunity to investigate the digester’s deficiencies, and

WHEREAS, the objective of the evaluation is to 1) Evaluate the anticipated performance of Digester No. 1 during a code prescribed earthquake and recommend improvements to comply with current code requirements; 2) Evaluate the existing digester process and support systems including the mixing, heating, and gas collection systems; and 3) Evaluate the current capacity. The reduction in capacity due to flat bottoms in the digester, allow grit to accumulate and take up digester volume. The capacity to process fats, oils and grease (FOG) will also be assessed, and

WHEREAS, deficiencies will be identified, and costs will be estimated from the recommended improvements, and
WHEREAS, costs for improvements for seismic upgrades and mechanical/process upgrades will be compared to the cost of constructing a new digester, and

WHEREAS, the evaluation will take into account the potential to construct the new digester at a higher elevation to preclude the need to construct a flood protection berm, as recommended in the 2007 Wastewater Master Plan, and

WHEREAS, Carollo Engineers, P.C. was chosen to perform the evaluation based on their experience with the City of Modesto’s digesters and they were deemed most qualified, and

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

WHEREAS, City staff recommends an Agreement with the consulting firm of Carollo Engineers, P.C. as the City does not have the staffing level or subject matter expertise for preparing the Anaerobic Digester No. 1 Evaluation and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Carollo Engineers, P.C. for preparing the Anaerobic Digester No. 1 Evaluation, in an amount not to exceed $49,664 for the identified scope of services, plus $4,966 for additional services (if needed) for a maximum total amount of $54,630.

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 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor, Ridenour

ATTEST: [Signature]

STEPHENIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By [Signature]

SUSANA ÁLCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-447

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF CONCRETE FOR THE PUBLIC WORKS DEPARTMENT, TRANSPORTATION SERVICES - FORESTRY FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED TOTAL ANNUAL COST OF $170,000

WHEREAS, The Public Works Department, Transportation Services - Forestry Division manages the Curb, Gutter and Sidewalk Repair Program, and

WHEREAS, the repairs are for damage to curbs, gutters and sidewalks by public trees, and

WHEREAS, concrete is presently the most cost effective material designated by the City of Modesto’s Standard Specifications, 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 concrete conforms to the Modesto Municipal Code,

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

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the purchase of concrete for the Public Works Department, Transportation Services – Forestry 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 City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen
NOES: Councilmembers: None
ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk
(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 FURNISHING OF STREET SWEEPING MATERIALS RECEIVING SERVICES FOR PUBLIC WORKS DEPARTMENT, TRANSPORTATION SERVICES - FORESTRY, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED TOTAL ANNUAL COST OF $60,000

WHEREAS, the City of Modesto operates a city-wide Street Sweeping Program, and

WHEREAS, the Program removes an average of 2,555 tons of debris from public streets and facilities, and

WHEREAS, City needs to dispose of these materials, 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 inert materials hauling services 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 furnishing of street sweeping materials receiving services for Public Works Department, Transportation Services - Forestry, 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 City Council.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: 

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AUTHORIZING AN AWARD OF CONTRACT TO CLYDE WHEELER PIPELINE IN AN AMOUNT NOT TO EXCEED $42,500 FOR EMERGENCY REPAIRS TO THE EMERALD SEWER TRUNK LINE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, on Saturday, June 29, 2008, the top section of the Emerald Sewer Trunk Line near the intersection of Crippen Avenue and Red Pine Drive gave way, resulting in a large sink hole on private property at 1841 Red Pine Drive, and

WHEREAS, the 36-inch diameter reinforced concrete pipeline is approximately 12-feet deep and located in the Public Utility Easement (PUE) in the resident’s front yard, and

WHEREAS, the area has been secured with barricades and trench plates, and

WHEREAS, the collapse has not restricted sewage flow; however, the potential for further cave-ins could result in a blockage, causing a sanitary sewer overflow (SSO), and

WHEREAS, the location of the sink hole on private property also creates serious liability issues for the City, and

WHEREAS, staff recommends an emergency repair of the collapsed pipe with work to be completed within ten days, and

WHEREAS, Modesto Municipal Code Section 8-3.102 (e), Contracting Authority, authorizes the City Manager to approve and authorize all contracts for emergency public works projects in the amount of $200,000 or less, and
WHEREAS, cost estimates for the emergency repairs will not exceed $200,000, and may total $50,500, including City staff time, to complete the pipeline repairs in the time frame required, and

WHEREAS, staff has received quotes from two local contractors who have previously performed this type of work for the City, and

WHEREAS, staff requests waiving normal bidding requirements and award a contract to Clyde Wheeler Pipeline in an amount not to exceed $42,500 to perform the emergency repairs, and

WHEREAS, funds are budgeted in CIP Account No. 6210-480-B019 Emerald Emergency Repairs (B574) to cover the cost of the emergency repairs to the Emerald Sewer Trunk Line,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of contract to Clyde Wheeler Pipeline in an amount not to exceed $42,500 for emergency repairs to the Emerald Sewer Trunk Line.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

APPROVED AS TO FORM:

BY: SUSANA ALCALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
MODESTO CITY COUNCIL  
RESOLUTION NO. 2008-450  

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM (CIP) AS ADOPTED BY COUNCIL FOR FY 2008-09 TO ESTABLISH A NEW PROJECT TITLED “BUS FARE DEPOSITORY” ACCOUNT NO. 6510-165-J001 TO DESIGN AND CONSTRUCT A BUS FARE DEPOSITORY IN AN AMOUNT NOT TO EXCEED $86,600  

WHEREAS, currently, Modesto Area Express (MAX) fare deposits are removed from buses on City property and deposited at a local bank, and  

WHEREAS, the servicing bank has requested significant changes in procedures utilized to prepare the fare revenue for deposit, and  

WHEREAS, staff has determined that the construction of a special MAX fare depository to hold the fare deposit until it can be transferred to a specialized secure transfer vehicle is necessary for security reasons, and  

WHEREAS, the cost of said depository and supporting equipment is estimated at $86,600, and  

WHEREAS, funds are available in the Transit Operations Account No. 6540-165-1672, 

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Capital Improvement Program (CIP) as adopted by Council for FY 2008-09 to establish a new project titled “Bus Fare Depository” Account No. 6510-165-J001 to design and construct a Bus Fare Depository in an amount not to exceed $86,600.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT Councilmembers: Keating, Mayor Ridenour

ATTEST: [Signature]

(S Seal)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-451

A RESOLUTION AUTHORIZING STAFF TO SOLICIT PROPOSALS FROM QUALIFIED FIRMS TO DESIGN THE BUS FARE DEPOSITORY AND AUTHORIZING STAFF TO AWARD A CONTRACT TO THE SELECTED FIRM IN AN AMOUNT NOT TO EXCEED $10,000

WHEREAS, currently Modesto Area Express (MAX) fare deposits are removed from buses on City property and deposited at a local bank, and

WHEREAS, the servicing bank has requested significant changes in procedures utilized to prepare the fare revenue for deposit, and

WHEREAS, staff has determined that the construction of a special MAX fare depository to hold the fare deposit until it can be transferred to a specialized secure transfer vehicle is necessary for security reasons, and

WHEREAS, the design cost of said depository is estimated in an amount not to exceed $10,000, and

WHEREAS, funds are available in CIP Account No. 6510-165-J001 for the design costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to solicit proposals from qualified firms to design the Bus Fare Depository.

BE IT FURTHER RESOLVED that the Council hereby authorizes staff to award a contract to the selected firm in an amount not to exceed $10,000.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT Councilmembers: Keating, Mayor Ridenour

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
MODESTO CITY COUNCIL  
RESOLUTION NO. 2008-452

A RESOLUTION APPROVING A FIVE-YEAR LEASE AGREEMENT WITH CIVIC PARTNERS MODESTO, INC. FOR THE PUBLIC WORKS DEPARTMENT - TRANSPORTATION SERVICES DIVISION/TRANSIT SECTION TO OCCUPY APPROXIMATELY 2,300 SQUARE FEET OF OFFICE SPACE ON THE FIRST FLOOR OF TENTH STREET PLACE (TSP) AT A COST OF APPROXIMATELY $64,500 ANNUALLY, A ONE-TIME TENANT IMPROVEMENT COST OF APPROXIMATELY $105,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LEASE AGREEMENT

WHEREAS, over the past several months, the City Council has authorized an increase of six non-General Fund staff positions in the Public Works Department in various divisions, and

WHEREAS, on September 11, 2007, the City Council, by Resolution No. 2007-542, approved the addition of a Deputy Public Works Director in the newly formed Public Works Department – Transportation Services Division/Transit Section, and

WHEREAS, on February 5, 2008, the City Council, by Resolution Nos. 2008-090 and 2008-091, approved the addition of one Property Agent, two Associate Civil Engineers, one Construction Inspector, and one Senior Administrative Office Assistant, all in the Public Works Department, and

WHEREAS, during the development of the Public Works Capital Improvement Program (CIP), the Capital Improvement Services Division of the Public Works Department identified the need to hire up to six part-time employees to help manage some of the projects to ensure their timely completion and to provide effective oversight, and
WHEREAS, the space needs for the part-time employees managing CIP projects are expected to continue into the future as current staffing levels are not expected to be adequate for the increased workload, and

WHEREAS, these positions are most appropriately located on the fourth floor of Tenth Street Place (TSP) because of their need to interact with other staff in similar and related positions, and

WHEREAS, City occupants on the fourth floor currently include various divisions of the Public Works, Parks, Recreation and Neighborhoods, and Community and Economic Development Departments, and

WHEREAS, staff has exhausted all opportunities to find space for these new employees on the fourth floor and has been looking at opportunities to relocate entire work groups, and

WHEREAS, the potential to move various units of the Public Works Department was examined and it appears that it would be most cost-effective to move the six-member Public Works Department – Transportation Services Division/Transit Section, and

WHEREAS, Transit has access to Federal Transit Administration (FTA) funds that will cover 80% of the cost of tenant improvements and the ongoing lease, with the other 20% being covered by Local Transportation Funds (LTF) allocated for Transit-related activities, and

WHEREAS, it is important for Transit to remain in the TSP building because it requires access to the fourth floor for logistical reasons, and to the second floor for interaction with Finance staff, and
WHEREAS, no space appears to be available in the government-occupied portion of TSP; however, space is available for lease on the first floor, which is comprised of 2,236 square feet, and

WHEREAS, the one-time cost for needed improvements to the first floor space would be approximately $105,000 and includes paint, carpet, cabinet repair, combining two separate leased spaces into one, improved fire rating on two storage rooms, workstations, voice and date communications connections, and contingency, and

WHEREAS, ongoing expenses would be approximately $64,500 annually and would include base rent, additional rent (tenant share of property taxes, insurance, common area expenses and property management fees), utilities, and janitorial service, and

WHEREAS, funds are budgeted in the Public Works Department – Transportation Services Division/Transit Section Operating budget for the one-time and ongoing expenses for the lease of office space on the first floor of TSP, and

WHEREAS, the Finance Committee, at its June 23, 2008 meeting, recommended approval of the lease with Civic Partners Modesto, Inc. for office space on the first floor of TSP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year lease agreement with Civic Partners Modesto, Inc. for the Public Works Department – Transportation Services Division/Transit Section to occupy approximately 2,300 square feet of office space on the first floor of Tenth Street Place (TSP) at a cost of approximately $64,500 annually, and a one-time tenant improvement cost of approximately $105,000.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby 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 6th day of August, 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, Lopez, Marsh, Olsen

NOES: Councilmembers: O’Bryant

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: SUSANA ALCALA WOOD, City Attorney
CITY OF MODESTO
RESOLUTION NO. 2008-453

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
APPROVING AND AUTHORIZING THE ISSUANCE AND SALE BY THE
MODESTO PUBLIC FINANCING AUTHORITY OF LEASE REVENUE
REFUNDING BONDS, SERIES 2008 IN AN AGGREGATE PRINCIPAL
AMOUNT NOT TO EXCEED $75,000,000; DIRECTING EXECUTION OF
CERTAIN LEASE FINANCING DOCUMENTS AND CERTAIN RELATED
DOCUMENTS; APPROVING THE FORMS OF AND AUTHORIZING THE
EXECUTION AND DELIVERY OF A LETTER OF CREDIT AND
REIMBURSEMENT AGREEMENT, AND A BOND PURCHASE CONTRACT,
AND A SWAP AGREEMENT; APPROVING THE FORM OF AND
AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT; AND
APPROVING CERTAIN OTHER RELATED ACTIONS

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

WHEREAS, the Modesto Public Financing Authority (the “Authority”) is authorized
under the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4, Chapter 5,
Division 7, Title 1 (commencing with Section 6584) of the California Government Code, as
amended (the “Act”), to lease and/or purchase real property and to issue bonds for the financing
and refinancing of public capital improvements whenever there are significant public benefits;
and

WHEREAS, the City is a Local Agency under the Act and, working together with the
Authority, previously leased and financed the costs associated with a mixed-use development,
including, among other uses, retail and office uses, public parking garage (the “10th Street
Garage”), and a City-County building, each of such improvements more commonly referred to as
the 10th Street Place Project (the “10th Street Place Project”) and other public capital
improvements, including the Communications Dispatch Center, the John Thurman Field and a Police Headquarters Building (together with the 10th Street Place Project, the “Project”); and

