A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO
CONFIRMING THE CANVASS OF THE REGULAR MUNICIPAL ELECTION
WHICH WAS HELD IN THE CITY OF MODESTO ON NOVEMBER 6, 2007,
AND DECLARING THE RESULTS OF SAID ELECTION.

WHEREAS, on Tuesday, November 6, 2007, a Regular Municipal Election was
held in the City of Modesto (herein called "City") and in the Modesto High School
District (herein called "District") of Stanislaus County to elect the following:

1. One Councilmember to Chair No. 1 for a four year term;
2. Once Councilmember to Chair No. 3 for a four year term;
3. One Councilmember to Chair No. 6 for a four year term;
4. One member to Mayor for a four year term;
5. Three Board of Education Members for four year terms; and

WHEREAS, as set forth in Section 5 hereof, Measures I and J were Advisory
measures, and were submitted to the qualified electors in the November 6, 2007, City of
Modesto election, and

WHEREAS, said election was held on Tuesday, November 6, 2007, in
accordance with law and the proceedings of this Council, and the votes thereat received
and canvassed, and the returns thereof ascertained, determined, and declared in all
respects as required by law, and

WHEREAS, the City Clerk canvassed the returns of said regular municipal
election in accordance with law, and certified the results of the election of the Council by
a Certificate of Canvass and Statement of Votes dated November 27, 2007, a copy of
which is attached hereto marked Exhibit "A" and made a part hereof,
NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto as follows:

SECTION 1. Said canvass by the City Clerk as shown on the Certificate of Canvass and Statement of Votes and the results of the election are hereby ratified, confirmed and approved.

SECTION 2. That in accordance with Section 10264 of the Elections Code, a copy of said Certificate of Canvass and Statement of Votes, which is attached hereto marked as Exhibit “A” and made a part hereof, shows a complete tabulation of the following:

(A) The whole number of votes cast in the City.
(B) The whole number of votes cast in the Modesto High School District.
(C) The names of the persons voted for.
(D) For what office each person was voted for.
(E) The number of votes given in the City to each person.
(F) The number of votes given in the City for each Measure.

SECTION 3. That, at said Regular Municipal election, the following named persons having received a majority of the votes cast for the elective offices, as designated on Exhibit “A”, are hereby declared to be duly and regularly elected to such office, and the City Clerk is hereby directed to issue a Certificate of election to each such persons, certifying his/her election to the office appearing after his/her name, and to administer to each of said persons the oath of office prescribed by the Constitution and laws of the State of California and the Charter of the City, to wit:

Garrard Marsh    Councilmember for a term of four years, Chair No. 3, Modesto City Council.
Brad Hawn
Councilmember for a term of four years, Chair No. 6, Modesto City Council.

Jim Ridenour
Mayor for a term of 4 years, Modesto City Council.

Gary Lopez
Member, Modesto Board of Education, for a term of four years.

Kimberly Gerber-Spina
Member, Modesto Board of Education, for a term of four years.

Steven Grenbeaux
Member, Modesto Board of Education, for a term of four years.

SECTION 4. The Charter provides that if no candidate for an elective office of the City receives a majority vote at a regular municipal election, a Second Regular Municipal Election shall be held by mail ballot at which the two candidates receiving the highest number of votes at the first election shall have their names on the ballot for election of the office, therefore, the two candidates receiving the highest number of votes for City Council Chair 1, Robert Farrace and Dave Lopez shall have their names on the ballot for a run-off election to be held on Tuesday, December 11, 2007.
SECTION 5. The following votes were cast for Measures I and J:

<table>
<thead>
<tr>
<th>Measure</th>
<th>Measure Total Votes For</th>
<th>Total Votes Against</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Measure I:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Should Modesto change its system of electing City Councilmembers? Please answer the next measure, whether you voted “Yes” or “No” on this measure.</td>
<td>10,489</td>
<td>7,868</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Measure</th>
<th>Measure Total Votes For</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Measure J:</strong></td>
<td></td>
</tr>
<tr>
<td>If the City of Modesto were to change its system of electing City Councilmembers, which of the following systems would you prefer? The Mayor would remain elected by all voters in the City under either option. (Choose only one)</td>
<td></td>
</tr>
<tr>
<td>(a) “By District”: Six Districts where candidates must live in the District they wish to represent and the voters who live in the District vote on who will represent the District.</td>
<td>10,002</td>
</tr>
<tr>
<td>(b) “Mixed”: Two At-Large Council seats, where candidates may live anywhere in the City and are voted on by all City voters; and Six Districts where candidates must live in the District they wish to represent, and the voters who live in the District vote on who will represent the District.</td>
<td>7,509</td>
</tr>
</tbody>
</table>
**Measure I.** More than a majority of all of the votes cast at the election for Measure I were in favor of said proposed Measure and said Measure did carry and was approved and were ratified by a majority of the qualified voters voting on said Measure.

**Measures J (a).** More than a majority of all the votes cast at the election for Measure J (a) were in favor of said proposed Measures, and said Measure J(a) did carry and was approved and were ratified by a majority of the qualified voters voting on said Measures.

**Measures J (b).** Less than a majority of all of the votes cast at the election for Measure J(b) were in favor of said proposed Measure J(b), and said Measure J(b) did not carry, was not approved, and was not ratified by a majority of the qualified voters voting on said Measure.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

**NOES:**
Councilmembers: None

**ABSENT:**
Councilmembers: Hawn

**ATTEST:** Jean Morris, City Clerk

(Seal)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2007-688

A RESOLUTION ACCEPTING A CONTRIBUTION OF OVER $500,000 OF MATERIALS AND IN-KIND LABOR BY THE UNITED ROTARY CLUBS OF MODESTO, INC. FOR THE PROJECT TITLED "ROTARY CLUBS OF MODESTO CENTENNIAL JUNCTION PROJECT", ACCEPTING THE PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY CLERK RECORDER, AND NAMING THE QUARTER-MILE SECTION OF THE VIRGINIA CORRIDOR BETWEEN ROSEBURG AVENUE AND ORANGEBURG AVENUE THE "ROTARY CLUBS OF MODESTO CENTENNIAL JUNCTION" IN HONOR OF THE 100TH ANNIVERSARY OF THE ROTARY INTERNATIONAL ORGANIZATION

WHEREAS, in honor of the 100th anniversary of Rotary International, the five Modesto Rotary Clubs joined together to form the United Rotary Clubs of Modesto, Inc. and complete the installation of a quarter-mile section of the Virginia Corridor Trail between Roseburg and Orangeburg Avenues, and

WHEREAS, this segment is part of the larger 4.2-mile Virginia Corridor Trail project that will run between Pelandale Avenue and Needham Avenue along the original Tidewater Southern Railway Corridor, and

WHEREAS, the provision for this trail was established in a railbanking agreement entered into between the Union Pacific Railroad and the City of Modesto, and

WHEREAS, in 2005, the City of Modesto completed infrastructure work in preparation for the Rotary Clubs of Modesto Project, and

WHEREAS, the estimated value of the United Rotary Clubs of Modesto, Inc.'s generous contribution to the City is over $500,000, which includes a 10-foot wide asphalt trail with 2-foot shoulders, path lighting, landscaping, irrigation system, benches, tables, concrete plazas, rail fencing, entry features, site amenities and in-kind labor, and

WHEREAS, the 100 trees planted in this segment of trail symbolically represent the past 100 years of presidents of the Rotary Clubs,
WHEREAS, the project was completed to the satisfaction of the Parks, Recreation and Neighborhoods Department and the Public Works Department on September 21, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts a contribution of over $500,000 of materials and in-kind labor by the United Rotary Clubs of Modesto, Inc. for the project titled “Rotary Clubs of Modesto Centennial Junction Project”.

BE IT FURTHER RESOLVED that the Council hereby accepts the project as complete.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Clerk to file a Notice of Completion with the Stanislaus County Clerk Recorder.

BE IT FURTHER RESOLVED that the Council hereby names the quarter-mile section of the Virginia Corridor between Roseburg Avenue and Orangeburg Avenue the “Rotary Clubs of Modesto Centennial Junction” in honor of the 100th anniversary of the Rotary International organization.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

Attest: ________________________________
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: ________________________________
SUSANA ALCALA WOOD, City Attorney
MODesto City Council
Resolution No. 2007-689

A Resolution Accepting with Regret the Resignation of Stephen Bonrepos from the Citizens Advisory Committee on Recycling

Whereas, Stephen Bonrepos was appointed a member of the Citizens Advisory Committee on Recycling on July 3, 2007, and

Whereas, Stephen Bonrepos has tendered her resignation from the aforementioned committee, and

Whereas, Stephen Bonrepos has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of Stephen Bonrepos from the Citizens Advisory Committee on Recycling hereby is accepted with regret.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007 by Councilmember Dunbar, 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: Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

Noses: Councilmembers: None

Absent: Councilmembers: Hawn

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-690

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF CHRISTINA TIPSWORD FROM THE COMMUNITY QUALITIES FORUM

WHEREAS, CHRISTINA TIPSWORD was appointed a member of the Community Qualities Forum on January 2, 2007, and

WHEREAS, CHRISTINA TIPSWORD has tendered her resignation from the aforementioned committee, and

WHEREAS, CHRISTINA TIPSWORD has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of CHRISTINA TIPSWORD from the Community Qualities Forum hereby is accepted with regret.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007 by Councilmember Dunbar, 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: Dunbar, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: ________________
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

________________________
Susana Alcala Wood, City Attorney
A RESOLUTION APPOINTING RON JESKE TO THE AIRPORT ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on November 14, 2007, and recommended appointment of RON JESKE to the Airport Advisory Committee.

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

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Dunbar, 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: Dunbar, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-692

A RESOLUTION APPOINTING JOHN BERGMAN TO THE BOARD OF ZONING ADJUSTMENT

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

WHEREAS, the Economic Development Committee met on November 14, 2007, and recommended appointment of JOHN BERGMAN to the Board of Zoning Adjustment.