WHEREAS, the Authority previously issued (a) its Lease Revenue Bonds, Series 1998 (Capital Improvements and Refinancing Project) (the “1998 Bonds”) for the purpose of (i) providing funds for the 1998 Project, (ii) providing funds to refund its outstanding 1986 Certificates of Participation (Capital Improvements Project), (iii) paying capitalized interest on the 1998 Bonds, (iv) providing a debt service reserve fund for the 1998 Bonds and (v) paying the costs of issuance therefor, and (b) its Lease Revenue Refunding and Capital Improvement Bonds, Series 2007 (the “2007 Bonds”) for the purposes of (i) providing funds to finance certain additional improvements to the 1998 Project, (ii) providing funds to refund all of its Lease Revenue Bonds, Series 1997 (John Thurman Field Renovation Project) (the “1997 Bonds”) and (iii) providing funds to refund a portion of its 1998 Bonds, (iv) providing a debt service reserve fund for the 1998 Bonds and (v) paying the costs of issuance therefor; and

WHEREAS, in furtherance of the Project, the Redevelopment Agency of the City of Modesto (the “Redevelopment Agency”), the City-County Capital Improvements and Financing Agency (the “County Financing Agency”) and the City, each leased certain real property (the “Project Properties”) to the Authority pursuant to certain facility/site leases, each between the Authority and the City, the Redevelopment Agency or the County Financing Agency, as the applicable owner of such property (collectively, the “1998 Facility/Site Leases”); and

WHEREAS, the Authority leased the Project Properties to the City pursuant to certain a Lease/Purchase Agreement, dated as of March 1, 1998, as amended (the “1998 Lease”) under
which the City is obligated to make lease payments for the lease of the Project Properties thereunder; and

WHEREAS, in furtherance of the Project, the City and the Redevelopment Agency and the City entered into a Reimbursement Agreement, dated as of March 1, 1998 (the “Redevelopment Agency Reimbursement Agreement”), pursuant to which the Redevelopment Agency is obligated to make certain semi-annual payments to the City; and

WHEREAS, in connection with issuance the of the 2007 Bonds, the City subleased the Project Property to the Authority pursuant to a sublease, as provided in the 1998 Lease and the Authority leased back the Project Property to the City pursuant to the terms of a facility lease (collectively, the “2007 Leases”); and

WHEREAS, the City has been advised that it will experience unusually high interest rates on the 2007 Bonds at the time the initial interest rate (which was fixed from the date of issuance through September 1, 2008) is subject to change through the auction rate procedures; and

WHEREAS, the City has determined that by refinancing the Project by refunding all of the outstanding 1998 Bonds and 2007 Bonds (collectively, the “Prior Bonds”) the City can achieve interest cost savings and/or desirable restructuring of debt obligations so as to minimize the impact of current and potential future market instability; and

WHEREAS, upon refunding of the Prior Bonds, the 1998 Facility/Site Leases, the 1998 Lease and the 2007 Leases will be terminated; and

WHEREAS, in furtherance of the refinancing of the Project, the City will lease certain real property and facilities to the Authority pursuant to the terms of a Facilities Lease, dated as of
August 1, 2008, by and between the City and the Authority (the “Police Facilities and Miscellaneous Facilities Lease”), which properties are described in Exhibit A to the Police Facilities and Miscellaneous Facilities Lease, and generally consist of the Police Headquarters Building; Police Operations Building; Fire Stations #3, #5, #6, #7, #9 and #11; the Senior Citizen Center; Parking Lot No. 25 and the Corporation Yard; and

WHEREAS, in furtherance of the refinancing of the Project, the Redevelopment Agency will lease the site of the 10th Street Garage to the Authority pursuant to the terms of a Facilities Lease, dated as of August 1, 2008, between the Redevelopment Agency and the Authority (the “RA Facilities Lease”); and

WHEREAS, in furtherance of the refinancing of the Project, the County Financing Agency will lease to the Authority the City’s interest in the City-County building and the site upon which such facility is located, together with the City’s interest in common areas to be used by the City pursuant to the terms of a Facilities Lease (City-County Building), dated as of August 1, 2008, between County Financing Agency and the Authority (the “FA Facilities Lease”); and

WHEREAS, in furtherance of the refinancing of the Project, the City will lease its undivided one-half interest in and to the Communications Dispatch Center, together with common areas to be used by the City to the Authority pursuant to the terms of a Facilities Lease (Communications Dispatch Center), dated as of August 1, 2008, between the City and the Authority (the “City CDC Facilities Lease”); and

WHEREAS, pursuant to the Lease Agreement (the “Lease Agreement”), dated as of August 1, 2008, the City, will lease certain components of the Project and the Sites (as defined
in the Lease Agreement) together with the Leased Units of the Project (collectively, the "Leased Property") from the Authority and pay Lease Payments therefor, all under and in accordance with the Constitution and laws of the State of California, including the Act; and

WHEREAS, the City has determined, based upon the maximum annual fair market rental value, the maximum annual base rental payments payable by the City (exclusive of additional payments) in any fiscal year shall not exceed $6,500,000, plus any deferred rental as provided in Section 3.04 of the Lease Agreement; and

WHEREAS, in order to evidence the Redevelopment Agency’s continuing obligation under the Redevelopment Agency Reimbursement Agreement to contribute to the payment of lease payments payable by the City under the Lease Agreement with respect to the 10th Street Garage, the City and the Redevelopment Agency will amend the Redevelopment Agency Reimbursement Agreement, pursuant to the First Amendment to Reimbursement Agreement (the "First Amendment to Reimbursement Agreement") dated as of August 1, 2008, by and between the City and the Redevelopment Agency; and

WHEREAS, no portion of the Leased Property will be used for a purpose other than a governmental function authorized under the provisions of the Constitution and laws of the State of California; and

WHEREAS, the City desires to approve the sale and issuance by the Authority of its Lease Revenue Refunding Bonds, Series 2008, in one or more series of bonds and in an amount not to exceed $75,000,000 (the "2008 Bonds"), pursuant to an indenture (the "Indenture") by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), for the purposes of (i) providing funds to refund all of the Prior Bonds on a current
basis, (ii) funding a reserve fund for the 2008 Bonds and (iii) paying the costs of issuance therefor; and

WHEREAS, the City has determined that the Authority should execute and deliver the 2008 Bonds initially as variable rate demand bonds;

WHEREAS, in order to secure credit and liquidity support for the 2008 Bonds, the City intends to enter into a Reimbursement Agreement (the “Reimbursement Agreement”) between the City and Bank of America, N.A. (the “Credit Facility Provider”) to obtain a letter of credit (the “Letter of Credit”) to further secure the Series 2008 Bonds; and

WHEREAS, the City proposes to execute and enter into a bond purchase contract (the “Purchase Contract”) with Banc of America Securities LLC (the “Underwriter”) and the Authority, pursuant to which the Underwriter will purchase the 2008 Bonds for reoffering to the public; and

WHEREAS, the City proposes to approve of the Preliminary Official Statement relating to the 2008 Bonds (the “Preliminary Official Statement”), and to execute and deliver an Official Statement (the “Official Statement”) relating to the 2008 Bonds and to authorize the distribution of the Preliminary Official Statement to prospective purchasers and the Official Statement to actual purchasers of the 2008 Bonds; and

WHEREAS, Section 5922 of the California Government Code provides that in connection with, or incidental to, the issuance or carrying of bonds, any public entity may enter into any contracts which the public entity determines to be appropriate to place the obligations represented by such bonds, in whole or in part, on the interest rate, cash flow or other basis
desired by the public entity, including without limitation contracts commonly known as interest rate swap agreements, to hedge payment, rate, spread or similar exposure; and

WHEREAS, the Authority and Bank of America, N.A., as a qualified counterparty (the “Swap Provider”), previously entered into an ISDA Master Agreement (Local Currency–Single Jurisdiction 1992), the U.S. Municipal Counterparty Schedule thereto, a Credit Support Annex and a Confirmation, relating to the 2007 Bonds (collectively, the “2007 Interest Rate Swap Agreement”); and

WHEREAS, the Authority is expected to execute an interest rate swap agreement providing for a fixed swap rate on the Series 2008 Bonds (the “Swap Agreement”) and the Authority will execute the Swap Agreement using the new ISDA Master Agreement and related Schedule, Credit Support Annex and Confirmation (collectively, the “2008 Interest Rate Swap Agreement”) by and between the Authority and the Swap Provider (the “Swap Provider”); and

WHEREAS, pursuant to Section 5922 of the Government Code of the State of California, the City hereby finds and determines that the Swap Agreement to be entered into by the Authority in connection with, or incidental to, the issuance of the Series 2008 Bonds, will reduce the amount and duration of interest rate risk with respect to the Series 2008 Bonds and will result in a lower cost of borrowing by the Authority when used in combination with the Series 2008 Bonds; and

WHEREAS, in order to provide flexibility to the City to achieve the best financing structure, the City desires to authorize staff to substitute a liquidity facility or bond insurance in lieu of the Letter of Credit and/or to issue the 2008 Bonds in a fixed rate mode with or without any credit support, if the City Finance Director, upon the advice of the City’s financial advisor,
determines that a liquidity facility, bond insurance and/or different interest rate mode for the 2008 Bonds would be more cost effective and/or in the best interest of the City; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the transactions authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such transactions for the purpose, in the manner and upon the terms herein provided;

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Modesto, as follows:

Section 1. Findings. The City Council hereby finds and determines that the foregoing recitals are true and correct and that the actions authorized hereby constitute and are with respect to the public affairs of the City and that the consummation of the transactions contemplated shall result in significant public benefits to the City.

Section 2. Approval of Issuance of 2008 Bonds. The City Council hereby approves the issuance of the 2008 Bonds by the Authority in the aggregate principal amount not to exceed $75,000,000.

Section 3. Lease Financing Documents. The Police Facilities and Miscellaneous Facilities Lease, the City CDC Facilities Lease and the Lease Agreement (collectively, the “Lease Financing Documents”) in the forms presented at this meeting and on file with the City
Clerk are hereby approved, and each of the City Manager and Finance Director and each of their
designees (each, an “Authorized Officer”), acting singly, is each hereby authorized and directed,
for and in the name and on behalf of the City, to execute and deliver each of the Lease Financing
Documents in substantially said forms, with such changes therein as such Authorized Officer
may require or approve, including such changes as may be required by Section 9 hereof, such
approval to be conclusively evidenced by the execution and delivery thereof. The maximum
annual base rental payments payable by the City (exclusive of additional payments) in any fiscal
year shall not exceed $6,500,000, plus any deferred rental as provided in Section 3.04 of the
Lease Agreement.

Section 4. Reimbursement Agreement. The Reimbursement Agreement, proposed to be
executed and entered into by and among the City and the Credit Facility Provider, in the form
presented at this meeting and on file with the City Clerk, is hereby approved, and each of the
City Manager and the Finance Director, acting singly, is hereby authorized and directed, for and
in the name and on behalf of the City, to execute and deliver the Reimbursement Agreement in
substantially said form, with such changes therein as such officer executing the Reimbursement
Agreement may require or approve, such approval to be conclusively evidenced by the execution
and delivery thereof.

Section 5. Purchase Contract. The proposed form of the Purchase Contract presented to
this meeting and on file with the City Clerk is hereby approved. The Authorized Officers are
each hereby authorized and directed, for and in the name and on behalf of the City, to execute
and deliver the Purchase Contract in substantially said form, with such changes therein as such
Authorized Officer may require or approve, including such changes as may be required in
Section 9 hereof, such approval to be conclusively evidenced by the execution and delivery
thereof; provided that the aggregate principal amount of the 2008 Bonds shall not exceed $75,000,000, the interest rate on the 2008 Bonds shall not exceed 12% per annum if the 2008 Bonds bear interest at a variable rate or 6% per annum if the 2008 Bonds bear interest at a fixed rate, and the underwriting discount (excluding any original issue discount) shall not exceed 0.5% of the principal amount of the 2008 Bonds if the 2008 Bonds are sold as variable rate instruments and 0.75% if the 2008 Bonds are sold at a fixed rate (as provided in Section 9 hereof).

Section 6. Official Statement. The form of Preliminary Official Statement of the Authority relating to the 2008 Bonds presented to this meeting and on file with the City Clerk is hereby approved. Any of the Authorized Officers is hereby authorized and directed, for and in the name and on behalf of the City, to “deem final” such Preliminary Official Statement, if applicable, and to execute and deliver a final Official Statement, in substantially the form of the Preliminary Official Statement, with such changes therein and additions thereto to reflect the terms of the sale of the 2008 Bonds (including such changes as may be required by Section 9 hereof), as such Authorized Officer shall approve after consultation with Bond Counsel, such approval to be evidenced by the execution and delivery thereof. The Underwriter is hereby authorized to distribute copies of said Preliminary Official Statement to persons who may be interested in the purchase of the 2008 Bonds and are directed to deliver copies of the final Official Statement to all actual purchasers of the 2008 Bonds.

Section 7. 2008 Interest Rate Swap Agreement. The 2008 Interest Rate Swap Agreement, in such form, as recommended by Sidley Austin LLP, and approved by the City Manager or the Finance Director, necessary to relate the 2007 Interest Rate Swap Agreement to the 2008 Bonds, is hereby approved, such approval to be conclusively evidenced by the execution and delivery thereof by the Authority.
Section 8. First Amendment to Redevelopment Agency Reimbursement Agreement.

The execution and delivery of the First Amendment to the Redevelopment Agency Reimbursement Agreement, in such form, as recommended by Sidley Austin LLP, and approved by the City Manager or the Finance Director, is hereby approved and each of the City Manager and the Finance Director, acting singly, is hereby authorized and directed for and in the name and on behalf of the City to execute and deliver to the Redevelopment Agency, the First Amendment to the Redevelopment Agency Reimbursement Agreement, with such changes therein as such Authorized Officer executing the First Amendment to the Redevelopment Agency Reimbursement Agreement may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 9. Liquidity Facility Changes or Issuance in a Fixed Rate Mode. If, based upon the advice of the City’s financial advisor, Public Financial Management, the City Manager or Finance Director determine that it would be more cost effective and/or in the best interest of the City for the City to secure a liquidity facility or bond insurance in lieu of the Letter of Credit and/or issue the 2008 Bonds in a fixed rate mode with or without credit support, then, each of the Authorized Officers, acting singly, and, with the advice of the City’s bond counsel, Sidley Austin LLP, the City’s financial advisor, and the City Attorney, is hereby authorized and directed for and in the name and on behalf of the City to execute and deliver the documents hereto authorized or as authorization under Section 10 above, with such changes as such officer upon the advice of the City’s bond counsel, the City’s financial advisor, and the City Attorney, shall require and approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 10. Attestations. The City Clerk is hereby authorized and directed to attest the signatures of the City Manager and the Finance Director and each of their designees and to affix
and attest the seal of the City, as may be required or appropriate in connection with the execution and delivery of the 2008 Bonds and the documents approved by this Resolution.

Section 11. Other Actions. Each Authorized Officer is hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate, carry out, give effect to and comply with the terms and intent of this Resolution, the Lease Financing Documents, Purchase Agreement, the Letter of Credit and Reimbursement Agreement, the Bond Purchase Contract, the Official Statement, the 2008 Interest Rate Swap Agreement, the First Amendment to Redevelopment Agency Reimbursement Agreement and the 2008 Bonds, to obtain municipal bond insurance policies and reserve fund insurance policies, if upon the advice of the City’s financial advisor such policies and reserve fund insurance policies are projected to result in a savings to the City; to effect the redemption of the Prior Bonds and the consummation of the transactions contemplated hereby and to consummate the issuance, sale and delivery of the 2008 Bonds. The Authorized Officers are hereby further authorized and directed, individually or jointly, to execute and deliver, on behalf of the City, any other agreements, certificate, consent, request, approval, notice, amendment, confirmation, supplement or revision permitted or required to be delivered pursuant to the documents authorized hereby or otherwise as may be necessary or desirable in connection with the refinancing of the Project without further authorization by this City Council including, without limitation, a tax certificate, agreements relating to the engagement of verification agents, printers, bond insurers or other credit providers, a continuing disclosure agreement, one or more investment agreements (or amendments thereto), guaranteed investment contracts, forward delivery agreements or other investment vehicles for moneys in any of the funds or accounts held by the Trustee. Any actions
heretofore taken by such officers in furtherance of any of the transactions authorized herein are hereby ratified, confirmed and approved.

Section 12. **Effective Date.** This Resolution shall take effect immediately upon its adoption by this City Council.

THE FOREGOING RESOLUTION was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

**AYES:** Councilmembers: Hawn, Lopez, Marsh, Olsen

**NOES:** Councilmembers: O'Bryant

**ABSENT:** Councilmembers: Keating, Mayor Ridenour

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-454

A RESOLUTION CONFIRMING THE DIAGRAM AND ASSESSMENTS, AND ORDERING THE LEVY AND COLLECTION OF CHARGES WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1-6

WHEREAS, the City of Modesto has by Resolution No. 2008-166, adopted on June 10, 2008, declared its intent to levy charges or assessments for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6 under the provisions of the "Landscaping and Lighting Act of 1972", and

WHEREAS, the cost for Fiscal Year 2008-09 is $26.00 annual assessment per lot, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by City Engineering, and

WHEREAS, the City of Modesto has determined and certifies that the charges are either exempt from or in compliance with all the provisions of Proposition 218, which was passed by the voters in November 1996, and

WHEREAS, the City of Modesto has further determined the charges are in compliance with all laws pertaining to the levy of such charges,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby orders the levy and collection of $26.00 annual assessment per lot within Landscape Maintenance Assessment District No. 1 for Dry Creek Meadows Subdivisions Nos. 1-6 for the 2008-09 Fiscal Year, and that a certified copy of this resolution shall be
delivered to the Auditor-Controller of the County of Stanislaus for placement of such charges on the 2008-09 County Tax Roll.

BE IT FURTHER RESOLVED that the diagram of said assessment district and amount of levy thereon is hereby confirmed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

APPROVED AS TO FORM:

By ____________________________
SUSANA ALCALA WOOD, City Attorney

ATTEST: ____________________________
STEPHANIE LOPEZ, City Clerk

(SEAL)
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-455

A RESOLUTION CONFIRMING THE DIAGRAM AND ASSESSMENTS, AND ORDERING THE LEVY AND COLLECTION OF CHARGES WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION, AND YOSEMITE MEADOWS SUBDIVISION UNITS 1 & 2

WHEREAS, the City of Modesto has by Resolution No. 2008-334, adopted on June 10, 2008, declared its intent to levy charges or assessments for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision and Yosemite Meadows Subdivision Units No. 1 & 2, under the provisions of the "Landscaping and Lighting Act of 1972", and

WHEREAS, the cost for Fiscal Year 2008-09 is $124.15 per acre for commercial property and $24.44 for each residential property, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by City Engineering, and

WHEREAS, the City of Modesto has determined and certifies that the charges are either exempt from or in compliance with all the provisions of Proposition 218, which was passed by the voters in November 1996, and

WHEREAS the City of Modesto has further determined that the charges are in compliance with all laws pertaining to the levy of such charges.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby orders the levy and collection of $124.15 per acre for commercial property and $24.44 for each residential property within Landscape Maintenance Assessment District No. 2 for Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood
Meadows Subdivision and Yosemite Meadows Subdivision Units 1 & 2 for the 2008-09 fiscal year, and that a certified copy of this resolution shall be delivered to the Auditor–Controller of the County of Stanislaus for placement of such charges on the 2008-09 County Tax Roll.

BE IT FURTHER RESOLVED that the diagram of said assessment district and amount of levy thereon is hereby confirmed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O'Bryant, Olsen

NOES:  Councilmembers:  None

ABSENT:  Councilmembers:  Keating, Mayor Ridenour

ATTEST:  

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-456

A RESOLUTION APPROVING AN AMENDMENT TO THE CITY OF MODESTO 2008-2009 HUD ANNUAL ACTION PLAN AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE RELATED DOCUMENTS

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

WHEREAS, on May 6, 2008, by Resolution No. 2008-267, the Modesto City Council approved the 2008-2009 HUD Annual Action Plan, and

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

WHEREAS, notice has been duly given to the community of proposed amendments to the Annual Action Plan, and to provide a 30-day comment period, which began July 6, 2008, and ended on August 6, 2008, and

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

WHEREAS, a duly noticed public hearing was held by the City Council on August 6, 2008, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the proposed amendments to the 2008-2009 HUD Annual Action Plan,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Amendment to the 2008-2009 HUD Annual Action Plan, a copy which is attached hereto as Exhibit "1" and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, by Councilmember Olsen, 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, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
## Fiscal Year 2008-09 Annual Action Plan
### Amendment 1

### Fund 1130 – CDBG Fund

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### Fund 1150 – Revolving Loan Fund

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MODESTO CITY COUNCIL
RESOLUTION NO. 2008-457

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO REFLECT APPROVED CHANGES TO THE HUD ANNUAL ACTION PLAN AND AUTHORIZING THE FINANCE DIRECTOR TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

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

WHEREAS, the City receives revenue into the Revolving Loan Fund (RLF) from loan repayments received through the various programs offered to individuals and agencies, and

WHEREAS, on May 6, 2008, by Resolution No. 2008-267, the City Council approved the 2008-2009 HUD Annual Action Plan, and

WHEREAS, since adoption of the Annual Action Plan, staff has determined that changes should be made to programs and services provided to better meet the needs of the citizens of Modesto, and

WHEREAS, staff is recommending reallocation of Fiscal Year 08-09 operating expenditures and funding to capital improvement projects, and

WHEREAS, staff is recommending re-programming carryover from prior year CDBG entitlement funds and Revolving Loan funds that were not spent, and

WHEREAS, reallocation and re-programming of these funds is more fully described on Exhibit “1”, attached hereto and incorporated by reference, and

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

WHEREAS, a duly noticed public hearing was held by the City Council on August 6,
2008, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider
approval of the proposed amendments to the 2008-2009 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the
Council hereby approves amending the Fiscal Year 2008-2009 Annual Operating Budget to
reflect approved changed to the HUD Annual Action Plan as indicated in Exhibit “1”, attached
hereto and incorporated herein by reference.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City
of Modesto held on the 6th day of August, 2008, by Councilmember Olsen, 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, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: 

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Carolyn Eubank
Telephone No.: 577-5349
Department: Parks, Recreation and Neighborhoods
Fund Title: CDBG Fund 1130

Council Action Date: August 6, 2008
Resolution Number: 
Adjustment to FY: 08-09

DEPARTMENTAL REVENUES

FROM

TO

APPROPRIATIONS

FROM

1130-320-3231-0506
$175,000
($175,000)
King-Kennedy Collaborative

TO

1130-800-8000-8003
$175,000
CDBG Reserve

COMMENTS/JUSTIFICATION (USE ADDITIONAL PAGES AS NECESSARY)

This adjustment will close project 3231, King-Kennedy Collaborative and will return the funding to the CBDG Reserve to be allocated to other projects.

DEPARTMENT DIRECTOR or AUTHORIZED DESIGNEE (Attach Delegation Authorization)

FINANCE DIRECTOR

CITY MANAGER

TRANSFER NUMBER ___________________________ BY ___________ DATE ___________________
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-458

A RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $4,185,489 IN SECTION 5307 FORMULA FUNDS FOR PUBLIC TRANSIT OPERATING AND CAPITAL PURPOSES AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATION AND GRANT AGREEMENT DOCUMENTS

WHEREAS, the Federal Transit Administration (FTA) has been delegated authority to award federal financial assistance for transportation related projects, and

WHEREAS, the City of Modesto has provided all annual certifications and assurances to the FTA required for the projects, and

WHEREAS, each year the City of Modesto submits a grant application for Section 5307 funds from the formula apportionment made available to the Modesto Urbanized area by the FTA, and

WHEREAS, the City of Modesto has received authority from the Designated Recipient, StanCOG, to apply for Section 5307 Urban Area Formula Program Assistance for $4,185,489 for FY 2008-2009, and

WHEREAS, the projects in the Section 5307 grant application are included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

WHEREAS, the grant for Federal assistance will impose certain obligations on the City of Modesto, and may require the City to provide the local share of the project costs, and

WHEREAS, by a report to the Council dated July 1, 2008, from the Public Works Department, City staff recommended submitting a grant application for $4,185,489 in
FTA Section 5307 formula funds to partially offset the operational and capital costs of the City’s public transit program, and

WHEREAS, a public hearing was held on August 5, 2008, at 5:30 p.m., in the Tenth Street Place Chambers located, at 1010 Tenth Street, Modesto, California, in accordance with FTA regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of an application on behalf of the City of Modesto with the Federal Transit Administration (FTA) for FTA Section 5307 Federal assistance in the amount of $4,185,489 authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the Federal Transit Administration.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute and file the annual certifications and assurances and other documents the FTA requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents with the FTA on behalf of the City of Modesto.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, by Councilmember O’Bryant, 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, Lopez, Marsh, O’Bryant, Olsen

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: Keating, Mayor Ridenour

(SIGNATURE)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-459

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO SOLICIT
BIDS FOR MAINTENANCE CONTRACTS/SUPPORT AGREEMENTS
THROUGHOUT FISCAL YEAR 2008-2009 THROUGH "SOLE SOURCE"
PURCHASES AND INFORMAL BID PROCESSES FOR THE CUMULATIVE
BUDGETED AMOUNT OF $1,015,707.06

WHEREAS, the City has an ongoing need to purchase maintenance
contracts/support agreements for hardware and software assets utilized by the City of
Modesto and managed by the Information Technology Department, and

WHEREAS, the expenditures for maintenance contracts/support agreements have
been approved by Council through the budget process, and

WHEREAS, staff requests the Purchasing Manager be authorized to solicit bids
through "sole-source" purchases and informal bid processes, for Fiscal Year 2008-2009
for an estimated budgeted amount of $1,105,707.06,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the Purchasing Manager is hereby authorized to solicit bids through "sole-source"
purchases and informal bid processes for the purchase of maintenance contracts/support
agreements throughout the Fiscal Year 2008-2009 for an estimated budgeted amount of
$1,015,707.06.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

(Seal)

APPROVED AS TO FORM:

BY: SUSANA ALCALA WOOD, City Attorney

STEFANIE LOPEZ, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-460

A RESOLUTION APPROVING A THREE PERCENT (3%) ACROSS THE BOARD SALARY INCREASE FOR EMPLOYEES REPRESENTED BY THE MODESTO CITY EMPLOYEES ASSOCIATION (MCEA) AND AMENDING RESOLUTION NO. 2006-318, SECTION 1, EFFECTIVE AUGUST 5, 2008

WHEREAS, on May 23, 2006, the City Council adopted Resolution No. 2006-318, approved a Memorandum of Understanding (MOU) between the City of Modesto and the Modesto City Employees Association (MCEA), setting forth salary schedules for General Non-Sworn classes, and

WHEREAS, Council desires to provide for a salary increase of 3%, for all classes represented by MCEA,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a three percent (3%) across-the-board salary increase for employees represented by the Modesto City Employees Association (MCEA).