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

SECTION 1. JOHN BERGMAN is hereby appointed to the Board of Zoning Adjustment with a term expiration of January 1, 2012.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Dunbar, 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: Dunbar, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-693

A RESOLUTION APPOINTING SETH INGRAM TO THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and
WHEREAS, the Economic Development Committee met on November 14, 2007, and recommended appointment of SETH INGRAM to the Citizens Advisory Committee on Recycling.
NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. SETH INGRAM is hereby appointed to the Citizens Advisory Committee on Recycling with 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 Citizens Advisory Committee on Recycling, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Dunbar, 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: Dunbar, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST:  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-694

A RESOLUTION APPOINTING AND ROBERT NUNES TO THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

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

WHEREAS, the Economic Development Committee met on November 14, 2007, and recommended appointment of ROBERT NUNES to the Citizens Advisory Committee on Recycling.

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

SECTION 1. ROBERT NUNES is hereby appointed to the Citizens Advisory Committee on Recycling with 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 Citizens Advisory Committee on Recycling, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Dunbar, 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: Dunbar, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: ________________
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

______________
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-695

A RESOLUTION APPOINTING CAROLINA BERNAL TO THE
PLANNING COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the
City Council to appoint members to various Boards and Commissions, and
WHEREAS, the Economic Development Committee met on November 14, 2007,
and recommended appointment of CAROLINA BERNAL to the Planning Commission.
NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City
of Modesto as follows:

SECTION 1. CAROLINA BERNAL, is hereby appointed to the Planning

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

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 27th day of November, 2007, by Councilmember Dunbar,
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: Dunbar, Keating, Marsh, O'Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

APPROVED AS TO FORM:

SUSAN ALCALA WOOD, City Attorney

ATTEST: 
JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-696

A RESOLUTION REAPPOINTING JOHN SANDERS TO THE
PLANNING COMMISSION

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

WHEREAS, the Economic Development Committee met on November 14, 2007, and recommended reappointment of JOHN SANDERS to the Planning Commission.

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

SECTION 1. JOHN SANDERS is hereby reappointed to the Planning Commission with a term expiration of January 1, 2012.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Planning Commission, and the Secretary thereof:

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Dunbar, 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: Dunbar, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-697

A RESOLUTION ACCEPTING CFD-FUNDED PUBLIC IMPROVEMENTS FOR
THE STORM DRAIN AND ROAD IMPROVEMENTS RELATED TO THE
VILLAGE CORNERS COMMERCIAL CENTER LOCATED IN THE VILLAGE
ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO FILE A
NOTICE OF COMPLETION, AND TO RELEASE SECURITIES UPON
EXPIRATION OF STATUTORY PERIODS

WHEREAS, Peter and Charlene Reece, and Joseph and Sheryl Pimentel, and
Stephen and Kathleen Hughes (collectively “DEVELOPERS”), are the developers of the
Village Corners Commercial Center (“DEVELOPMENT”), and

WHEREAS, as a condition of the DEVELOPMENT, the DEVELOPERS were to
construct 315 feet of roadway improvements on the south side of Sylvan Avenue at Claus
Road and install 340 feet of storm drain line on the north side of Sylvan Avenue between
Litt and Claus Roads (“PUBLIC IMPROVEMENTS”), located within the
DEVELOPMENT, and

WHEREAS, said PUBLIC IMPROVEMENTS, included in the Acquisition and
Shortfall Agreement ("AGREEMENT") between the City of Modesto Community
Facilities District No. 2004-1 (Village One #2), a District created pursuant to the
provision of the California Government Code Section 53311.5 et. seq. ("DISTRICT") and
the DEVELOPERS, have been completed to the satisfaction of the Public Works
Department, and

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

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

WHEREAS, DEVELOPERS have filed irrevocable bonds to secure faithful performance and payment for labor and materials both in the amount of $246,726.45 for said PUBLIC IMPROVEMENTS, and

WHEREAS, DEVELOPERS have filed a warranty bond in the amount of $26,775.00 to guarantee the PUBLIC IMPROVEMENTS in the DEVELOPMENT, and

WHEREAS, the CFD Administrator has indicated that it would be in order for the City Council to accept said PUBLIC IMPROVEMENTS in said DEVELOPMENT as complete, and authorize the City Clerk to record a Notice of Completion,

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

1. The CFD-funded public improvements, which include construction of 315 feet of roadway improvements on the south side of Sylvan Avenue at Claus Road and the installation of 340 feet of storm drain line on the north side of Sylvan Avenue between Litt and Claus Roads are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the public improvements.

2. The City Clerk is hereby authorized to release the bond for faithful performance in the amount of $246,726.45 immediately after
recordation of the Notice of Completion, provided no claim is made thereon.

3. The City Clerk is hereby authorized to release the bond for labor and materials in the amount of $246,726.45 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee development improvements in the amount of $26,755.00 one year and one day after the effective date of this resolution, provided no claim is made thereon.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November 2007, by Councilmember Dunbar, 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: Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-698

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2007-2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2007-2008 budget have been adjusted as shown on the Budget Request form(s).

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-699

A RESOLUTION APPROVING AN APPLICATION FOR $1.8 MILLION IN FUNDING FROM THE 2008-2009 BICYCLE TRANSPORTATION ACCOUNT PROGRAM ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR THE DEVELOPMENT OF PHASE 5 OF THE VIRGINIA CORRIDOR (PEDESTRIAN/BICYCLE BRIDGE OVER BRIGGSMORE AVENUE AND TRAIL NORTH TO WOODROW AVENUE), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the State of California has made funding available through the Department of Transportation’s Bicycle Transportation Account for Fiscal Year 2008-2009, and

WHEREAS, development of the Virginia Corridor Project (the “Project”) is consistent with the Bicycle Transportation Act of the State of California’s Department of Transportation programs, and

WHEREAS, procedures established by the State of California’s Department of Transportation require the applicant’s governing body to certify by resolution the approval of the application before submission of said application to the State, and

WHEREAS, if selected, the applicant will enter into a contract with the State of California for the Project,

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

1. Approves the filing of a grant application for $1.8 million from the State of California’s Department of Transportation through the Bicycle Transportation Account for Fiscal Year 2008-2009; and

2. Certifies that the applicant has or will have sufficient funds to operate and maintain the Project; and
3. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and

4. Authorizes the City Manager, or his designee, as agent of the applicant to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws, which may be necessary for the completion of the aforementioned Project upon acceptance of said grant by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November 2007, by Councilmember Dunbar, 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: Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

Attest: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-700

A RESOLUTION APPROVING A GRANT APPLICATION FOR $50,000 IN FUNDING FROM THE AMERICAN RIVERS-NOAA COMMUNITY-BASED RESTORATION PROGRAM PARTNERSHIP FOR THE ENGINEERING DESIGN WORK FOR THE REMOVAL OF DENNETT DAM WITHIN THE GATEWAY PROJECT OF THE TUOLUMNE RIVER REGIONAL PARK, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT APPLICATION DOCUMENTS

WHEREAS, the American Rivers Program, through its habitat restoration partnership with the NOAA Community-Based Restoration Program, provides funding for stream barrier removal projects benefiting diadromous fish species, and

WHEREAS, the program seeks to enable environmental and economic renewal in local communities, and

WHEREAS, the City of Modesto has a need to remove Dennett Dam from the Gateway Project within the Tuolumne River Regional Park, and

WHEREAS, the proposed engineering design work for the removal of Dennett Dam is consistent with the funding guidelines of the American Rivers-NOAA Community-Based Restoration Program Partnership,

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

1. The filing of a grant application for $50,000 from the American Rivers-NOAA Community-Based Restoration Program Partnership is hereby approved.

2. The City Manager, or his designee, is hereby authorized as agent of the applicant to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws, which may be necessary for the completion of the aforementioned Project upon acceptance of said grant by the City Council.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November 2007, by Councilmember Dunbar, 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: Dunbar, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

Attest: JEAN MORRIS, City Clerk
RESOLUTION NO. 2007-701
NOT USED
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-702

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Officer Graves for the purchase of his retired police canine, Eros, in the amount of One Dollar ($1.00) as more fully set forth in the Modesto Police Department Canine Transfer Contract attached hereto as Exhibit “A” and incorporated herein by this reference.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said contract.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 27th day of November, 2007 by Councilmember Dunbar,
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: Dunbar, Keating, Marsh, O’Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
MODESTO POLICE DEPARTMENT CANINE TRANSFER CONTRACT

This AGREEMENT made and entered into in the City of Modesto, State of California, this 15th day of October, 2007, by and between the City of Modesto, a municipal corporation of the State of California, hereinafter referred to as “CITY”, and Glenn Graves, canine handler for the Modesto Police Department, hereinafter referred to as “HANDLER”.

Facts:

Canine “Eros” has been with the Modesto Police Department since July of 2001. “Eros” has served the city for Five years. “Eros” was born in October of 1999 and will be nine years old in October of 2008. “Eros” has had a long and distinguished career as a police protection dog. “Eros” has reached an age where his health has begun to decline and he is slowing down. He has had major back surgery and other health issues. His ability to continue to do police work at an acceptable level is no longer there and it is my recommendation he be retired from service.

This AGREEMENT is made with regard to the following recitals:

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

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

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

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

1. **HANDLER** does agree to assume ownership of the Modesto police canine named “Eros”, and to assume any and all risks, including, but not limited to, risk of injury or death to third persons, and to hold CITY, its police department, and its employees and/or agents or volunteers harmless from any and all liability, claims, administrative proceedings or other responsibility whatsoever arising from any injuries or damages that may occur on or after the date ownership of the dog is transferred pursuant to this AGREEMENT. That date is hereby fixed by agreement by and among the parties hereto as being **October 15, 2007**.

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

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

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

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has caused this Agreement to be executed in duplicate by its City Manager and attested by its City Clerk under authority of Resolution No. 07-____ adopted by the City Council of the City of Modesto on the___ day of________________, 2007.