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves the salary schedule for General Non-Sworn Classes, entitled “City of Modesto Schedule of Salary Ranges in City Service for FY 08-09, Effective August 5, 2008”, which is attached hereto as Exhibit “A” and made a part hereof as though set forth in full herein.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2006-318, Section 1, is hereby amended effective August 5, 2008.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: [Signature]

(Seal)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
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### CITY OF MODESTO

**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 08-09**

**EFFECTIVE** August 5, 2008

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MODESTO CITY COUNCIL
RESOLUTION NO. 2008-461

A RESOLUTION GRANTING HEALTH BENEFIT INCREASES FOR EMPLOYEES REPRESENTED BY THE MODESTO CITY EMPLOYEES ASSOCIATION (MCEA) AND AMENDING RESOLUTION NO. 2006-318, SECTION 2, EFFECTIVE JULY 22, 2008

WHEREAS, the Council of the City of Modesto desires to grant increases in the City's contribution to health, dental, and vision benefits for employees represented by Modesto City Employees Association (MCEA), effective July 22, 2008, as follows: an increase of $78/mo. for those with Family coverage, an increase of $50/mo. for those with Employee Only coverage, and an increase of $25/mo. for those who Opt Out of health coverage.

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

SECTION 1. HEALTH, DENTAL AND VISION BENEFITS. The City's contribution to health, dental and vision benefits for employees represented by MCEA are hereby increased, to the following amounts:

<table>
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<tr>
<th>City Contribution - General Non-Sworn</th>
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<tbody>
<tr>
<td>Family</td>
<td>$890/month</td>
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<td>Employee Only</td>
<td>$495/month</td>
</tr>
<tr>
<td>Opt Out</td>
<td>$400/month</td>
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The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Ridenour

(Seal)

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING THE CLASS RANGE TABLE FOR GENERAL NON-SWORN EMPLOYEES REPRESENTED BY THE MODESTO CITY EMPLOYEES ASSOCIATION (MCEA) AND AMENDING RESOLUTION NO. 2006-319, EFFECTIVE AUGUST 5, 2008

WHEREAS, on May 23, 2006, the City Council, by Resolution No. 2006-319, approved the Class Range Tables for General Non-Sworn Classes, and

WHEREAS, the Council desires to amend the Class Range Table for said classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Class Range Table for General Non-Sworn Classes entitled “City of Modesto Class Range Table General Non-Sworn Class, Effective August 5, 2008”, which is attached hereto as Exhibit “A” and made a part hereof as though set forth in full herein.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2006-319 is hereby amended effective August 5, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
<table>
<thead>
<tr>
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<tr>
<td>101</td>
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<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>
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</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 |

Exhibit A
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<tr>
<th>RANGE</th>
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<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  
     | Water Services Equipment Operator II |

Exhibit A
<table>
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<th>RANGE</th>
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<td>129</td>
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</table>
| 130   | Construction Inspector  
        | Housing Rehabilitation Specialist II  
        | Laboratory Analyst III  
        | Senior Wastewater Treatment Plant Operator |
| 131   | Senior Civil Engineering Assistant |
| 132   | Building Inspector II  
        | Environmental Review Specialist  
        | Senior Environmental Compliance Inspector  
        | Water Division Crewleader |
| 133   |       |
| 134   | Plan Review Engineer  
        | Senior Construction Inspector |
| 136   | Senior Building Inspector |
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-463

A RESOLUTION AMENDING THE FISCAL YEAR 08-09 OPERATING BUDGET TO APPROPRIATE $332,000 FROM 0100-800-8000-8003 GENERAL FUND RESERVES AND $778,000 FROM OTHER FUND RESERVES TO VARIOUS SALARY AND BENEFIT ACCOUNTS TO FUND SALARY AND HEALTH BENEFIT CHANGES FOR MODESTO CITY EMPLOYEES ASSOCIATION (MCEA)

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto City Employees Association (MCEA) expired on July 23, 2007, and

WHEREAS, representatives of the CITY and MCEA have met and conferred in good faith concerning wages, benefits, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the City Council agrees to a three percent (3%) across the board salary increase for employees represented by MCEA, and

WHEREAS, the City Council agrees to increase the CITY’s contribution to Health, Dental and Vision benefits for employees represented by MCEA, and

WHEREAS, the FY 08-09 net increased costs associated with these salary and benefit changes are estimated at $1,110,000 for active employees, with health benefit increases becoming effective July 22, 2008, and across-the-board salaries increases becoming effective on August 5, 2008, and

WHEREAS, these increased expenditures have not yet been budgeted,

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 appropriate $332,000 from 0100-800-8000-8003 General Fund Reserves and $778,000 from various
fund reserves to various salary and benefit accounts in various operating budgets for implementation of the salary and benefit agreement between the CITY and MCEA.

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 6th day of August, 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, Lopez, Marsh, O’Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: ____________________________

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ________________________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-464

A RESOLUTION APPOINTING JUNE SHEEHAN 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, WHEREAS, the Modesto Golf Club recommends JUNE SHEEHAN, as its representative, to the Golf Courses Advisory Committee.

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

SECTION 1. JUNE SHEEHAN is hereby appointed to the Golf Courses 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 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 12th day of August, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(SEAL)
APPROVED AS TO FORM:  

SUSANA ALCALA WOOD, City Attorney

STEPHANIE LOPEZ, City Clerk

08/12/08/City Mgr/EPacket/Item 2  1  2008-464
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-465

A RESOLUTION APPROVING AN AGREEMENT REGARDING PAYMENT IN LIEU OF ONE-TIME SPECIAL TAX WITH THE HOUSING AUTHORITY OF STANISLAUS COUNTY, A HOUSING AUTHORITY ORGANIZED AND EXISTING UNDER THE CONSTITUTION AND LAWS OF THE STATE OF CALIFORNIA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Housing Authority of Stanislaus County, a housing authority organized and existing under the Constitution and laws of the State of California (the "Housing Authority") is the owner of approximately five (5) acres of land (the "Housing Authority Parcel") located within the City and within City of Modesto Community Facilities District No. 2004-1 (Village One #2) (the "CFD"), and

WHEREAS, the Housing Authority intends to cause a portion of the Housing Authority Parcel to be developed as residences for sale to individual buyers and to retain the remainder of the Housing Authority Parcel and to cause it to be developed as a multi-family residential rental project, and

WHEREAS, the City of Modesto formed the CFD to provide a method by which properties whose development will contribute to a need for new and improved public infrastructure can be required to pay their fair shares of the cost of such infrastructure, and

WHEREAS, the CFD imposes two types of special taxes on the taxable property within its boundaries in order to pay the cost of acquiring and constructing infrastructure; an annual facilities special tax and a one-time facilities special tax, and
WHEREAS, under the provisions of Article XIII, Section 3(b) of the California Constitution, the Housing Authority Parcel is exempt from those special taxes as long as it is owned by the Housing Authority, and

WHEREAS, the CFD’s one-time facilities special tax is levied in place of, and for the same general purposes as, and in the same approximate amounts, as development impact fees or assessments would have been imposed to provide for the same public infrastructure; and the City contends that development impact fees are recognized as special assessments under California law (San Marcos Water District v. San Marcos Unified School District (1986), 42 Cal.3d 154 at 161-162), and

WHEREAS, pursuant to the provisions of Section 4(a) of Article XIIID of the California Constitution, the City contends that public agencies are not exempt from special assessments, and

WHEREAS, the City contends that it could establish a development impact fee program or special assessment program in order to finance the infrastructure in question and, in connection therewith, could grant a credit against the applicable fees and/or special assessments to properties that pay the CFD’s special taxes; and the Housing Authority Parcel would not be exempt therefrom, and

WHEREAS, notwithstanding the City’s contentions, the Housing Authority agrees to pay to the City the sum of $878,561.25, which amount the City represents is the amount of the CFD’s one-time facilities special tax that would have been applicable to the Housing Authority Parcel if the Housing Authority Parcel were subject to said tax,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement Regarding Payment In Lieu Of One-Time Special Tax the City of
Modesto and the Housing Authority of Stanislaus County, a housing authority organized and existing under the Constitution and laws of the State of California is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement Regarding Payment In Lieu Of One-Time Special Tax.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 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 AECALA WOOD, City Attorney
A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF PRUNED REFUSE RECEIVING AND TRANSFER SERVICES, TO GILTON RESOURCE RECOVERY / TRANSFER FACILITY INC., MODESTO, CA, FOR TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL COST OF $103,000

WHEREAS, the Public Works Department, Forestry Services Division, has requested pruned refuse receiving and transfer services for the City, and

WHEREAS, on December 12, 2007 Council approved Resolution No. 2007-748, authorizing the Purchasing Manager to formally solicit bids for the furnishing of pruned refuse receiving and transfer services, for a two (2) year agreement, with three (3) one-year extension options, and

WHEREAS, the Purchasing Manager solicited Request for Bid No. 0708-20, for the furnishing of pruned refuse receiving and transfer services to four (4) companies, posted the bid on the City’s web site, and formally advertised as required by law, and

WHEREAS, of the four (4) companies solicited, only (1) company chose to respond, and

WHEREAS, based on providing a responsive and responsible bid of $16.00 per ton, City staff recommends the award of Bid No. 0008-20 and contract for the furnishing of pruned refuse receiving and transfer services, to Gilton Resource Recovery / Transfer Facility, Inc., Modesto, CA, for a two (2) year agreement, with three (3) one-year extension options, for an estimated annual cost of $103,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Bid No. 0708-20 and the contract for the furnishing of pruned...
refuse receiving and transfer services, to Gilton Resource Recovery/Transfer Facility, Inc., Modesto, CA., for a two (2) year agreement, with three (3) one-year extension options, for an estimated annual cost of $103,000

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

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-467

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACTS FOR THE FURNISHING OF WATER QUALITY TESTING SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, TO MWH LABORATORIES, MONROVIA, CA, AS THE “PRIMARY” CONTRACTOR, MOORE TWINING ASSOCIATES, INC., FRESNO, CA, AS THE “SECONDARY” CONTRACTOR, AND BSK ANALYTICAL LABORATORIES, FRESNO, CA, AS THE “THIRD” CONTRACTOR, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE ANNUAL PURCHASE AGREEMENTS 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 TOTAL COST OF $170,410

WHEREAS, the City’s drinking water system is the largest domestic water system in the area, with over 70,000 active water services, and

WHEREAS, during a calendar year, the Water Division performs over 7,000 bacteriological and 2,500 Title 22 Compliance samplings to ensure safe drinking water for the City’s 216,000 customers, and

WHEREAS, the size and complexity of the City’s water system places the City under the strictest Federal and State regulations for water quality testing, and

WHEREAS, the Federal Environmental Protection Agency (EPA) requires a different set of unregulated chemical monitoring, which fall under strict protocols for testing methods, including special laboratory certification and reporting requirements, and

WHEREAS, some of the general testing requirements are assigned to the City’s Water Quality Control Laboratory, and

WHEREAS, all other testing is assigned to various commercial laboratories depending on their certifications and areas of expertise, and
WHEREAS, on June 12, 2007, Council approved Resolution No. 2007-335 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of water quality testing services for the Public Works Department, Water Division, and

WHEREAS, on April 21, 2008, the Purchasing Division issued Request for Bid No. 0708-28 for the furnishing of water quality testing services to thirty-one (31) prospective bidders, four (4) of which were local companies, posted the bid on the City’s web site, and formally advertised as required by law, and

WHEREAS, on April 29, 2008, a bidder conference was held, three (3) companies were in attendance, and

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

WHEREAS, of the thirty-one (31) prospective bidders, eight (8) companies chose to respond, and

WHEREAS, all eight (8) bids received were considered responsive and responsible, and

WHEREAS, in order to ensure continued services to the City, it is recommended that contracts be awarded to more than one (1) contractor to provide for backup in case the primary contractor is unable to meet the City’s needs. A secondary or third position contractor may be awarded a specific job only if the primary contractor is unable to perform the service, or if the primary contractor is unable to complete the specific job within the time frame required by the City, and finally, if the primary contractor is unable to maintain acceptable quality standards required by the City, and
WHEREAS, based on providing responsive and responsible bids, City staff recommends the award of bid and contracts for the furnishing of water quality testing services for the Public Works Department, Water Division, to MWH Laboratories, Monrovia, CA, as the "primary" contractor, Moore Twining Associates, Inc., Fresno, CA, as the "secondary" contractor, and BSK Analytical Laboratories, Fresno, CA, as the "third" contractor, and authorizing the Purchasing Manager to issue annual purchase agreements 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 total cost of $170,410, 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 contracts for the furnishing of water quality testing services for the Public Works Department, Water Division, conforms to Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in Water Fund account 6100-480-5013-0249 for the furnishing of water quality testing services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contracts for the furnishing of water quality testing services for the Public Works Department, Water Division, to MWH Laboratories, Monrovia, CA, as the "primary" contractor, Moore Twining Associates, Inc., Fresno, CA, as the "secondary" contractor, and BSK Analytical Laboratories, Fresno, CA, as the "third" contractor 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 total cost of $170,410.
BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue annual purchase agreements.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-468

A RESOLUTION APPROVING A CAPITAL FACILITIES FEES EXEMPTION AGREEMENT BETWEEN THE CITY OF MODESTO AND THE HOUSING AUTHORITY OF STANISLAUS COUNTY FOR 20 MULTI-FAMILY AFFORDABLE HOUSING UNITS, COMMONLY KNOWN AS VILLAGE ONE TOWN CENTER, LOCATED AT 3001 BELHARBOUR DRIVE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE AGREEMENT

WHEREAS, on April 27, 2004, by Resolution No. 2004-233, the City Council approved an amendment to the Modesto Urban Area General Plan to update the Housing Element, which established a multi-family developer incentive program as one of the goals to reduce government constraints to housing development and exempts the Housing Authority of Stanislaus County ("Housing Authority") and non-profit sponsors of housing for very low-income from the City’s Capital Facility Fees, and

WHEREAS, in 2005, 2006, and 2007, the City Council allocated a total of $2,749,698 in HOME funds to the Housing Authority for the development and construction of the Village One Town Center housing project ("Project") which consists of 20 multi-family affordable housing units, and

WHEREAS, in August 2007, the Housing Authority pulled the required building permits and paid a total of $280,100 in Capital Facilities Fees for the project, and

WHEREAS, in October 2007, William A. Fagan, Executive Director of the Housing Authority, submitted an application requesting exemption from and reimbursement of Capital Facilities Fees ("CFF") for the Project, and

WHEREAS, on April 5, 2008, by Resolution No. 2009-070, the City Council amended the City’s “Capital Facilities Fees Policies and Procedures”, and
WHEREAS, staff has reviewed the Housing Authority’s exemption application and established that it complies with the City’s CFF Policies and Procedures which provide for the exemption of CFF for any low income or very low income housing units constructed or expanded by the Housing Authority, and

WHEREAS, in June, 2008, the City of Modesto reimbursed the Housing Authority the amount of $280,100 for Capital Facility Fees paid in August 2007, and

WHEREAS, the Housing Authority is obtaining the permanent financing for this project from Farmers and Merchant Bank and a CFF Exemption Agreement with the City of Modesto is required by the bank prior to providing the permanent financing for this project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Capital Facilities Fees Exemption Agreement between the City of Modesto and the Housing Authority of Stanislaus County for 20 multi-family affordable housing units, commonly known as Village One Town Center, located at 3001 Belharbour Drive.

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 12th day of August, 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. 2008-469

A RESOLUTION ACCEPTING THE DESIGNATION OF MODESTO AS THE STAGE FOUR FINISH HOST CITY FOR THE 2009 AMGEN TOUR OF CALIFORNIA ON FEBRUARY 17, 2009, AUTHORIZING STAFF TO NEGOTIATE AN AGREEMENT WITH ANSCHUTZ ENTERTAINMENT GROUP (AEG), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT WITH AEG REGARDING THE ACTIVITIES AND RESPONSIBILITIES FOR THE CITY OF MODESTO TO BE A 2009 AMGEN TOUR OF CALIFORNIA HOST CITY

WHEREAS, for the past three February's, the Amgen Tour of California has swept down the California Coast for eight days generating over $100 million of economic impact to the 12 host cities and the state with over one billion marketing impressions created worldwide, and

WHEREAS, on May 8, 2008, by Resolution No. 2008-255, the City Council approved three (3) Request for Proposal (RFP) applications for the City of Modesto to apply to become a “Host City” (start city, finish city or finish/start city) for the fourth annual Amgen Tour of California, and

WHEREAS, the Host City submission requirements were: a Statement of Interest; race operation commitment; hotel, parking and meal options; route and festival options; marketing and public relations commitment; and development of a local organizing committee, and

WHEREAS, by letter dated July 3, 2008, the City of Modesto and the Convention and Visitors Bureau were notified of Modesto’s selection as an official Stage Finish host venue for the fourth annual running of the AMGEN Tour of California February 14-22, 2009, and
WHEREAS, an agreement between the City of Modesto and Anschutz Entertainment Group (AEG) is required, and

WHEREAS, as a partner of the Amgen Tour of California, a Stage Finish Host City is required to provide support and assume all related costs in the areas of race operations; hotels, parking and meals; a local organizing committee; and a volunteer program,

NOW, THEREFORE, BE IT RESOLVED by the City Council that it hereby accepts the designation of Modesto as the Stage Four Finish Host City for the 2009 AMGEN Tour of California on February 17, 2009.

BE IT FURTHER RESOLVED that staff is hereby authorized to negotiate an agreement with AEG as the Stage Four Finish Host City for the 2009 AMGEN Tour of California on February 17, 2009.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute an agreement regarding the activities and responsibilities for the City of Modesto to be a 2009 AMGEN Tour of California Host City on February 17, 2009.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 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. 2008-470

A RESOLUTION AMENDING THE PREVIOUS COUNCIL FIREARMS POLICY TO ALLOW FOR THE SALE OF FIREARMS ONLY AFTER CITY COUNCIL APPROVAL. THE TRANSACTION TO SELL THE FIREARMS WOULD INCLUDE A CONDITION THAT ALL FIREARMS ARE SOLD IN A SINGLE TRANSACTION AS A COMPONENT OF A NEW FIREARM PURCHASE/TRADE-IN TRANSACTION

WHEREAS, on July 25, 2000, Council accepted a staff report regarding the prohibition of future gun sales and remedial actions taken to reform Police Department property and evidence handling and management structure, and

WHEREAS, on July 7, 2007, staff recommended to the Safety and Communities Committee that the firearms policy be amended to allow for the sale of firearms after City Council approved, and

WHEREAS, the transaction to sell the firearms would include a condition that all firearms are sold in a single transaction as a component of a new firearm purchase/trade-in transaction, and

WHEREAS, all firearms re-sold to a firearms manufacturer will be conducted solely through the manufacturer and in compliance with all state and federal laws, and

WHEREAS, the Police Department has applied for a $47,000 grant to start re-arming our officers, and

WHEREAS, the trade-in value of the firearms is dependant upon the resale restrictions placed upon the manufacturer, and

WHEREAS, depending upon the trade-in agreement, the purchase price for a new firearm will be reduced between 70% and 92%,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the previous Council firearms policy to allow for the sale of firearms only after City Council approval, and

BE IT FURTHER RESOLVED that the transaction to sell the firearms would include a condition that all firearms are sold in a single transaction as a component of a new firearm purchase/trade-in transaction.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 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
A resolution approving a second amendment to agreement with Avail Technologies, Inc., in the amount of $21,550 to support increases to the Modesto Area Express (MAX) Computer Aided Dispatch/Automatic Vehicle Location (CAD/AVL) system capability and authorize the City Manager, or his designee, to execute the second amendment to agreement.

WHEREAS, the City Council, on March 6, 2007, by Resolution 2007-161, awarded a development and installation contract in the approximate amount of $951,541.00 to Avail Technologies, Inc. to install a Computer Aided Dispatch/Automatic Vehicle Location (CAD/AVL) system on the Modesto Area Express (MAX) bus fleet, and

WHEREAS, on December 11, 2007, the City entered into an Agreement with Avail Technologies, Inc. for the development of a CAD/AVL system for the MAX bus fleet, and

WHEREAS, on June 3, 2008, the City Council by Resolution 2008-327, approved an Amendment to Agreement with Avail Technologies increasing the original agreement by $175,600 to incorporate system upgrades, and

WHEREAS, during further CAD/AVL development it has been determined that additional system enhancements at a cost of $21,550 are both feasible and cost effective,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Second Amendment to Agreement with Avail Technologies, Inc. in the amount of $21,550 to support increases to the Modesto Area Express (MAX) Computer Aided Dispatch/Automatic Vehicle Location (CAD/AVL) system capability.
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 12th day of August, 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: SUSANNA ALCALA WOOD, City Attorney
A RESOLUTION ACCEPTING THE WORK BY D.A. WOOD CONSTRUCTION, INC. FOR THE PROJECT TITLED "COLLECTION SYSTEM REHABILITATION 2006" 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 $733,074.73

WHEREAS, a report has been filed by the Public Works Director that the project titled "Collection System Rehabilitation 2006" has been completed by D.A. Wood Construction, Inc. in accordance with the contract agreement dated January 9, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Collection System Rehabilitation 2006" is hereby accepted as complete from said contractor D.A. Wood 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 $733,074.73 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 12th day of August, 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, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-473

A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH PACIFIC DESIGN ASSOCIATES, INC., IN THE NOT-TO-EXCEED AMOUNT OF $41,488.91, FOR THE PROJECT TITLED, “ELM STREET BUILDING IMPROVEMENTS;” AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Capital Improvement Program (CIP) item established for the completion of this facility was approved by Council with the current CIP budget, and

WHEREAS, the selection for Architectural and Engineering Design services followed the City’s Selection procedures for Professional Consultants as outlined in Administrative Directive 3.1, and

WHEREAS, Pacific Design Associates, Inc., was considered to be the most qualified for design services for the “Elm Street Building Improvements” project, and

WHEREAS, full funding for the proposed design services is budgeted in Account No. 0510-160-E691, “Traffic Ops Facility,”

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Pacific Design Associates, Inc., in the not-to-exceed amount of $41,488.91, for the project titled, ”Elm Street Building Improvements,”

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

APPROVED AS TO FORM:

By:

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-474

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH LARRY WALKER ASSOCIATES TO COMPLETE SPECIAL STUDIES AS REQUIRED IN THE CITY'S NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FOR DISCHARGE TO THE SAN JOAQUIN RIVER IN AN AMOUNT NOT TO EXCEED $242,000 FOR THE FIRST YEAR, WITH TWO (2) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY IN AN AMOUNT NOT TO EXCEED $100,000 EACH YEAR, AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT

WHEREAS, the treated effluent from the City's wastewater treatment facilities is discharged to the San Joaquin River, and

WHEREAS, this discharge is regulated by the California Central Valley Regional Water Quality Control Board (Board) through an NPDES permit, and

WHEREAS, on April 25, 2008, the City received Waste Discharge Requirements Order No. R5-2008-0059 (Permit) issued by the Board, and

WHEREAS, the Permit became effective June 14, 2008, and

WHEREAS, NPDES permits are becoming increasingly more stringent with respect to what can be discharged to the river, and

WHEREAS, the Permit requires that the City demonstrate scientifically-based and appropriate discharge levels for the City's wastewater effluent through special studies that will need to be developed, reviewed, and reported within the next 12-24 months, and

WHEREAS, on June 24, 2008 City Council, by Resolution 2008-376, authorized staff to solicit consultants who an perform these studies to meet the Board's requirements within its timelines, and

WHEREAS, on July 7, 2008 staff sent 14 Request for Proposals and received two responses, and
WHEREAS, after evaluation it was determined that Larry Walker Associates is the most qualified consultant, and

WHEREAS, funds are budgeted in Account No. 6210-480-5217-0235 in the amount of $242,000 to fund this Professional Services Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Professional Services Agreement with Larry Walker Associates to complete special studies as required in the City's NPDES permit for discharge to the San Joaquin River in an amount not to exceed $242,000 for the first year, with two (2) one-year extension options at the sole discretion of the City in an amount not to exceed $100,000 each year.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the Professional Services Agreement.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-475

A RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $206,464 IN FEDERAL TRANSIT ADMINISTRATION JOB ACCESS AND REVERSE COMMUTE (JARC) FUNDS AND $85,165 IN FEDERAL TRANSIT ADMINISTRATION NEW FREEDOM FUNDS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATION AND GRANT AGREEMENT DOCUMENTS

WHEREAS, the Federal Transit Administration (FTA) has been delegated authority to award federal financial assistance for transportation related projects, and

WHEREAS, City has provided all annual certifications and assurances to the FTA required for the projects, and

WHEREAS, in the February 3, 2006 Federal Register the Modesto Urbanized Area was apportioned $206,464 in Job Access and Reverse Commute funds for FY 2005-2006, and

WHEREAS, in the February 3, 2006 Federal Register the Modesto Urbanized Area was apportioned $85,165 New Freedom funds for FY 2005-2006, and

WHEREAS, the City has been requested by StanCOG to apply for $206,464 in Job Access and Reverse Commute funds apportioned for FY 2005-2006, and

WHEREAS, the City has been requested by StanCOG, to apply for $85,165 in New Freedom funds apportioned for FY 2005-2006, and

WHEREAS, the projects in the Job Access and Reverse Commute and New Freedom programs are included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and
WHEREAS, by a report to the Council dated August 4, 2008, from the Public Works Department, City staff recommended submitting a grant application for $206,464 in FTA Job Access and Reverse Commute and $85,165 in New Freedom funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of an application for the Modesto Urbanized Area with the Federal Transit Administration (FTA) for $206,464 in FTA Job Access and Reverse Commute assistance and $85,165 in FTA New Freedom assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the Federal Transit Administration.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute and file the annual certifications and assurances and other documents the FTA requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents with the FTA on behalf of the City of Modesto.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of August, 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 PLANS AND SPECIFICATIONS FOR THE PELANDELA AVENUE WIDENING PROJECT, ACCEPTING THE BID AND APPROVING A $9,458,292.06 CONTRACT WITH GEORGE REED, INC. FOR THE PELANDELA AVENUE WIDENING PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Pelandale Avenue Widening project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Pelandale Avenue Widening project were opened at 11:00 a.m. on July 22, 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 $9,458,292.06 received from George Reed, Inc. be accepted as the lowest responsible bid and the contract be awarded to George Reed, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Pelandale Avenue Widening project, accepts the bid of George Reed, Inc. in the amount of $9,458,292.06, and awards George Reed, Inc. the contract for the Pelandale Avenue Widening project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with George Reed, Inc., in the amount of $9,458,292.06, for the Pelandale Avenue Widening project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-477

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(586). (IOAN & VICTORIA MURESAN)

WHEREAS, a verified application for an amendment to Section 30-3-9 of the Zoning Map was filed by Ioan and Victoria Muresan on April 9, 2008, to reclassify from Light Industrial Zone, M-1, to Planned Development Zone, P-D (586), to allow the conversion of existing industrial buildings to industrial condominiums and creating seven air space condominium units, property located on the north side of Kansas Avenue east of Reno Avenue, described as follows:

M-1 to P-D(586)

The land referred to is situated in the County of Stanislaus, City of Modesto, State of California, and is described as follows:

All that portion of Lot 9 of the Maze Colony, according to the Map thereof, filed in the Office of the County Recorder of Stanislaus County, California, on March 24, 1904 in Volume 1 of Maps at Page 83, lying East of the irrigating pipe line running through said Lot described as follows:

Beginning at the Interior quarter section corner of Section 30, Township 3 South, Range 9 East, Mount Diablo Base and Meridian; thence North 89° 45' West along the East and West quarter section line 1492.68 feet; thence North 0° 03' West 20 Feet to the center line of Kansas Avenue and the true point of beginning of this description; thence North 0° 3' West 155.13 Feet; thence North 89° 23' 30" West 347.81 Feet; thence along the approximate center line of the irrigating pipe line following three courses and distances; South 26° 19' West 38.59 Feet; South 1° 48' 30" West 103.12 Feet; South 2° 21' East 19.95 Feet; thence South 89° 45' East along the center line of Kansas Avenue 367.59 Feet to the true point of beginning of this description:

EXCEPTING FROM the above the South 20 Feet for road purposes and that portion of a 40 Foot County Road known as Reno Avenue lying within the boundaries of the hereinabove described Parcel.