CITY OF MODESTO                      NEW OWNER

______________________________  ______________________________
GEORGE BRITTON, City Manager        GLENN GRAVES, Handler

ATTEST:

By __________________________
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By __________________________
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2007-703

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO CONDUCT A SOLE SOURCE PROCUREMENT OF FOUR (4) DIESEL PARTICULATE FILTER SYSTEMS FOR 420E CATERPILLAR BACKHOES FROM HUSS, LLC OF PALM SPRINGS, CA FOR PUBLIC WORKS – FLEET SERVICES, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $60,000

WHEREAS, on June 12, 2007, the City Council, by Resolution No. 2007-346, approved the acceptance of a grant from the California Air Resources Board in the amount of $325,787, and

WHEREAS, one of the terms of the grant is to install the Best Available Control Technology (BACT) to equipment purchased through the grant, and

WHEREAS, at the time of acceptance, it was expected that the manufacturer of backhoes would be capable of providing diesel particulate filter systems that would satisfy the grant requirement, and

WHEREAS, after several months the manufacturer has been unable to provide the required diesel particulate filter systems, and

WHEREAS, three diesel particulate filter systems are certified by the California Air Resources Board to fit 420E Caterpillar Backhoes, and

WHEREAS, the available technologies are from Cleaire Horizon, Huss, and Engine Control Systems, and

WHEREAS, Cleaire Horizon has not installed its filter systems on a 420E Backhoe and Engine Control Systems’ technology requires a wall panel with electricity to regenerate its system, and
WHEREAS, the Huss diesel particulate filter system is deemed the only acceptable technology because it is the only fully self-contained system that will regenerate on the job site with no other infrastructure requirements, and

WHEREAS, the purchase of the diesel particulate filter systems with BACT are 100% refundable through the grant, and

WHEREAS, funds are budgeted in Account No. 7210-480-5814-5789 for this purchase,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to conduct a sole source procurement of four (4) diesel particulate filter systems for 420E Caterpillar Backhoes from Huss, LLC of Palm Springs, CA for Public Works – Fleet Services.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for a total estimated cost of $60,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007 by Councilmember Dunbar, 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: Dunbar, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-704

A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC., FOR THE PROJECT TITLED “EXTEND CORPORATE AND RECONSTRUCT TRANSIENT AIRCRAFT APRONS” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $1,306,099.24

WHEREAS, a report has been filed by the Public Works Director that the project titled “Extend Corporate and Reconstruct Transient Aircraft Aprons” has been completed by George Reed, Inc., in accordance with the contract agreement dated August 9, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “Extend Corporate and Reconstruct Transient Aircraft Aprons” is hereby accepted as complete from said contractor, George Reed, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $1,306,099.24 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 27th day of November, 2007 by Councilmember Dunbar, 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: Dunbar, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris

(SEAL)

APPROVED AS TO FORM:

By Susana Acalal Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-705

A RESOLUTION APPROVING A SECOND AMENDMENT TO THE AGREEMENT WITH CAROLLO ENGINEERS FOR ON-CALL ENGINEERING SERVICES REFLECTING THE REVISED SCOPE OF SERVICES FOR FY 2007-08 IN THE AMOUNT OF $78,000, FOR A TOTAL AMOUNT NOT TO EXCEED $122,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO THE AGREEMENT

WHEREAS, on January 3, 2006, the City Council, by Resolution No. 2006-012, approved an on-call engineering services agreement with Carollo Engineers (Carollo) in the amount of $44,000 annually for wastewater-specific services, and

WHEREAS, on January 2, 2007, the City Council, by Resolution No. 2007-034, approved a First Amendment to the Agreement with Carollo Engineers revising the Scope of Services and increasing the amount to $114,000 for FY 2006-07 only, and

WHEREAS, the current on-call engineering services agreement amount for FY 2007-08 is $44,000, and

WHEREAS, Modesto’s Wastewater Treatment Plant is rated as a Class V facility based upon its design flow of 70 million gallons per day, and

WHEREAS, the State of California requires that the Chief Plant Operator (CPO) be a Grade 5 operator as issued by the State Water Resources Control Board (SWRCB), and

WHEREAS, due to a recent departure of the Wastewater Treatment Plant Manager, the City was faced with the prospect of not having a Grade 5 operator as required by the permit to operate issued by the SWRCB, and

WHEREAS, failure to have a licensed Grade 5 operator could expose the City to administrative sanctions, including fines, and

WHEREAS, on October 11, 2007, Public Works – Engineering staff contracted with Carollo Engineers to provide CPO services under its current on-call engineering agreement as an
interim measure to ensure that the City was in compliance with the Grade 5 operator requirement, and

WHEREAS, Carollo’s background in wastewater and water quality, combined with the fact that they were involved with both the Master Plan and the Rate Study, makes them qualified to perform CPO services on an interim basis, and

WHEREAS, staff has notified the SWRCB and Regional Water Quality Control Board (RWQCB) of the interim arrangement as is required under the permit, and

WHEREAS, Water Quality Control (WQC) currently has an on-call engineering services with Carollo for $44,000 annually, and

WHEREAS, the Second Amendment to the Agreement for WQC is to reflect the CPO Services through March 2008 at an additional cost of $78,000 for a total agreement amount of $122,000 for FY 2007-08, and

WHEREAS, the Second Amendment replaces the interim scope of services provided through the Engineering on-call engineering services agreement with Carollo, and

WHEREAS, staff has initiated the recruitment process to fill the vacated Grade 5 position, and with a shortage of Grade 5 operators throughout the state, it may take some time to fill the vacancy, and

WHEREAS, these contracted CPO services will allow time for recruitment of a Wastewater Treatment Plant Manager with the required Grade 5 Operator certification, and

WHEREAS, funds are budgeted in the amount of $78,000 from Account 6210-480-5213-0235,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Second Amendment to the Agreement with Carollo Engineers for on-call engineering services reflecting the revised Scope of Services for FY 2007-08 in the amount of $78,000, for a total amount not to exceed $122,000.
BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the Second Amendment to the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007 by Councilmember Dunbar, 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: Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: 
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-706


WHEREAS, plans and specifications have been prepared for the project titled “Landscape Improvements for the Sylvan Pedestrian Overcrossing” and City staff recommends approval by the City Council, and

WHEREAS, the bids received for “Landscape Improvements for the Sylvan Pedestrian Overcrossing” were opened at 11:00 a.m. on October 23, 2007, 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 $152,079.39 received from Odyssey Landscape Company, Inc., be accepted as the lowest responsible bid and the contract be awarded to Odyssey Landscape Company, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the project plans and specifications for the project titled “Landscape Improvements for the Sylvan Pedestrian Overcrossing,” and accepts the bid of Odyssey Landscape Company, Inc., in the amount of $152,079.39, and hereby awards Odyssey Landscape Company, Inc., the contract titled “Landscape Improvements for the Sylvan Pedestrian Overcrossing.”

BE IT FURTHER RESOLVED that the District Administrator, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November 2007, by Councilmember Dunbar, 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: Dunbar, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk
(SEAL)

APPROVED AS TO FORM:

By
SUSANÁ ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-707

A RESOLUTION ACCEPTING THE WORK BY AMERINE SYSTEMS, INC., FOR THE PROJECT TITLED “PUMP STATION FOR WELL 64 AT MCKINNEY COLONY PARK” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $963,627.85

WHEREAS, a report has been filed by the Public Works Director that the project titled “Pump Station for Well #64 at McKinney Colony Park” has been completed by Amerine Systems, Inc., in accordance with the contract agreement dated July 11, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “Pump Station for Well #64 at McKinney Colony Park” is hereby accepted as complete from said contractor Amerine Systems, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $963,627.85, 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 27th day of November, 2007, by Councilmember Dunbar, 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: Dunbar, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION CANCELING THE CONTRACT WITH GWINV CONSTRUCTION, INC., FOR THE PROJECT TITLED, “REMODEL OF EXISTING WATER QUALITY CONTROL LABORATORY.”

WHEREAS, on February 13, 2007, by Resolution No. 2007-111, the Council accepted bids and authorized execution of a contract with Gwinn Construction, Inc., for construction of the “Remodel of Existing Water Quality Control Laboratory” project, and

WHEREAS, the contract was subsequently executed and a pre-construction conference was held, and

WHEREAS, the City of Modesto received a letter from Gwinn Construction dated October 12, 2007, requesting consideration for release from the contract due to significant delays, and

WHEREAS, after reviewing the project design and the Gwinn Construction contract, Public Works and the City Attorney’s office recommends the contract be canceled, and

WHEREAS, Gwinn Construction agrees not to oppose the cancellation and has agreed to absorb all costs,

NOW, THEREFORE, BE IT RESOLVED by the Council that the contract with Gwinn Construction, Inc., for construction of the “Remodel of Existing Water Quality Control Laboratory” project is hereby canceled.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November 2007, by Councilmember Dunbar, 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: Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
A RESOLUTION AUTHORIZING THE PRUNED REFUSE COLLECTION PROGRAM BE MOVED FROM THE GENERAL FUND TO THE STORM DRAIN FUND, AND DIRECTING STAFF TO ADJUST EXPENSES TO PROVIDE FUNDING IN THE AMOUNT OF $600,000 THROUGH JUNE 30, 2008.

WHEREAS, City crews currently perform pruned refuse collection in the streets and alleys on a monthly basis at an annual cost of $1.2 million, and

WHEREAS, for FY 2007-08 Council approved funding for the pruned refuse collection program (PR Program) for only one-half of the year in anticipation of a staff proposal for permanent funding beginning in January 2008, and

WHEREAS, on August 4, 2007, staff presented a proposal to discontinue providing the collection services and to direct that pruned refuse be collected in green toters as part of the garbage service program, and

WHEREAS, Council rejected this proposal and made a motion to refer this item back to the Council Finance Committee to begin a Proposition 218 process, and

WHEREAS, based on Council’s rejection of the proposal to stop the PR Program, it is necessary to identify $600,000 to fund the program for the remainder of the fiscal year ending June 30, 2008, and

WHEREAS, the Storm Drain Fund is the most logical funding source because the collection of pruned refuse is performed to protect the storm drain system from being overwhelmed by debris, and

WHEREAS, the Storm Drain Fund is seriously under-funded at this time, and
WHEREAS, in order to fund the $600,000 for the PR Program, cuts in the fund have been identified by primarily reducing the rockwell rejuvenation services that are performed by a contractor, and

WHEREAS, while no appreciable effect would be expected this winter season, there will be a decrease in rockwell performance in the future if this funding is not restored quickly, and

WHEREAS, the Finance Committee, at its October 22, 2007 meeting, recommended approval of the PR Program being moved from the General Fund to the Storm Drain Fund for the remainder of FY 2007-08 ending June 30, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Pruned Refuse Collection Program be moved from the General Fund to the Storm Drain Fund.

BE IT FURTHER RESOLVED that the Council hereby directs staff to adjust expenses to provide funding in the amount of $600,000 through June 30, 2008.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007 by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Ridenour was upon roll call carrier and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: Dunbar, Hawn

ATTEST:  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

by

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-710

A RESOLUTION GRANTING THE APPEAL OF JOHN LAING HOMES TO A PLANNING COMMISSION DECISION DENYING AN EXTENSION OF VESTING STATUS OF THE KODIAK VILLAGE II SUBDIVISION MAP PROPERTY LOCATED EAST OF OAKDALE ROAD AND SOUTH OF LA FORCE DRIVE

WHEREAS, the Planning Commission approved the Vesting Tentative Subdivision Map for Kodiak Village II on April 19, 2004, and

WHEREAS, the Kodiak Village II Final Map was recorded on May 12, 2005, and

WHEREAS, the rights conferred by the vesting Tentative Subdivision Map would have expired on May 12, 2007, and

WHEREAS, John Laing Homes filed an application for a one year time extension on the vesting status of the Kodiak Village II Subdivision Map on April 13, 2007, and

WHEREAS, Modesto Municipal Code Section 4-4.405(c) authorizes the Planning Commission to take action on proposed extensions of vesting status of tentative subdivision maps, and

WHEREAS, with the filing of this application the vesting status was placed “on hold” until the Planning Commission adopted a resolution, and

WHEREAS, the continued the Planning Commission hearing was held on September 17, 2007, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, at said public hearing the applicant’s representative requested that the Planning Commission deny the request for a time extension in order to bring the item forward for City Council consideration, and
WHEREAS the Planning Commission, by Resolution No. 2007-39 denied the request for the time extension, and

WHEREAS, an appeal to the Planning Commission’s denial of an extension of vesting status of the Kodiak Village II Subdivision was filed with the Office of the City Clerk by George Petrulakis, on behalf of John Laing homes on September 28, 2007, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council at its regular meeting place located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at 5:30 p.m. on November 27, 2007, at which time said public hearing was held and evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing the Council of the City of Modesto found and determined that the appeal of John Laing Homes to the decision of the Planning Commission should be granted and the decision of the Planning Commission should be overruled for the following reasons:

1. The City does not find that the approval of the time extension would create a health or safety risk to the community.

2. Furthermore, the Initial Study presented to the Planning Commission, which identified unmitigated water and wastewater cumulative impacts has since been updated to reflect the recently adopted Urban Water Management Plan and infrastructure improvements currently under construction. The City has the water and wastewater capacity to serve the development and there are no significant CEQA impacts. The City finds that the project conforms to the Village One Specific Plan Program EIR and is consistent with CEQA and State law.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of John Laing Homes to the decision of the Planning Commission denying the vesting status time extension for Kodiak Village II Subdivision Map, property located
east of Oaklade Road and south of La Force Drive is granted and the decision of the Planning Commission is hereby overruled for the reasons quoted above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Hawn

ATTEST: ________________

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ____________________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-711

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN
THE SCOPE OF THE VILLAGE ONE PROGRAM ENVIRONMENTAL
IMPACT REPORT (SCH NO. 90020181), AS AMENDED BY THE
SUPPLEMENTAL EIR: ONE YEAR TIME EXTENSION OF VESTING STATUS
OF KODIAK II SUBDIVISION MAP, PROPERTY LOCATED EAST OF
OAKDALE ROAD AND SOUTH OF LA FORCE DRIVE, (JOHN LAING
HOMES)

WHEREAS, the Modesto City Council has adopted Resolution No. 90-757 certi-
fying that the Village One Final Environmental Impact Report (“EIR”) (State Clearing
House No. 90020181) is complete and adequate pursuant to Section 15090 of the Cali-
ifornia Environmental Quality Act (“CEQA”) Guidelines, and

WHEREAS, the Modesto City Council has adopted Resolution No. 94-297 which
certified the Final Supplemental EIR for Village One; thus, the 1990 Village One Pro-
gram EIR has been amended and updated by the 1994 Supplemental EIR, adopted by
Resolution No. 94-297 on May 24, 1994, and

WHEREAS, on May 6, 2003, the City Council adopted Resolution No. 2003-223
which adopted an Addendum to Village One Specific Plan Program Environmental Impact
Report for the Village One Facilities Master Plan Update – May 2003 (“VI FMP”), and

WHEREAS, an appeal to the Planning Commission’s denial of extension of
vesting status of the Kodiak Village II Subdivision was filed with the Office of the City
Clerk by the applicant’s representative George Petrulakis, on October 2, 2007, and

WHEREAS, the City’s Community & Economic Development Department re-
viewed the proposed Project to determine if said Project might have a significant effect
on the environment, and
WHEREAS, City staff has prepared a Written Checklist, Environmental Assessment No. EA/C&ED 2007-26a, which concluded that the proposed Project is within the scope of the Village One Program EIR (SCH No. 90020181), as amended by the Village One Supplemental EIR, and the addendum to Village One Specific Plan Program Environmental Impact Report for the Village One Facilities Master Plan, and

WHEREAS, by Resolution No. 2007-39 the Planning Commission denied the request for the time extension, property located east of Oakdale Road and south of LaForce Drive, and

WHEREAS, an appeal to the Planning Commission’s decision was considered by the City Council at a duly noticed public hearing which was held on November 27, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Written Checklist, Environmental Assessment No. EA/C&ED 2007-26a, entitled “Determination: Project within the Scope of the Village One Specific Plan Program Environmental Impact Report Initial Study EA/C&ED No. 2007-26a For the Proposed One Year Time Extension of Vesting Status For the Kodiak II Subdivision Map”, for the proposed project, and the Council hereby makes the following findings:

1. As per Sections 15168 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Program EIR, and no new environmental document or findings are required by CEQA, and

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

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

   a. One or more significant effects which is not discussed in the Program EIR; or,

   b. Significant effects which were previously examined will be substantially more severe than previously shown; or,

   c. Previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the Project proponents decline to adopt the mitigation measure or alternative; or,

   d. Mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

5. The Written Checklist, Environmental Assessment No. EA/C&ED 2007-26a, provides the substantial evidence to support findings 1-4, noted above.

A copy of said Written Checklist, Environmental Assessment No. EA/C&ED 2007-26a, entitled “Determination: Project within the Scope of the Village One Specific Plan Program Environmental Impact Report Initial Study EA/C&ED No. 2007-26a for the Proposed One Year Time Extension of Vesting Status For the Kodiak II Subdivision Map”, is attached hereto as **Exhibit “A”**, and incorporated herein by reference.
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 27th day of November, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Hawn

ATTEST: \( \text{Jean Morris, City Clerk} \)

(SEAL)

APPROVED AS TO FORM:

By: \( \text{SUSANA ALCALA WOOD, City Attorney} \)
Determination:
Project is not within the Scope of the
Village One Specific Plan
Program Environmental Impact Report for
Vesting Status Time Extension Kodiak Village II
Subdivision Map

Prepared for:
City of Modesto
P.O. Box 642
Modesto, CA 95353
Contact: David Wage
209/577-5267

Prepared by:
David Wage, Planner
City of Modesto
Community & Economic Development Department
209/577-5267

November 15, 2007
The 1994 Supplemental EIR that amended and superseded the 1990 Program EIR is the document reviewed for projects within the Village One Specific Plan area. A summary of significant impacts and their mitigation measures from the 1994 Supplemental EIR is attached as Exhibit “A.” Where appropriate those feasible mitigation measures developed in the Supplement to the program EIR shall be incorporated into the proposed project.

II. PROJECT INFORMATION

1. Project Title: Vesting Status Time Extension- Kodiak Village II Subdivision

2. Lead Agency Name and Address: City of Modesto

3. Contact Person and Phone Number: David Wage, Assistant Planner
Modesto Community & Economic Development Department
209/577-5267
4. Project Location: Oakdale Road and Laforce Drive

5. Project Sponsor’s Name and Address: John Laing Homes
   304 Banner Court Suite 1
   Modesto, CA 95356


7. Zoning: Specific Plan Overlay (SP-O)

8. Description of Project: Pursuant to Modesto Municipal Code Section 4-4.405(c), the applicant is requesting a one-year time extension for the vesting status of the Kodiak Village II Subdivision. The tentative map for a 61-lot subdivision was approved and effectively vested in April 2004. Once a vesting tentative map has been approved, that approval confers a vested right to proceed with the development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved (Modesto Municipal Code Section 4-4.405(b)). The subdivision is vested against substantial increases in Capital Facilities Fees (CFF), sewer, and water fee increases that are now in effect. Four of the 61 lots in the subdivision have been developed, while the remaining undeveloped lots are vested against current fees.

The development rights conferred by a vesting map shall remain in effect for two years after recording of a Final Map. The Final Map was recorded on May 12, 2005, and under the City’s subdivision regulations, the vesting status would have expired on May 12, 2007. The applicant’s request to extend the vesting status for an additional year was submitted on April 13, 2007, which extends the vesting rights until the Planning Commission acts on the request.