ALSO EXCEPTING THEREFROM that portion thereof conveyed to Fred R. Maddox, et ux; S.L. Asbill, et ux; John P. Wagoner, et ux; Domenico Franz, et ux; by Deeds recorded 04/14/47 in Book 877, Page 442 and 04/24/47 in Book 877, Page 540, and 03/23/49 in Book 961, Page 447 and 03/16/49 in Book 965, Page 84, Official Records, respectively.
PARCEL TWO:

All that real property on the State of California, County of Stanislaus, City of Modesto, being a portion of the Northwest quarter of Section 30, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, also being a portion of Lot 9 of the Maze Colony, as per Map filed March 24, 1904 in Volume 1 of Maps, Page 83, Stanislaus County Records, described as follows:

Beginning at the Northwestern corner of the property conveyed to Clifford A. Wagoner, et ux, by Deed recorded February 1, 1946, as Instrument No. 3051, Stanislaus County Records, said corner being on a former Eastern line of former 40.00 Foot Reno Avenue; thence along the Westerly extension of the Northern line of said Wagoner land, North 89° 23' 30" West, 22.08 Feet; to a point of the former centerline of Reno Avenue; thence along said former centerline of Reno Avenue the following courses; South 25° 39' 35" West, 28.28 Feet; South 9° 14' 08" West, 66.00 Feet; and South 5° 20' 45" East, 31.47 Feet, to a point on a line which is parallel with and 35.00 Feet, measured at right angles, Northerly from the centerline of Kansas Avenue; thence along said parallel line, South 89° 45' 00" East, 20.10 Feet, to a point of the Western boundary of said Wagoner land; thence along said Western boundary of the Wagoner land, said boundary also being the Eastern boundary of former 40.00 Foot Reno Avenue, the following courses; North 5° 20' 45" West, 30.88 Feet; North 9° 14' 08" East, 60.55 Feet; and North 25° 39' 35" East, 34.75 Feet, to the point of beginning.

Also including the northerly one half of Kansas Avenue all immediately adjacent to the above described property.

APN 029-047-014

WHEREAS, a public hearing held by the Planning Commission on July 7, 2008, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2008-28, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed rezoning will not result in any additional development beyond what has previously been approved for the site.

2. The proposed project is compatible with existing and potential surrounding development, because it consists of single-story industrial offices and warehouse buildings that orient to Kansas Avenue, a Minor Collector street.
3. The proposed rezoning is consistent with the Modesto Urban Area General Plan, as the site is designated Redevelopment Planned District, which permits industrial offices and warehouse buildings.

WHEREAS, said matter was set for a public hearing of the City Council to be held on August 12, 2008, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Ioan and Victorian Muresan for a Planned Development Zone should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2008-28 and quoted above, and

WHEREAS, the Council has introduced Ordinance No.3492-C.S. on the 12th day of August, 2008, reclassifying the above-described property from Light Industrial Zone, M-1, to Planned Development Zone, P-D(586).

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

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development, P-D(586), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan titled “Site Plan Muresan/Kansas Avenue A.P.N. 29-47-14” as amended in red, stamped approved by the City Council.

2. No operations conducted on the premises shall cause an unreasonable amount of noise, odor, dust, mud, smoke, vibration, or electrical interference detectable off the premises. All machinery or equipment shall be soundproofed as required by the Chief Building Official.

3. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee.

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

6. All signs shall comply with the sign requirements of the C-3 Zone.

In addition, the following recommended conditions of approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report, Mitigated Negative Declaration that should be applied to the project:

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

8. The City’s Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the “loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine.”

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

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

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

c. A hand-powered saw.

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

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

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

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

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

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

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

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(586):

The entire construction program to be accomplished in one phase, construction to begin on or before August 12, 2010, and completion to be not later than August 12, 2011.
SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

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

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(586), becomes effective.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By: [Signature]
Community & Economic Development Department
Planning Division
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-478

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING SECTION 30-3-9 OF THE ZONING MAP TO REZONE FROM LIGHT INDUSTRIAL ZONE, M-1, TO PLANNED DEVELOPMENT ZONE, P-D(586), PROPERTY LOCATED AT 1233 KANSAS AVENUE. (IOAN & VICTORIA MURESAN)

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

WHEREAS, Ioan and Victoria Muresan has proposed that the zoning designation for the property located on the north side of Kansas Avenue east of the Reno Avenue, be amended to rezone from Light Industrial Zone, (M-1), to Planned Development Zone, P-D(586), to allow for the two existing industrial buildings to be converted to industrial condominiums, subsequently creating seven air-space industrial condominium units for individual purchase, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent project for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City’s Community and Economic Development Department by Environmental Assessment Initial Study EA/C&ED No. 2008-23 ("Initial Study") reviewed the proposed amendment to the Zoning Map and Planned Development project
to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no or new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines on July 20, 2008, the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, the Planning Commission, by Resolution No. 2008-28 recommended to the City Council approval of the application of Ioan and Victoria Muresan to amend section 30-3-9 of the Zoning Map to rezone from Light Industrial Zone, (M-1), to Planned Development Zone, P-D(586), for the property located on the north side of Kansas Avenue east of Reno Avenue, to allow the future development of two existing industrial buildings to be converted to industrial condominiums subsequently creating seven air-space condominium units for individual purchase, and associated parking and common area as set forth in said Resolution No. 2008-28, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing, which was held on August 12, 2008, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed rezone to Planned Development Zone P-D(586) for industrial condominiums, a copy of

08/12/08/C&EDD/RDoscher/Item 18 2 2008-478
which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The type of project is described in Chapter II of the Master EIR (SCH No. 1999082041).

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

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

4. Based on the Initial Study, the City of Modesto finds and determines:
   a. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b. No new or additional mitigation measures or alternatives are required.
   c. The project is within the scope of the MEIR.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of 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 12th day of August, 2008, by Councilmember Hawn, who
moved its adoption, which motion being duly seconded by Councilmember Lopez, was
upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

Initial Study

EA/C&ED No. 2008-23
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. 2008-23

For the proposed:

PDZ – Planned Development Zone
1233 KANSAS AVENUE
MURESAN KANSAS AVENUE CONDOMINIUMS

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

JUNE 3, 2008
City of Modesto

Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City’s Master EIR. This Initial Study Checklist is used in determining whether the Planned Development Project is “within the scope” of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

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

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

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

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

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

II. PROJECT DESCRIPTION

A. Title: P-PDZ-08-002 – Muresan Kansas Avenue Condominiums

B. Address or Location: 1233 Kansas Avenue

C. Applicant: Ioan & Victoriana Muresan, 2409 Woodland Avenue, Modesto, CA 95358

D. City Contact Person: Rita S. Doscher

Project Manager: Rita S. Doscher
Department: Community and Economic Development Department
Phone Number: (209) 577-5267
E-mail address: rdoscher@modestogov.com

E. Current General Plan Designation(s): “RPD” for Redevelopment Planned District

F. Current Zoning Classification(s): “M-1” Light-Industrial Zone

G. Surrounding Land Uses: North: (M-1) Light-Industrial
South: (M-1) Light-Industrial
East: (R-1) Single-Family Residential
West: (M-1) Light-Industrial
H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

This is an application to rezone the above reference property from M-1 (Light-Industrial Zone) to P-D (Planned Development Zone) to allow the approved industrial office and warehouse buildings to be converted to two industrial office and warehouse condominium buildings subsequently, creating seven air space condominium units. The proposed development will consist of Building #1 with a total of 4,990 square feet with five separate units; and Building #2 with a total of 1,780 square feet with two separate units each having 880 square feet. The overall square footage for both buildings is 6,750 square feet. In addition, the approved development is providing on site parking, landscaping, and street improvements. The current development fronts onto Kansas Avenue and access into the site is provided by way of a private reciprocal access driveway. The parking areas are mainly centrally located between the two buildings and to the north of Building #2, and the development will provide a total of 17 required parking spaces.

I. Other Public Agencies Whose Approval is Required:

None.

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

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

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

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

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

   D. Based on the Initial Study, the City of Modesto finds and determines:
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.
2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

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

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

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

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

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

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

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

Project Manager

Assistant Planner

June 3, 2008

Title

Date
4. Within the Scope Analysis of this Document:

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

YES NO
(1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.  
(2) City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.  
(3) Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).  
(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.  
(5) The development will occur within the boundaries of the City’s planning area as established in this Urban Area General Plan.  
(6) Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.

5. Currency of the Master EIR Document

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

YES NO
(1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.  
(2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:  
(3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.
No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.  

Policies remain in place, that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.

IV. ENVIRONMENTAL ANALYSIS

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

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

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the "Baseline Developed Area":

Effect: Increased traffic will result in certain roadway segments operating at LOS "D" or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of a LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.
Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

This is an application to rezone the project site from M-1 (Light-Industrial Zone) to P-D (Planned Development Zone) in order to allow the approved industrial office & warehouse buildings to be converted to two industrial office and warehouse condominiums subsequently, creating seven air space condominium units. The rezoning of the industrial complex is compatible with the existing surrounding uses of industrial development and industrial zoning located along this area of Kansas Avenue. Because the project is consistent with the surrounding uses of industrial offices and retail developments, the use and activities will not change to a level that will cause a change to the existing road capacities or levels of service.

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

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project—including any new measures—will be incorporated into or made conditions of approval of this project and will be listed in Section IV, Mitigation Measures Applied to Project.

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

YES NO

(1) The project would contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway’s peak hour or the development’s peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR.

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR’s traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.
DISCUSSION:

(1) Engineering and Transportation Staff reviewed the proposed project and have the following comment:

- This property shall provide a reciprocal access agreement for the shared driveway along Kansas Avenue. It should also seek reciprocal access for the other portion of the driveway to the west.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards. The previously approved site plan was designed to accommodate commercial uses and emergency access.

(3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4) The project has been evaluated for compliance to the City of Modesto Parking regulations. The parking area will be located the two buildings of the project site and will provide a total of 17 required parking spaces. The design and layout of the proposed parking area will comply with both City standards and ADA (Americans with Disability Act) standards.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

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

Effect: Projected City traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected City traffic levels will result in increased ROG and NOX levels in the project area. This is a significant and unavoidable impact.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

YES NO

(1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines. ☐ X

(2) The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD. ☐ X

(3) The project does not comply with the air quality policies of the Modesto Urban Area General Plan. ☐ X

(4) The project would expose sensitive receptors to substantial pollutant concentrations. ☐ X

(5) The project would create objectionable odors affecting a substantial number of people. ☐ X

DISCUSSION:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).
Applicable General Plan Policies have been applied to the previously approved project site. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

The project is not a significant contributor to pollution levels in that it involves only a rezone to P-D to allow the conversion of existing industrial offices and warehouses to condominiums. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measures listed above.

The proposed project will not produce objectionable odors.

3. **NOISE**

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

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

**Effect:** Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City's Noise Significance Standards.

**Effect:** Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

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

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

**DISCUSSION:**

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. **Project-Specific Effects**

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

<table>
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<tr>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>(1) The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.</td>
<td>X</td>
</tr>
<tr>
<td>(2) The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.</td>
<td>X</td>
</tr>
</tbody>
</table>
(3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? ☐ X

(4) The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

DISCUSSION:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the Baseline Developed Area, are incorporated into the conditions of approval for the project.

(3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

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

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto’s planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project site and the surrounding property are located within a fully developed urbanized area.
b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

<table>
<thead>
<tr>
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<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>(1)</td>
<td></td>
<td>X</td>
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</table>

DISCUSSION:

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanization.
5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

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

**Effect:** Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. *This is a less-than-significant impact.*

**Effect:** Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. *Consequently, the potential environmental impacts of the Urban Area General Plan are considered less-than-significant.*

**Effect:** During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. *This is a significant and unavoidable cumulative impact.*

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

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

**DISCUSSION:**

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.8 of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

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The project is inconsistent with the Modesto Urban Area General Plan.
(2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.

**DISCUSSION:**

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

### 6. SANITARY SEWER SERVICES

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

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

**Effect:** The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. *As a result, this impact would be less-than-significant.*

**Effect:** The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. *This is a less-than-significant impact.*

**Note on the WMP Master EIR:** The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

**DISCUSSION:**

There are no mitigation measures applicable to this project.
c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

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(1) The project is inconsistent with the Modesto Urban Area General Plan.

(2) The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider’s existing commitments.