9. Surrounding Land Uses and Setting: The Village One Specific Plan Area is over half built, as planned and approved by the 1990 Village One Specific Plan. The project area is bounded by Laforce Drive to the north, The Oakdale Road to the West, single-family homes to the east and south.

10. Other Public Agencies whose Approval is Required: None.
III. DETERMINATION:

Based on the analysis contained in this document, staff finds that pursuant to Guidelines Section 15168 (c)(4) the following is true for the proposed project:

1. There are no substantial changes proposed in the project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Village One Program EIR, as amended by the 1994 Supplemental EIR are required.

2. No substantial changes have occurred with respect to the circumstances under which the project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Village One Program EIR, as amended by the 1994 Supplemental EIR are required.

3. There is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence when the Village One Program EIR, as amended by the 1994 Supplemental EIR, was adopted which shows any of the following:
   a. one or more significant effects which is not discussed in the Village One Program EIR, as amended by the 1994 Supplemental EIR; or,
   b. significant effects which were previously examined will be substantially more severe than previously shown; or,
   c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or,
   d. mitigation measures or alternatives which are considerably different from those analyzed in the Village One Program EIR, as amended by the 1994 Supplemental EIR, would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

4. The Initial Study, Environmental Assessment No. EA/C&ED 2007-26a, provides the substantial evidence to support findings 3-5, above, and the City hereby determines that no further environmental documentation is required for the proposed project.

________________________________________
Project Manager

Date

City of Modesto
Written Checklist

Initial Study
EA/C&ED No. 2007-26a
November 15, 2007
IV. PROJECT EVALUATION:

The following written Checklist based on Appendix G of the CEQA Guidelines serves to document the evaluation of the site and activity of the proposed project pursuant to CEQA Guidelines Section 15168 (c) (4) to determine whether the environmental effects of the operation were covered in the Program EIR.

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I. AESTHETICS. Would the project:

a. Have a substantial adverse effect on a scenic vista?

b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?

c. Substantially degrade the existing visual character or quality of the site and its surroundings?

d. Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?

Aesthetic and visual impacts are analyzed on pages III-100 through III-101 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that as the Specific Plan area is developed, it will eliminate views of the valley and the distant mountains from adjacent areas and reduce the area’s visual open space. However, the program EIR found the effects of buildout of Village One on scenic vistas to be less than significant because views from the project area are minimal. The proposed vesting status time extension would not change the extent or nature of construction in the Specific Plan area, or cause any other changes in the project area. Impacts on scenic vistas would therefore remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.
b. The Village One Specific Plan program EIR found that there are no scenic resources in the project area, and that development within the Specific Plan area would therefore not result in significant impacts on scenic resources. This finding would not be affected by the proposed vesting status time extension. There would be no impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that the development within the Specific Plan area would have a less-than-significant impact on the visual character of the area. The proposed vesting status time extension would not change the design or layout of the development proposed within the Village One Specific Plan. It is called for by the Specific Plan. For this reason, impacts on the visual character of the area would remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

d. There would be no additional impact. No mitigation is required.

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### AGRICULTURAL RESOURCES.

In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation. Would the project:

a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

b. Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract?

c. Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use?

Impacts on agricultural resources are analyzed on pages III-80 through III-94 of the 1994 Supplement.
Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that land designated as Prime Farmland would be lost as a result of development in the Village One Specific Plan area. This impact was determined to be significant and not mitigable. The proposed vesting status time extension would not affect this finding because the project area would remain the same. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR presented information showing that any Williamson Act contracts in the Village One Specific Plan area would be automatically cancelled on annexation of the land to the City of Modesto, which has occurred, or would expire within 10 years of the time the original program EIR was prepared. The last Williamson Act contract covering land in the Village One Specific Plan area expired in 2001. There are no lands in the project area under Williamson Act contract. The Village One Specific Plan area has also been rezoned consistent with the specific plan, and no lands in the project area are now zoned for agricultural use. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR identified a potential land use conflict between new residential uses in the specific plan area and adjacent agricultural uses. Such conflicts can lead to conversion of adjacent farmlands to other uses. The program EIR proposed mitigation measures for this potential impact that would reduce the impact's significance, although the EIR noted that the mitigation measure might not fully mitigate the impact. No additional mitigation measures are available for this impact. This finding would not be affected by the proposed project because the project area and proposed land uses would remain the same. There would be no additional impact. No mitigation is required.

Potentially Significant Impact Less than Significant Impact Less-than-Significant Impact No Impact

with Mitigation Incorporated

III. AIR QUALITY. When available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a. Conflict with or obstruct implementation of the applicable air quality plan?

b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a nonattainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?

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d. Expose sensitive receptors to substantial pollutant concentrations?

|                               | ☐                                             | ☐                           | ☐         | ☐         |

e. Create objectionable odors affecting a substantial number of people?

|                               | ☐                                             | ☐                           | ☐         | ☐         |

Impacts on air quality are analyzed on pages III-45 through III-54 of the 1994 Supplement.

Responses to Checklist Questions

a. / b. The Village One Specific Plan program EIR found that air pollution from project-related construction traffic and fireplaces & wood stoves in planned residential areas would violate air quality standards and contribute to an existing air quality violation. Construction traffic emissions would contribute to violation of the state and federal 8-hour carbon monoxide (CO) and particulate matter (PM10) standards and the federal ozone standard in the Modesto Urban Area and the San Joaquin Valley Air Basin. Urban traffic pollution would contribute to violations of the state ozone, CO, and PM10 standards in the Modesto Urban Area and San Joaquin Valley Air Basin. Residential pollution would contribute to violations of the pollutant standard index in the Modesto Urban Area. Partial mitigation for these impacts is included in the program EIR (Mitigation Measures 3−5), and the City of Modesto adopted a statement of overriding consideration for each impact. The proposed vesting status time extension would not change the amount of development and construction in the project area, so trips generated by the project would not be affected and the types of land uses would not change. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that air pollutant emissions associated with traffic at buildout of Village One would exacerbate the existing ozone, PM10, and CO violations in the Modesto area and cause a significant cumulative impact. Partial mitigation for these emissions is included in the program EIR (Mitigation Measures 4.5.3[a] and 4.5.3[b]), and the City of Modesto made a statement of overriding consideration for each impact. The proposed vesting status time extension would not change the amount of traffic associated with buildout of Village One or the types of land uses, so trips generated by the project would not be affected. There would be no additional impact. No mitigation is required.
d. The Village One Specific Plan program EIR found that PM10 generated during construction would aggravate the respiratory problems of people living and working nearby, therefore exposing sensitive receptors in the area to pollutant concentrations and causing a significant impact. However, the program EIR outlines mitigation measures that will be implemented to reduce the impact to an acceptable level (Mitigation Measure 40). The proposed vesting status time extension would not change the level of construction emissions. There would be no additional impact. No mitigation is required.

e. The proposed vesting status time extension would not create odors. There would be no impact. No mitigation is required.

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IV. BIOLOGICAL RESOURCES. Would the project:

a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? ☐ ☐ ☐ ☒

b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? ☐ ☐ ☐ ☒

c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means? ☐ ☐ ☐ ☒

d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? ☐ ☐ ☐ ☒
Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that the buildout could result in the loss of foraging habitat for Swainson’s Hawk, a state-listed threatened species. The development of the project site would result in a less than significant impact to foraging habitat for Swainson’s Hawk. Therefore, no mitigation is required.

b. The Village One Specific Plan program EIR did not find that any riparian habitat or other designated sensitive natural community was present in the project area, and so found that the project would have a less-than-significant impact. The proposed vesting status time extension would not change the boundaries of the Specific Plan area. There would be no impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would result in the loss of lands that might be classified as wetlands by the U.S. Army Corps of Engineers, but that, with mitigation, the impact would be less than significant. The proposed vesting status time extension would not change the Specific Plan area boundaries or the areas that would be disturbed. There would be no additional impact. No mitigation is required.

d. The Village One Specific Plan program EIR did not identify any migratory corridors in the project area, nor did it find that the project would interfere with the movement of any species. The proposed vesting status time extension would not change the Specific Plan area boundaries. There would be no impact. No mitigation is required.

e./f. No local biological resource protection policies, ordinances, habitat conservation plans, or natural community conservation plans apply to the Village One Specific Plan area. There would be no impact. No mitigation is required.
V. **CULTURAL RESOURCES.** Would the project:

a. Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5? □ □ □ ☑

b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5? □ □ □ ☑

c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? □ □ □ ☑

d. Disturb any human remains, including those interred outside of formal cemeteries? □ □ □ ☑

Responses to Checklist Questions

a.-d. Impacts on cultural resources resulting from the buildout of Village One (e.g., from construction of associated infrastructure) are addressed in the Opportunities/Constraints Report prepared for the Modesto Planning Commission (December 1, 1989). The report concluded that there are no known historic, archaeological, or paleontological resources in the Village One Specific Plan area. Based on the results of this report, (Cultural and Historic Resources Report, page 3) it was determined that the likelihood that the proposed abandonment would change or disturb human remains or significant historic, archaeological, or paleontological resources was low.

The proposed project would not change the locations or types of construction in the project area nor the boundaries of the project area. Development of the proposed project will not result in effects on scattered existing structures. A Cultural Resources Assessment was prepared to determine if any of these affected structures are considered historic resources. The Cultural Resources Assessment is attached to this document as Appendix A. No historic structures are located within the project area boundaries. Therefore, no mitigation measures are necessary.

Since no archaeological, or paleontological resources were found in the previous document to be located in the project area, and since the proposed project would not have a significant impact on historic structures, there would be no impact. No mitigation is required.
VI. **GEOLOGY AND SOILS.** Would the project:

a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

2. Strong seismic groundshaking?

3. Seismic-related ground failure, including liquefaction?

4. Landslides?

b. Result in substantial soil erosion or the loss of topsoil?

c. Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?

d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?

Impacts associated with geology and soils are analyzed on pages III-105 through III-108 of the 1994 Supplement.
Responses to Checklist Questions

a.-d. The program EIR, as supplemented, found that the project area is not subject to geologic or soil-related hazards that cannot be adequately mitigated through the implementation of existing city regulations, such as the building code. No significant impacts were identified, and no mitigation measures were required. The proposed abandonment would not change the locations or types of construction in the project area nor the boundaries of the project area. There would be no additional impact. No mitigation is required.

e. The Village One Specific Plan included provisions for the project to be served by public sewers. No septic tanks or alternative wastewater systems were proposed. The proposed vesting status time extension would not change the proposed method of wastewater disposal. There would be no impact. No mitigation is required.

VII. HAZARDS AND HAZARDOUS MATERIALS.
Would the project:

a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

c. Emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

d. Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

e. Be located within an airport land use plan area or, where such a plan has not been adopted, be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the project area?
| |
|---|---|---|---|
| Potentially Significant Impact | Less than Significant with Mitigation | Less-than-Significant Impact | No Impact |
| f. Be located within the vicinity of a private airstrip and result in a safety hazard for people residing or working in the project area? | ❑ | ❑ | ❑ | ❑ |
| g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | ❑ | ❑ | ❑ | ❑ |
| h. Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? | ❑ | ❑ | ❑ | ❑ |

Impacts associated with hazards and hazardous materials are analyzed on pages III-80 through III-94 and III-109 through III-119 of the 1994 Supplement.

**Responses to Checklist Questions**

**a.–c.** The Village One Specific Plan does not allow any land uses that would use hazardous materials. The proposed vesting status time extension would not change land uses contemplated by the Specific Plan. There would be no impact. No mitigation is required.

**d.** The Village One Specific Plan program EIR, as supplemented, found no hazardous materials were stored at or near the project site. No significant impacts were identified, and no mitigation measures were required. There would be no additional impact. No mitigation is required.

**e.** The Village One Specific Plan area is not located in an airport land use plan area or within 2 miles of a public airport. There would be no impact. No mitigation is required.

**f.** The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located to the east of the Village One Specific Plan area. However, take-offs and landings were found to take place parallel to and outside the Specific Plan area boundaries, and flight patterns are generally situated to the east of the Specific Plan area. There would be no additional impact. No mitigation is required.
Since the adoption of the Village One Specific Plan, the Modesto General Plan has been updated to include development of Village One consistent with the specific plan. City emergency plans are developed with the assumption that the Village One Specific Plan will be implemented. The proposed vesting status time extension would not change construction, land use, or other physical attributes of the Right-of-Way Acquisition. There would be no additional impact. No mitigation is required.

The project site is located in an area of the City of Modesto planned for buildout of an urban neighborhood. Approximately 50% of the project area remains undeveloped, with a covering of dry brush and vegetation. The potential for wildland fires is low, and this potential will decrease further as buildout continues. There would be no additional impact. No mitigation is required.

VIII. HYDROLOGY AND WATER QUALITY.

Would the project:

a. Violate any water quality standards or waste discharge requirements? ☒ ☐ ☐ ☐

b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)? ☐ ☐ ☐ ☒

c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or offsite? ☐ ☐ ☐ ☒

d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite? ☒ ☐ ☐ ☐
Impacts associated with hydrology are analyzed on pages III-109 through III-119 of the 1994 Supplement.

**Responses to Checklist Questions**

a. The Village One Specific Plan program EIR did not find that buildout of the plan would violate any water quality standards or waste discharge requirements. The proposed project is consistent with the Village One Specific Plan, so there would be no additional impacts. No mitigation is required.

b. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area might interfere with local groundwater recharge. However, the impact was found to be less than significant because the Specific Plan area is not a major groundwater recharge area and it includes a recharge/discharge plan for disposal of stormwater runoff and recharge of groundwater. The proposed project would not change the amount of impervious surface in the Specific Plan area or the proposed storm drain facilities. There would be no additional impact. No mitigation is required.
c. The Village One Specific Plan program EIR found that development will substantially alter the existing drainage pattern of the area but, because the project will incorporate an urban storm drain system, will not result in any erosion impacts. The proposed project would not change the amount of impervious surface or the proposed storm drain facilities. There would be no additional impact. No mitigation is required.

d. The Village One Specific Plan program EIR did not find that development would substantially degrade water quality. The proposed project would not change water use or discharge associated with the buildout of the Village One Specific Plan area. There would be no additional impact. No mitigation is required.

e. According to the Village One Specific Plan program EIR, the project site is not situated in a 100-year flood hazard area or downstream from a levee or dam. There would be no impact. No mitigation is required.

f. The project site is located in a flat, inland area not susceptible to seiche, tsunami, or mudflow. There would be no impact. No mitigation is required.

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IX. **LAND USE AND PLANNING.** Would the project:

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<th>a. Physically divide an established community?</th>
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<td>b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?</td>
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<td>c. Conflict with any applicable habitat conservation plan or natural community conservation plan?</td>
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Impacts associated with land use and planning are analyzed on pages III-80 through III-94 of the 1994 Supplement.
Responses to Checklist Questions

a. The proposed project would not result in any physical changes to the environment beyond those described in the Village One Specific Plan. Village One would continue to be developed as a planned community; therefore, the project would not divide an established community. There would be no impact, and no mitigation is required.

b., c. The Village One Specific Plan has been adopted by the City of Modesto and has been incorporated into the Modesto General Plan. The proposed project would be consistent with the Village One Specific Plan. There are no other applicable land use or conservation plans for the project area. There would be no impact. No mitigation is required.

Potentially Significant Impact | Less than Significant with Mitigation | Less-than-Significant Impact | No Impact
--- | --- | --- | ---

X. MINERAL RESOURCES. Would the project:

a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

Responses to Checklist Questions

a., b. No known mineral resources or important recovery sites are located in the Village One Specific Plan Area. There would be no impact. No mitigation is required.
XI. NOISE. Would the project:

c. Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

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d. Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

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e. Be located within an airport land use plan area, or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels?

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f. Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?

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Impacts associated with noise are analyzed on pages III-55 through III-67 of the 1994 Supplement.

a., c. The Village One Specific Plan program EIR found that proposed residential housing in the project area would be exposed to noise levels exceeding general plan thresholds, but mitigation measures were incorporated to reduce the impact to a less-than-significant level. The proposed project would not change project-related noise-generating activities. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR found that the buildout of Village One would not expose people to, or generate excessive, groundborne vibration or groundborne noise levels. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR found that construction of the proposed project would result in a substantial temporary increase in ambient noise levels for residential housing. However, mitigation measures were incorporated into the program EIR to reduce the impact to a less-than-significant level. The proposed project would not change construction activities. There would be no additional impact. No mitigation is required.

e. The Village One Specific Plan program EIR found that the Village One Specific Plan area is not located in an airport land use plan area or within 2 miles of a public airport. There would be no impact. No mitigation is required.
The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located east of the Village One Specific Plan area. However, take-offs and landings take place parallel to and outside the Specific Plan boundaries, and flight patterns are generally situated east of the project area. There would be no additional impact. No mitigation is required.

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XII. POPULATION AND HOUSING. Would the project:

a. Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?

b. Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?

c. Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?

Impacts on population and housing are analyzed on pages III-95 through III-99 of the 1994 Supplement.

Responses to Checklist Questions

a.–c. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would not result in significant adverse impacts on population and housing units. No mitigation is required.
XIII. PUBLIC SERVICES. Would the project:

a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or a need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:

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<td>Police protection?</td>
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<td>Other public facilities?</td>
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Impacts on public services are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that the only significant impact that buildout of the Village One Specific Plan area would have on public services would be in the areas of fire protection and law enforcement. Mitigation measures were identified in the program EIR to reduce the level of this impact to a less-than-significant level. No other significant impacts on public services were identified. The proposed vesting status time extension would not change the provision of public services. There would be no additional impact. No mitigation is required.
XIV. **RECREATION.** Would the project:

a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? □ □ □ ☑

b. Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment? □ □ □ ☑

Impacts on recreation are analyzed on pages III-120 through III-158 of the 1994 Supplement.

**Responses to Checklist Questions**

a., b. No significant impacts on recreation were identified in the program EIR. The proposed project would not change the provision of parks and recreation facilities. There would be no additional impact. No mitigation is required.

XV. **TRANSPORTATION/TRAFFIC.** Would the project:

a. Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)? □ □ □ ☑

b. Cause, either individually or cumulatively, exceedance of a level-of-service standard established by the county congestion management agency for designated roads or highways? □ □ □ ☑

c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? □ □ □ ☑

d. Substantially increase hazards because of a ☑

City of Modesto
Written Checklist

Initial Study
EA/C&ED No. 2007-26a
November 15, 2007
design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

e. Result in inadequate emergency access?  
   ☐  ☐  ☐  ☑

f. Result in inadequate parking capacity?  
   ☐  ☐  ☐  ☑

g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?  
   ☐  ☐  ☐  ☑

Impacts on transportation and traffic are analyzed on pages III-40 – III-44 of the 1994 Supplement.

Responses to Checklist Questions

a., b. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system and would affect level of service at several intersections. Mitigation measures identified in the program EIR were identified to reduce impacts to a less-than-significant level for all intersections except the Briggsmore Avenue/Oakdale Avenue intersection. For that intersection, the impact was determined to be significant and not mitigable. The City of Modesto made a statement of overriding considerations for that impact at the time it certified the 1994 Supplement. The proposed vesting status time extension would not alter traffic patterns in the Specific Plan area or result in additional trips. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR did not find that the buildout of the Village One Specific Plan area would result in a change in air traffic patterns. The proposed project does not include any elements that would affect air traffic patterns. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area included any hazardous design features or increased any incompatible uses for roads in the project area. Therefore, the vesting status time extension will have a less than significant effect on increasing hazards due to a design feature. No mitigation is required.
e. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area would result in inadequate emergency access in the Specific Plan area. The Specific Plan includes provision of adequate roadways to serve the Village One development. Therefore, the impact on emergency service access is less than significant. No mitigation is required.

f. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area would result in inadequate parking capacity in the Specific Plan area. There would be no impact. No mitigation is required.

g. The proposed project does not include any changes related to transportation policies, and would have no impact. No mitigation is required.