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and had the following comment: The Modesto City Council adopted a Wastewater Capacity Charge, effective August 1, 2007. The Wastewater Capacity Charge may apply to this project a the time of occupancy.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project
Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. □ X

(2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species. □ X

(3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. □ X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District both in land use and intensity.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR
The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: 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 new mitigation measure Cultural-1.

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

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR. The project does not involve physical development and as a result no measures will be incorporated into or made conditions of approval of this project.

DISCUSSION:

Mitigation Measures applicable to this project include: AH-8, Master EIR.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

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DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District in both land use and intensity.
(2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

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

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less-than-significant.

Effect: 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 water drainage. Cumulative hydrologic impacts of storm water 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 storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing 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 cumulative impact is considered significant and unavoidable.

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. The site is fully developed and this new proposal will only involve an amendment to the Planned development zone with no physical changes to the property. No measures will be incorporated into or made conditions of approval of this project.

DISCUSSION:

Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects
Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

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<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>☐</td>
<td>X</td>
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<tr>
<td>(2) The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.</td>
<td>☐</td>
<td>X</td>
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<tr>
<td>(3) Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.</td>
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**DISCUSSION:**

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

(2) The project will meet the standards contained in the “Guidance Manual for New Development-Storm Water Quality Control Measures,” adopted by the City as required by the above-listed mitigation measures.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. **FLOODING AND WATER QUALITY**

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

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

**Effect:** Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less-than-significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

**Effect:** The potential impacts of the project on surface-water quality are considered less-than-significant because the City policies and capital improvement projects for storm water 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 storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City’s future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

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

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into or made conditions of approval of the previously approved development. This project will not involve any modification to the existing site that would require additional measures applied to the new proposal.

DISCUSSION:

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

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<tr>
<td>YES</td>
<td>NO</td>
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<tr>
<td>1. The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>X</td>
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<tr>
<td>2. The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.</td>
<td>X</td>
</tr>
<tr>
<td>3. The project does not comply with Modesto’s Guidance Manual for New Development Storm water Quality Control Measures.</td>
<td>X</td>
</tr>
<tr>
<td>4. The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.</td>
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DISCUSSION:
(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) Mitigation Measures as called for by FWQ-14 will be applied to the project so that the project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less-than-significant.

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. This impact is less-than-significant.

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

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measure applicable to this project. It is not on or adjacent to any park sites, nor is it near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

YES  NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. □  X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District designation in both land use and intensity. There are no mitigation measures applicable to this project.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

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

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects
Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. ☐ X

(2) The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools. ☐ X

DISCUSSION:

(1) The project is consistent with the General Plan RPD for Redevelopment Planned District in both land use and intensity.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

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

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less-than-significant.

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

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

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

City of Modesto Finding of Conformance
General Plan Master EIR 24 Initial Study
EA/C&ED No. 2008-23 06/03/08
c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

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(1) The project is inconsistent with the Modesto Urban Area General Plan.

(2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

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

Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less-than-significant.

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This impact would be less-than-significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.
Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project.

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

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(1) The project is inconsistent with the Modesto Urban Area General Plan.

(2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access. The area can be served by Fire Station No. 4 at 1505 Blue Gum Avenue, approximately 1.25 miles distant.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

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

Effect: New development projects would exceed available landfill capacity; it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. New projects will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. The impact would be less-than-significant at such time as the Fink Road Landfill expansion is approved.

City of Modesto Finding of Conformance
General Plan Master EIR

Initial Study
EA/C&ED No. 2008-23
06/03/08
Effect: New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.

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

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study, are found on pages V-15-5 and V-15-6 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

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DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:
Effect: The impacts of the project relative to hazardous materials are less-than-significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

<table>
<thead>
<tr>
<th>Threshold</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(2) The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(3) The project contains a contaminated site not identified as of March 2003.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(4) The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(5) The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project site is not known to contain any contaminants, however the applicant shall determine, to the satisfaction of the Department of Environmental Resources (DER) that a site containing (or Formerly containing) residences or farm buildings, or structures, has been fully investigated (via Phase I study, and Phase II study if necessary) prior to the issuance of a grading permit. Any discovery of underground storage tanks, former underground storage tank locations, buried chemicals, buried refuse, or contaminated soil shall be brought to the immediate attention of DER.

The applicant should contact the Department of Environmental Resources regarding appropriate permitting requirements for hazardous materials and/or wastes. Applicant and/or occupants handling hazardous materials or generating hazardous wastes must notify the Department of Environmental Resources relative to the following: (Calif. H&S, Division 20)

A. Permits for the underground storage of hazardous substances at new or the modification of an existing tank facilities.
B. Requirements for registering as a handler of hazardous materials in the County.
C. Submittal of hazardous materials Business Plans by handlers of materials in excess of 55 gallons or 500 pounds of a hazardous material or of 200 cubic feet of compressed gas.
D. The handling of acutely hazardous materials may require the preparation of a Risk Management Prevention Program which must be implemented prior to operation of the facility. The list of acutely hazardous materials can be found in SARA, Title III, Section § 302.
E. Generators of hazardous waste must notify the Department relative to the: (1) quantities of waste generated; (2) plans for reducing wastes generated; and (3) proposed waste disposal practices.
F. Permits for the treatment of hazardous waste on-site will be required from the hazardous materials division.
G. Medical waste generators must complete and submit a questionnaire to the department for determination if they are regulated under the Medical Waste Management Act.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.
17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less-than-significant.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less-than-significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

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

(1) The project is inconsistent with the Modesto Urban Area General Plan.

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

DISCUSSION:
(1) The project is consistent with the General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

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

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less-than-significant.

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>[ ]</td>
<td>X</td>
</tr>
</tbody>
</table>

City of Modesto Finding of Conformance
General Plan Master EIR

Initial Study
EA/C&ED No. 2008-23
06/03/08
DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

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

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

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity.

(2) No amendment to the General Plan is required by this project.

(3) The project is infill development that will not divide an established community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

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

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>☐ X</td>
</tr>
</tbody>
</table>
(2) The project would have a substantial adverse effect on a scenic vista. □ X

(3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings. □ X

(4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area. □ X

DISCUSSION:

(1) The project is consistent with the General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings. This is an existing site, which had received previous City approval.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area. The existing site conforms to current City regulations regarding night glare to surrounding residences. These requirements shall remain in effect.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

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

All applicable and appropriate mitigation measures have been applied to the project.

Traffic and Circulation Measures:

N/A

Air Quality Measures:

1. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover
2. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

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

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

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

Noise Measures:

1. The City’s noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine.”

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

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

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

C. A hand-powered saw.

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

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

F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

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

Agricultural Land Measures:
N/A

Water Supply Measures:
N/A

Sanitary Sewer Service Measures:
N/A

Sensitive Wildlife and Plant Habitat Measures:
N/A

Archaeological or Historic Sites Measures:
1. If archaeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archaeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K

Storm Drainage Measures:
1. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

Flooding and Water Quality Measures:
1. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

Parks and Open Space Measures:
N/A
Schools Measures:
N/A

Police Services:
N/A

Fire Services:
N/A

Generation of Solid Waste
N/A

Generation of Hazardous Materials
N/A

Potential for Landslides and Seismic Activity
N/A

Energy
N/A

Planning and Land Use
N/A

Aesthetics
N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: None.
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-479

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(587). (STANCO)

WHEREAS, a verified application for an amendment to Section 21-3-9 of the Zoning Map was filed by STANCO on March 10, 2008, to reclassify from Planned Development Zone, P-D(469), to Planned Development Zone, P-D(587), to allow a special need affordable housing project, property located at 605 E. Coolidge Avenue on the west side of E. Coolidge Avenue west of Sunrise Avenue, described as follows:

P-D(469) to P-D(587)

ALL that certain real property situate in a portion of the Northeast Quarter of the Northeast quarter of the Northwest Quarter of Section 21, Township 3, South, Range 9 east, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Commencing at the Southeast corner of the Northeast Quarter of the Northeast Quarter of the Northwest Quarter of said Section 21; thence along the South line of the Northeast Quarter of the Northeast Quarter of the Northwest Quarter of said Section 21 and also being the centerline of East Coolidge Avenue North 89°37'42" West, 154.99 feet to the Southern prolongation of the East line of Parcel "C" as shown on that map recorded in Volume 26 of Parcel Maps, at page 89, Stanislaus County Records; thence along said prolongation and East line of said Parcel "C", North 0°40'23" West., 266.99 feet to the Southeast corner of Parcel "B", also shown on said parcel map; thence along the South line of said parcel "B" North 89°37'42" West 176.38 feet; thence continuing along said South parcel line, North 0°43'49" West, 2.83 feet; thence North 89°35'59" West 104.00 feet to the Southwest corner of said Parcel "B", thence continuing on a course of North 89°35'59" West, 61.00 feet more or less; thence Southerly 140.00 feet more or less; thence Easterly 63.00 feet more or less; thence Southerly 130.00 feet more or less to aforementioned quarter, quarter Section line and centerline of East Coolidge Avenue; thence along said centerline South 89°37'42" East, 278.00 feet to the point of beginning.

WHEREAS, after a public hearing held on July 7, 2008, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined
by the Planning Commission, by its Resolution No. 2008-30, that rezoning of the
property as requested is required by public necessity, convenience, and general welfare
for the following reasons:

1. The proposed zone change to P-D is consistent with the Modesto Urban
   Area General Plan. The General Plan designates this area as “MU”
   (Mixed-Use), and the rezoning to allow a special need, affordable housing
   development implements Policy 4.4 of the General Plan Housing Element.

2. The conditions of approval will ensure that the proposed project is
   compatible with the adjacent residential uses.

3. The proposed project will provide needed affordable housing in Modesto
   and contribute towards meeting the City’s share of the Regional Housing
   Needs Allocation.

and

WHEREAS, said matter was set for a public hearing of the City Council to be
held on August 12, 2008, in the Tenth Street Place Chambers located at 1010 10th Street,
Modesto, California, at which date and time said duly noticed public hearing was held,
and

WHEREAS, after said public hearing the Council found and determined that the
application of STANCO for a Planned Development Zone should be granted as
consonant with public necessity, convenience and general welfare for the reasons set
forth in Planning Commission Resolution No. 2008-30 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3493-C.S. on the 12th day
of August, 2008, reclassifying the above-described property from Planned Development
Zone, P-D(469), to Planned Development Zone, P-D(587).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
as follows:
SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(587), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan titled "STANCO Development Coolidge Apartments Affordable Housing (No. PDZ-08-001)" as amended in red, stamped approved by the City Council.

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

   A six-foot-high concrete-masonry wall with decorative cap along the east and west property lines; a six-foot-high masonry pilaster and board fence shall border the north property line.

3. Prior to the issuance of a building permit, the applicant shall submit a landscaping and irrigation plan conforming to current City of Modesto specifications and standards for review and approval by the Parks, Recreation and Neighborhood Director or designee. Screen landscaping shall border the entire site except for the Coolidge Avenue frontage. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

4. The applicant shall provide sufficient interior parking lot shade trees to meet current Modesto Municipal Code requirements.

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

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

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

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

9. Prior to the issuance of a building permit, the developer shall prepare plans and obtain written approval from the M.I.D. as to the disposition of irrigation facilities both on private property and within the Coolidge Avenue right-of-way. Prior to occupancy, all work related to the disposition of these irrigation facilities shall be completed to the satisfaction of the M.I.D. and the City Engineer.
10. Electric facilities and overhead lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the City Engineer or designee. Appropriate easements for electrical facilities including 10-foot P.U.E. along Coolidge Avenue shall be granted as required. Relocation or installation of electric facilities shall conform to the District’s Electric Service Rules. Costs for relocation and/or undergrounding the District’s facilities at the request of others will be borne by the requesting party.

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

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

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

14. The developer shall provide permanent, post-construction treatment (grass swale, vegetative strip, or other approved proprietary device) to remove pollutants from the first 1/2" of stormwater run-off from site.

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

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

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

18. The applicant shall install fire sprinkler systems as required by the 2007 California Fire Code (CFC) and the 2007 California Building Code (CBC) for R-1 occupancies with an occupant load of eleven or more.

19. Fire Department Connections (FDC) shall be accessible to the Fire Department and within 90 feet of a fire hydrant.
20. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

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

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

23. Prior to issuance of a building permit, the applicant shall submit a cross-section drawing for approval, showing how all rooftop equipment is to be screened from view (including dimensions, materials, colors, etc.) to the satisfaction of the Director of Community and Economic Development or designee.

24. Roof-mounted equipment, including but not limited to air conditioners, fans, vents, antennas, and dishes should be set back from the roof edge and placed behind a parapet wall or in a wall, so they are not visible to motorists or pedestrians. Screening for equipment should be integrated into the building and roof design by the use of compatible materials, colors and forms. Wood lattice and fence-like coverings are not allowed for screening.

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

In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report, and the Village One Specific Plan Program EIR that should be applied to the project:

26. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/ suppressant, covered with a tarp or other suitable cover or vegetative ground cover.
27. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

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

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

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

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

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

33. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the “loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine.”

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

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

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

   c. A hand-powered saw.