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**XVI. UTILITIES AND SERVICE SYSTEMS.**

Would the project:

a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

c. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed?

e. Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?

f. Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?
Comply with federal, state, and local statutes and regulations related to solid waste?  

- Potentially Significant Impact  
- Less than Significant with Mitigation Incorporated  
- Less-than-Significant Impact  
- No Impact

Impacts on utilities and service systems are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a.,e. The Village One Master EIR indicates the occurrence of a significant impact if existing sewage treatment facilities cannot serve the projected demand from the proposed project. The Deficiencies in the existing system were identified based on the findings of the Collection System Master Plan Update and the Wastewater Treatment Master Plan Update, both adopted in 2007. Currently, the City is installing a Dissolved Air Floatation Unit (D.A.F.) unit to address existing deficiencies. It is anticipated the D.A.F. unit will be operational by mid-2008 and provide sufficient treatment capacity to serve near-term development citywide. The City is also currently designing treatment and disposal capacity upgrades to its treatment facility, which is expected to be online by late 2009. Therefore, the build out of the Kodiak Subdivision will not result in significant CEQA wastewater impact.

b. The approval would not create any project specific impacts that would require the construction of additional water or wastewater infrastructure. The project would contribute to a cumulative impact that increases the demand for additional infrastructure; however, the City’s water and wastewater plans have identified future improvements that will be needed development. Future infrastructure improvements and their potential environmental impacts are addressed in separate environmental documents. This development will not result in project specific effects that create the need for additional infrastructure.

c. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed in order to accommodate buildout of the Village One Specific Plan area. The EIR found that, with mitigation, there would be no significant impact on stormwater drainage facilities. An update to the Storm Drainage Master Plan has been prepared and is under consideration by the City. An addendum to the Village One program EIR for the Storm Drainage Master Plan has also been prepared and is under consideration by the City. The project would not result in any additional impacts or the need for any additional mitigation beyond that assessed in the Addendum to the Village One Program EIR for the Storm Drainage Master Plan.

d. The City’s recent Urban Water Management Plan (UWMP) analyzed both existing ground water sources and surface water supplies. The infrastructure deficiencies identified in the previous Urban Water Management Plan have been addressed through new information about existing water sources and the addition
of infrastructure and an additional water source. Using empirical data, the recent UWMP estimated its existing ground water sources are able to produce operational yield of 53,500 acre-feet per year while previous studies only estimated a yield of 50,000 acre-feet per year. In addition, the City has established an assured long-term water supply by entering into a revised Treatment and Delivery Agreement (TDA) with MID to expand the Modesto Regional Water Treat Plant (MRWTP), which will become operational in late 2009 or early 2010. Therefore, based on updated information included in the recently adopted UWMP, the build out of the Kodiak Subdivision will not result in a significant CEQA water supply impact.

f. g. The Village One Specific Plan program EIR found that the area’s landfills have sufficient permitted capacity to accommodate the project’s solid waste disposal needs. The proposed project would not result in any physical changes in the environment or the generation of any additional solid waste. There would be no impact. No mitigation is required.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE.

a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory? ☐ ☐ ☐ ☐ ☒

b. Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.) ☐ ☐ ☒ ☐ ☒

c. Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly? ☐ ☐ ☐ ☐ ☒

Cumulative impacts are analyzed on page III-161 of the 1994 Supplement.
Responses to Checklist Questions

a. As described above, the proposed project would not result in any significant impacts on the environment over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.

b. As discussed in Section XVI(b) above, the proposed project would result in a less that significant cumulative impact on City water and wastewater infrastructure. The development would result in the need for additional infrastructure above and beyond what has been anticipated in the City’s water and wastewater plans. (see “Responses to Checklist Questions XVI ‘Utilities and Service Systems’ a,e,d on page 25).

c. As described above, the proposed project would not result in any significant impacts affecting humans over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.
V. MITIGATION APPLIED TO PROJECT

The following mitigation measures developed in the 1994 Village One Specific Plan Supplement to the Program EIR are appropriate to the project and will be incorporated into the project. Therefore, the environmental effects of the project were covered by the Program EIR, except for the effects relating to water supply and wastewater treatment as described in Sections XVI and XVII of Part IV above.

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 and 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.

6. 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.

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

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. 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.

10. The developer shall implement pre- and post-construction best management practices (BMP) to minimize pollutants entering the storm system.
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-712

A RESOLUTION AMENDING SECTIONS 1 AND 2 OF RESOLUTION NO. 70-1063 ENTITLED “A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PREZONED DEVELOPMENT ZONE, P-PD(82), (WESTLAND INVESTMENT COMPANY).” (HENSLEY PROPERTIES, LP)

WHEREAS, the Modesto City Council, by Ordinance No. 1057-C.S., which became effective on December 23, 1970, granted Planned Development Zone, P-D(82), to allow Medium Density Residential Zone, R-2, uses on property located on the south side of Haddon Avenue, northwest of Capistrano Drive, and

Whereas, City Council Resolution No. 70-1063 adopted by the City Council on October 26, 1970, approved the development plan for Planned Development Zone, P-D(82), and contained the conditions of approval thereof, and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(82) was filed by Hensley Properties LP on January 29, 2007, to allow the conversion of existing rental units into 73 for-sale air-space condominiums, property located on the south side of Haddon Avenue, northwest of Capistrano Drive, and

WHEREAS, after a public hearing held on September 17, 2007, 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. 2007-42, that the amendment to Planned Development Zone P-D(82), as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed amendment is consistent with the Modesto Urban Area General Plan, because the use is consistent with the Mixed-Use (MU), designation for the site.

2. The proposed Planned Development Zone Amendment will be compatible with the surrounding residential land uses.
WHEREAS, said matter was set for a public hearing of the City Council to be held on November 7, 2007, 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 Hensley Properties, LP for an amendment to Planned Development Zone, P-D(82) should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2007-42 and quoted above, and

WHEREAS, the City Council has introduced Ordinance No. 3467-C.S. on the 27th day of November, 2007, amending Section 2 of Ordinance No. 1057-C.S., to allow the conversion of existing rental units into 73 for-sale air-space condominiums,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Sections 1 and 2 of Resolution No. 70-1063 entitled “A Resolution Approving a Development Plan For Prezoned Development Zone, P-PD(82), (Westland Investment Company).” are hereby amended to read as follows:

"SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(82), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan titled “Capistrano Park No. III” as amended in red, stamped approved by the City Council.

2. All conditions of City Council Resolution No. 70-1063, not in conflict with this action shall remain in full force and effect.

3. Improvement Plans for any required improvements shall be prepared by a registered Civil Engineer and submitted for approval by the City Engineer or designee. All improvements shall be constructed in accordance with the approved plans."
4. Prior to the issuance of a building permit, a landscaping and irrigation plan for any new landscaping shall be approved by the Parks, Recreation and Neighborhood Director or designee. Proposed Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

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

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

7. Prior to recordation of a subdivision map, the owner shall secure a fire hydrant on the southwest corner of San Ignacio Ave. and Haddon Ave. and a second hydrant on southwest corner of Capistrano Drive and Haddon Ave, to the satisfaction of the Fire Chief and the City Engineer.

8. 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.

9. Prior to City Council approval of a final subdivision map the subdivider shall submit for approval by the City Attorney the articles of incorporation and bylaws, as well as all covenants, conditions, and restrictions which are to be recorded to create a Homeowner's Association (HOA) which shall guarantee continued maintenance of common facilities in the development including: the front yards of each unit. The Articles of Incorporation shall be filed with the Secretary of State prior to recordation of the final subdivision map. The covenants, conditions and restrictions shall be recorded prior to or concurrently with the final subdivision map.

10. The covenants, conditions and restrictions pertaining to the development shall provide, among other things, that utility service equipment and facilities may be installed on or through dwelling units to serve other dwelling units in the project as required by utility companies serving the project, and that said utility companies shall have a right of access to all lots and buildings where necessary to perform necessary maintenance and repair.
11. Prior to the recordation of a final map the subdivider shall secure certification by the Chief Building Official that all construction conforms to all building and fire safety standards for condominiums established by the Chief Building Official.

12. Provisions for water and sanitary sewer services to individual units shall be made in a manner to be approved by the City Engineer or designee. Maintenance of all sanitary sewers outside of the street right-of-way shall be by the HOA.

13. The public utility easements, including a blanket easement over the common area, as required by the utility companies serving the project shall be dedicated by the final map.

14. Prior to sale of a condominium unit, a subdivision map shall be recorded.

15. 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. 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.

In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

16. 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.
17. 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.

18. 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.

19. 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.

20. 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.

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

22. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

23. Suspend excavation and grading activity when winds exceed 20 mph.

24. Limit the area subject to excavation, grading and other construction activity at any one time.

25. 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.
26. If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria as presented in Appendix K."

"SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(82):

The entire construction program shall be accomplished in one phase, construction to begin on or before two years after the date of City Council approval and completion to be not later than three years after the date of City Council approval."