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

   e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, backhoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

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

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

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

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

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(587):

The entire construction program be accomplished in one phase, construction to begin on or before August 12, 2010, and completion to be not later than August 12, 2011.
SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

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

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(587), becomes effective.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 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

APPROVED AS TO LEGAL DESCRIPTION

By: [Signature]

Community & Economic Development Department
Planning Division
RESOLUTION NO. 2008-480

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN
THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN
AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT
(SCH NO. 1999082041): AMENDING SECTION 21-3-9 OF THE ZONING MAP
TO REZONE FROM PLANNED DEVELOPMENT ZONE, P-D(469), TO
PLANNED DEVELOPMENT ZONE, P-D(587) PROPERTY LOCATED AT
605 E. COOLIDGE AVENUE, ON THE NORTH SIDE OF E. COOLIDGE
AVENUE, WEST OF SUNRISE AVENUE (STANCO)

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

WHEREAS, STANCO has proposed that the zoning designation for the property
located on the north side of E. Coolidge Avenue, west of Sunrise Avenue, be amended
from Planned Development Zone, P-D(469), to P-D(587), to allow for development of a
32-unit special needs, affordable housing project, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing
subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial
Study on any proposed subsequent project to analyze whether the subsequent project may
cause any significant effect on the environment that was not examined in the master
environmental impact report and whether the subsequent project was described in the
master environmental impact report as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department by
Environmental Assessment Initial Study EA/C&ED 2008-20 ("Initial Study") reviewed
the proposed rezone to determine whether the project is within the scope of the project
covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and
concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on July 20, 2008 the City caused to be published a 20-day notice of the City’s intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on August 12, 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 has reviewed and considered the Initial Study prepared for the proposed rezone, a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 1999082041) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.
5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2008-20
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. (2008-20)

For the proposed:

Rezone from Planned Development Zone P-D(469) to a New P-D Zone, to Facilitate Development of a 32-Unit Special Needs Affordable Housing Project

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

May 14, 2008
City of Modesto  
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the Planned Development Project is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

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

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

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

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

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

II. PROJECT DESCRIPTION

A. Title: Rezone from Planned Development Zone P-D (469) to a new P-D Zone, to Facilitate Development of a 32 unit special needs Affordable Housing Project

B. Address or Location: 605 E. Coolidge Avenue, north side of E. Coolidge Avenue, west of Sunrise Avenue

C. Applicant: STANCO, 201 E. Rumble Road, Ste. E Modesto, CA 95355

D. City Contact Person: Robert S. Cannell

Project Manager: Robert S. Cannell
Department: Community and Economic Development Department
Phone Number: (209) 577-5267
E-mail address: bcannell@modestogov.com

E. Current General Plan Designations: "MU" Mixed Use

F. Current Zoning Classification: Planned Development Zone, P-D (469)

G. Surrounding Land Uses: North: Medium Density Residential, R-2, P-D (175), R-2 density  
South: Low Density Residential, R-1  
East: Low Density Residential, R-1  
West: Low Density Residential, R-1

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

City of Modesto Finding of Conformance  
General Plan Master EIR  
Initial Study  
EA/C&ED No. 2008-20  
May 14, 2008
The 71,216 net square foot site (1.63-acre) project site is currently zoned P-D(469) allowing a 14 dwelling Townhouse project. There are two existing single-family homes on the site. The applicant is proposing to rezone the property to P-D, Planned Development Zone, to facilitate development of a 32-unit special needs affordable housing project. The proposed development will include two 8-plexes, two 7-plexes, a one-story duplex and a community center building. There will be a total of 24 one-bedroom units and 8 two-bedroom units. Parking will consist of 64 spaces.

I. Other Public Agencies Whose Approval is Required:

None.

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

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

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

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

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

D. Based on the Initial Study, the City of Modesto finds and determines:
   a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b) No new or additional mitigation measures or alternatives are required.

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

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

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

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

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

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

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

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

________________________  Senior Planner  ____________________
Project Manager                Title                   May 16, 2008
4. Within the Scope Analysis of this Document:

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

1. The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR. X □

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

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

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

5. The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan. X □

6. Development within the project will comply with all mitigation measures identified in the General Plan Master EIR. X □

5. Currency of the Master EIR Document

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

1. Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project. X □

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

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

4. No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. X □
Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.

IV. ENVIRONMENTAL ANALYSIS

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

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

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the "Baseline Developed Area":

Effect: Increased traffic will result in certain roadway segments operating at LOS "D" or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of a LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.
DISCUSSION:
The proposed apartment complex is made compatible with the existing surrounding residential development located in this neighborhood. Because the project is consistent with the surrounding uses, the proposed project will not change to a level that will cause a change to the existing road capacities or levels of service.

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

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project -- including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, Mitigation Measures Applied to Project.

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

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<td>(1) Does the project contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway’s peak hour or the development’s peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR.</td>
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Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR’s traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

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<td>(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).</td>
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<tr>
<td>(3) Result in inadequate emergency access.</td>
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<td>(4) Result in inadequate parking capacity.</td>
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DISCUSSION:

(1) Engineering and Transportation Staff reviewed the proposed project and have no comments pertaining to the projected traffic generated by the project:
A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.
B. A site access study is not required for this project.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards.

(3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4) The proposed Apartment Complex is parked at two on-site spaces per-unit (64 spaces) which is adequate for the proposed project and consistent with the Modesto Municipal Code for apartment projects in the City of Modesto.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

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

Effect: Projected City traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected City traffic levels will result in increased ROG and NOX levels in the project area. This is a significant and unavoidable impact.

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

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

(1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.
The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.

The project does not comply with the air quality policies of the Modesto Urban Area General Plan.

The project would expose sensitive receptors to substantial pollutant concentrations.

The project would create objectionable odors affecting a substantial number of people.

DISCUSSION:

1. The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

2. This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).

3. Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

4. The project is not a significant contributor to pollution levels. PM10 emissions created through any construction will be mitigated as called for by the MEIR by the measures listed above.

5. The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City’s Noise Significance Standards.

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City’s General Plan and noise ordinance standards.

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

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:
DISCUSSION:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

1. The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.

2. The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.

3. The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

4. The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

YES NO
☐ X
☐ X
☐ X
☐ X

DISCUSSION:

1. The City’s noise policy is incorporated into the conditions of approval as a mitigation measure.

2. The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the conditions of approval for the project.

3. The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

4. The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:
Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto’s planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

DISCUSSION:

The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project is an infill development and the surrounding properties are located within a developed urbanized area.

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

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan. YES NO □ X

2. The project will directly result in the development of land outside the March 2003 planning area boundaries. □ X

3. The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract. □ X

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

DISCUSSION:

1. The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.
The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

The project site is not zoned for agriculture nor is it under Williamson Act contract.

The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanized land.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

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

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less-than-significant.

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

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

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:
The project is inconsistent with the Modesto Urban Area General Plan. YES NO □ X

Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed. □ X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The Mixed-Use General Plan designation allows a "recommended intensity of 14 dwelling units per acre," for the subject mixed use area. The very large Mixed-use area which surrounds the subject property is currently developed at less than half of this density. Due to the vast number of under-developed properties, the proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.

(2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. As a result, this impact would be less-than-significant.

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. This is a less-than-significant impact.

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to
be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

(1) The project is inconsistent with the Modesto Urban Area General Plan.

YES NO

☐ X

(2) The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments.

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan, both in land use and intensity. The Mixed-Use General Plan designation allows a “recommended intensity of 14 dwelling units per acre,” for the subject mixed use area. The very large Mixed-use area which surrounds the subject property is currently developed at less than half of this density. Due to the vast number of under-developed properties, the proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.

(2) The project was referred to Engineering and Transportation for comment and there was no indication that there is insufficient capacity to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City’s contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project
Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

(1) The project is inconsistent with the Modesto Urban Area General Plan.
   □ YES X NO

(2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.
   □ YES X

(3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
   □ YES X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.
**Effect:** Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

**Effect:** 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 new mitigation measure Cultural-1.

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

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR.

**DISCUSSION:**

Mitigation Measures applicable to this project include: AH-8, Master EIR.

**c. Project-Specific Effects**

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>2</td>
<td>☐</td>
<td>X</td>
</tr>
</tbody>
</table>

**DISCUSSION:**

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

**9. STORM DRAINAGE**

**a. Significant Effects Identified in the Master EIR**
The Master EIR identified the following significant environmental impacts relative to storm drainage:

**Effect:** The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less-than-significant.

**Effect:** 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 water drainage. Cumulative hydrologic impacts of storm water 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 storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing 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 cumulative impact is considered significant and unavoidable.

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8.

**DISCUSSION:**

Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

**c. Project-Specific Effects**

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan. **YES NO**
   - X
2. The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite. **YES NO**
   - X
3. Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. **YES NO**
   - X
DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The Mixed-Use General Plan designation allows a "recommended intensity of 14 dwelling units per acre," for the subject mixed use area. The very large Mixed-use area which surrounds the subject property is currently developed at less then half of this density. Due to the vast number of under-developed properties, the proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.

(2) The project does not propose to significantly increase the impervious surface. The project will meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City as required by the above-listed mitigation measures.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality.

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less-than-significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less-than-significant because the City policies and capital improvement projects for storm water 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 storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into the conditions of approval.

DISCUSSION:

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

<table>
<thead>
<tr>
<th>Threshold</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>(2) The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>(3) The project does not comply with Modesto’s Guidance Manual for New Development Storm water Quality Control Measures.</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.</td>
<td>☐</td>
<td>X</td>
</tr>
</tbody>
</table>

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR
The Master EIR identified the following significant environmental impacts relative to parks and open space:

**Effect:** Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. *Impacts on parks and open space will be less-than-significant.*

**Effect:** The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. *This impact is less-than-significant.*

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

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project, are listed in Section IV, Mitigation Applied to Project:

**DISCUSSION:**

There are no mitigation measures applicable to this project. It is not near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

<table>
<thead>
<tr>
<th>YES NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the Modesto Urban Area General Plan. ☐ X</td>
</tr>
</tbody>
</table>

**DISCUSSION:**

1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.

12. **SCHOOLS**

a. Significant Effects Identified in the Master EIR

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

**Effect:** The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above
those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 6 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

(1) The project is inconsistent with the Modesto Urban Area General Plan.

(2) The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR
The Master EIR identified the following significant environmental impacts relative to police services:

**Effect:** The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less-than-significant.

**Effect:** Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

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

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

**DISCUSSION:**

No mitigation measures are applicable to this project.

**c. Project-Specific Effects**

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan. YES NO
   (1) ☐ X
2. The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. ☐ X

**DISCUSSION:**

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

**14. FIRE SERVICES**

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

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

**Effect:** The Baseline Developed Area and Redevelopment Area are already developed. *Impacts on fire services of development in these areas will be less-than-significant.*

**Effect:** In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. *This impact would be less-than-significant.*

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

**DISCUSSION:**

No mitigation measures are applicable to this project.

c. **Project-Specific Effects**

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

(1) The project is inconsistent with the Modesto Urban Area General Plan. YES NO

(2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

**DISCUSSION:**

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain
acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. **SOLID WASTE**

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

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

**Effect:** New development projects would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. New projects will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. *The impact would be less-than-significant at such time as the Fink Road Landfill expansion is approved.*

**Effect:** New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. *This impact is significant and unavoidable.*

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

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-15-5 and V-15-6 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

**DISCUSSION:**

No mitigation measures are applicable to this project.

c. **Project-Specific Effects**

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan.  
   - YES  
   - NO  
   - x
2. The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.  
   - YES  
   - NO  
   - x

**DISCUSSION:**

1. The project is consistent with the Modesto Urban Area General Plan “MU” (Mixed Use) designations in both land use and intensity.
(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

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

Effect: The impacts of the project relative to hazardous materials are less-than-significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan. YES NO
2. The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. □ X
3. The project contains a contaminated site not identified as of March 2003. □ X
4. The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. □ X
The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General “MU” (Mixed Use) designations in both land use and intensity.

(2) This is an infill project, which involves the an existing residential project to be converted to residential condominiums. No hazardous materials will be involved with this project.

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less-than-significant.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less-than-significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan.
   - YES NO
   - □ X

2. The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.
   - YES NO
   - □ X

DISCUSSION:

1. The project is consistent with the General Plan in both land use and intensity.

2. The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

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

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less-than-significant.

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project.

DISCUSSION:

No mitigation measures are applicable to this project.
c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan.  

   Discussion:
   1. The project is consistent with the Modesto Urban Area General Plan "MU" (Mixed Use) designations in both land use and intensity.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

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

1. The project is inconsistent with the Modesto Urban Area General Plan.  

   Discussion:
   1. The project is consistent with the Modesto Urban Area General Plan "MU" (Mixed Use) designations in both land use and intensity.

   2. No amendment to the General Plan is required by this project.

   3. The project is an infill project that will not result in division of a community.

20. AESTHETICS
The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

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

(1) The project is inconsistent with the Modesto Urban Area General Plan. YES NO ☐ X
(2) The project would have a substantial adverse effect on a scenic vista. ☐ X
(3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings. ☐ X
(4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area. ☐ X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area. The development is already existing.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

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

All applicable and appropriate mitigation measures have been applied to the project.

Traffic and Circulation Measures:

N/A

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

**Noise Measures:**

1. The City’s noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the “loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine.”

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

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

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

   C. A hand-powered saw.

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

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

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

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

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

**Agricultural Land Measures:**

N/A

**Water Supply Measures:**

N/A

**Sanitary Sewer Service Measures:**

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Sensitive Wildlife and Plant Habitat Measures:
N/A

Archaeological or Historic Sites Measures:
N/A

Storm Drainage Measures:
1. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

Flooding and Water Quality Measures:
1. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

Parks and Open Space Measures:
N/A

Schools Measures:
N/A

Police Services:
N/A

Fire Services:
N/A

Generation of Solid Waste
N/A

Generation of Hazardous Materials
N/A

Potential for Landslides and Seismic Activity
N/A

Energy
N/A

Planning and Land Use
N/A

Aesthetics
N/A
B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: None.