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.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 27th day of November, 2007, by Councilmember Marsh,
who moved its adoption, which motion being duly seconded by Councilmember Olsen,
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Hawn

ATTEST: Jean Morris
         JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-713

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): AMENDMENT TO PLANNED DEVELOPMENT ZONE, P-D(82),
PROPERTY LOCATED ON SOUTH OF HADDON AVENUE, NORTHWEST OF
CAPISTRANO DRIVE TO ALLOW THE CONVERSION OF EXISTING RENTAL
UNITS INTO 73 FOR-SALE AIR-SPACE CONDOMINIUMS (HENSLEY
PROPERTIES, LP)

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, Hensley Properties, LP has proposed an amendment to Planned
Development Zone, P-D(82) to allow the conversion of existing rental units into 73 for-
sale air-space condominiums, on the property located south of Haddon Avenue,
northwest of Capistrano Drive, 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 2007-14 (“Initial Study”) reviewed
the proposed amendment to P-D(82) 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 October 12, 2007 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 November 7, 2007, at 5:30 p.m., in the Tenth Street 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 amendment to P-D(82), 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 27th day of November, 2007 by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Hawn

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2007-14
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. (2007-14)

For the proposed:

Planned Development Amendment and Tentative Subdivision Map
P-PDA-07-002 & P-TSM-07-002

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

March 26, 2007
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-D(82) Amendment & Tentative Subdivision Map – Condo Conversion

B. Address or Location: South side of Haddon Avenue, west of Capistrano Drive

C. Applicant: Hensley Properties, LP, 821 13th Street, Modesto CA 95354

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: "R" Residential Land Use; and "MU" Mixed Use

F. Current Zoning Classification: Planned Development Zone, P-D(82)

G. Surrounding Land Uses:

<table>
<thead>
<tr>
<th>North</th>
<th>P-D(69) Single Family Attached and Multi-Family Dwellings (R-3 Zone Property)</th>
</tr>
</thead>
<tbody>
<tr>
<td>South</td>
<td>Undeveloped (R-2 &amp; R-3 Zone Property)</td>
</tr>
<tr>
<td>East</td>
<td>R-1, R-2, Undeveloped and Single-Family</td>
</tr>
<tr>
<td>West</td>
<td>P-D(106) Single Family Attached</td>
</tr>
</tbody>
</table>
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):

The 6.02-acre project site was annexed to the City on January 21, 1971, as part of Riverside No. 4 Addition. The application involves both an amendment to the existing Planned Development Zone, P-D(82) and a Subdivision Map. The proposal consists of converting the individual duplex, triplex, and fourplex units into condominiums. The existing property consists of 31 lots each served by a public street and each lot containing one duplex, triplex, or fourplex. All of the total 73 dwelling units will be converted. The existing complex will not be expanded, modified, and no new facilities/units will be added. No changes will occur to the previously approved site plan. The applicant does propose to do improvements to the interior of the existing units as required by the building code.

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.

City of Modesto Finding of Conformance
General Plan Master EIR

Initial Study
EA/C&ED No. 2007-14
March 26, 2007
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.

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**City of Modesto Finding of Conformance**

**General Plan Master EIR**  

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**Senior Planner**

**Title**

**March 26, 2007**

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**Project Manager**

**March 26, 2007**

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**Initial Study**

**EA/C&ED No. 2007-14**

**March 26, 2007**
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. 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.

   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. 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  

City of Modesto Finding of Conformance
General Plan Master EIR  5
Initial Study
EA/C&E D No. 2007-14
March 26, 2007
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:
This is an application to convert existing units to condominiums. The conversion is 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:

YES NO

(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.

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.
YES NO

(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). ☐ X

(3) Result in inadequate emergency access. ☐ X

(4) Result in inadequate parking capacity. ☐ X

DISCUSSION:

(1) Engineering and Transportation Staff reviewed the proposed project and have no comments pertaining to 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) There is no parking requirements associated with a subdivision map. However, future development on the subdivision will be required to provide parking in accordance with City 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-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).
(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 in that it involves only a subdivision of property. PM10 emissions created through any remedial 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:

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<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>□</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>□</td>
<td>X</td>
</tr>
<tr>
<td>(3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>(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.</td>
<td>□</td>
<td>X</td>
</tr>
</tbody>
</table>
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 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>
<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 will directly result in the development of land outside the March 2003 planning area boundaries.</td>
<td>X</td>
</tr>
<tr>
<td>(3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.</td>
<td>X</td>
</tr>
<tr>
<td>(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.</td>
<td>X</td>
</tr>
</tbody>
</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.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:

YES NO

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

(2) 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.

(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.  
(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.

(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-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 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-significant unless:

<table>
<thead>
<tr>
<th>YES</th>
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1. The project is inconsistent with the Modesto Urban Area General Plan.

2. The project would 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.

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:

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</table>

(1) The project is inconsistent with the Modesto Urban Area General Plan.     
(2) The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.     
(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.
DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) and "MU" (Mixed Use) designations in both land use and intensity.

(2) The project does not propose to increase the impervious surface, the residential development already exists. 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-significant unless:

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**DISCUSSION:**

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) and "MU" (Mixed Use) designations in both land use and intensity.

(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-than significant unless:

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(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 "R" (Residential Land Use) and "MU" (Mixed Use) designations 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

City of Modesto Finding of Conformance
General Plan Master EIR

Initial Study
EA/C&ED No. 2007-14
March 26, 2007
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:

<table>
<thead>
<tr>
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<th>YES</th>
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<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 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.</td>
<td>[ ]</td>
<td>X</td>
</tr>
</tbody>
</table>
DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan “R” (Residential Land Use) and “MU” (Mixed Use) designations 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:
The project is inconsistent with the Modesto Urban Area General Plan. ☐ X

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 “R” (Residential Land Use) and “MU” (Mixed Use) designations 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.

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-than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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<tbody>
<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 County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.</td>
<td>X</td>
</tr>
</tbody>
</table>

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) and "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:

YES NO

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

(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

(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. □ X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) and "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:

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<thead>
<tr>
<th>Threshold</th>
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<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
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</tr>
<tr>
<td>(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.</td>
<td></td>
<td>X.</td>
</tr>
</tbody>
</table>
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:

<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>
DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan “R” (Residential Land Use) and “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:

<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 “R” (Residential Land Use) and “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 act to connect an existing community rather than divide one.

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:
The project is inconsistent with the Modesto Urban Area General Plan.  X
The project would have a substantial adverse effect on a scenic vista.  X
The project would substantially degrade the existing visual character or quality of the project site and its surroundings.  X
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:

The project is consistent with the General Plan in both land use and intensity.

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.

The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.

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:
N/A

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.
A RESOLUTION APPROVING AN AGREEMENT WITH THE GILLIG CORPORATION FOR THE PURCHASE OF FIVE (5) TRANSIT BUSES AND SPARE COMPONENTS FOR A TOTAL COST OF $1,986,127, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the City desires to purchase five (5) transit buses to provide new service to northwest Modesto and Gregori High School, and

WHEREAS, the City is utilizing the Hillsborough Area Regional Transit (HART) competitive bid process to purchase said buses from the Gillig Corporation, and

WHEREAS, the Gillig Corporation provided the City with a quote based on the bid price the Gillig Corporation submitted to HART, and

WHEREAS, the Gillig Corporation has quoted the following total price F.O.B. Modesto, including state and local sales taxes: One Million, Nine Hundred Eighty-Six Thousand, One Hundred Twenty-Seven and No One-Hundredths Dollars ($1,986,127.00), and

WHEREAS, by an agenda report to the City Council dated November 8, 2007, from the Public Works Director, City staff recommended to the Council that said buses be purchased from the Gillig Corporation at the quoted price,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Gillig Corporation for the purchase of five transit buses for a total cost of $1,986,127.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute agreement.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 27th day of November, 2007 by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Hawn

ATTEST: ____________________________
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ____________________________
City Attorney

WHEREAS, the City wishes to purchase five (5) transit buses to provide new service in Modesto, and

WHEREAS, the FY2007-2008 CIP Budget for 6510-165-J401 requires amending to fund this project, and

WHEREAS, funds in the amount of $301,000 need to be transferred from account 1420 (Public Transportation Capital Facility Fund) to account 6510-700-J401-9142 to be appropriated for the Bus Purchases, and

WHEREAS, budget revenue needs to be increased by $558,905 in account 6510-165-J401-3159 (Local Transportation Funds Prior Year), and

WHEREAS, budget revenue needs to be decreased by $599,923 in account 6510-165-J401-3158 (Local Transportation Fund Current Year), and

WHEREAS, budget revenue needs to be decreased by $496,190 in account 6510-165-J401-3161 (STAF Transit Operating Grant), and

WHEREAS, an appropriation of $236,208 is needed from Fund 6510 (Fund Reserves) to fund the purchase of five (5) buses.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the following budget adjustments to fully fund the bus purchases:

(a) transfer $301,000 from account 1420 (Transit Capital Facility Fee Fund) to account 6510-700-J401-9142, (b) increase budget revenue by $558,905 in account 6510-165-J401-3159 (Local Transportation Funds Prior Year), (c) decrease budget revenue by
$599,923 in account 6510-165-J401-3158 (Local Transportation Fund Current Year),
(d) decrease budget revenue by $496,190 in account 6510-165-J401-3161 (STAF Transit
Operating Grant), and (e) authorize the appropriation of $236,208 from Fund 6510 Fund
Reserves.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 27th day of November, 2007 by Councilmember Marsh,
who moved its adoption, which motion being duly seconded by Councilmember Keating,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: Dunbar, Hawn

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-716

A RESOLUTION APPOINTING ASSISTANT CITY CLERK STEPHANIE LOPEZ AS ACTING CITY CLERK/AUDITOR EFFECTIVE DECEMBER 13, 2007, AND AUTHORIZING A MONTHLY SALARY OF $7,262.72

BE IT RESOLVED by the Council of the City of Modesto that Stephanie Lopez, Assistant City Clerk, is hereby appointed Acting City Clerk/Auditor, effective December 13, 2007.

BE IT FURTHER RESOLVED that Ms. Lopez shall receive a monthly salary of $7,262.72 and a monthly vehicle allowance of $400 during the term of said acting assignment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December 2007, 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

Attest: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
WHEREAS, on September 18, 2001, the City Council authorized the execution of a Service Agreement with Bertolotti Modesto Disposal, Inc., and

WHEREAS, this Service Agreement gave Bertolotti the exclusive right to collect commercial/residential garbage/recyclables and containerized yard waste within the Service Area shown on the map on file at that time with the City Clerk, and

WHEREAS, this map allocated approximately 20% of Modesto’s commercial and residential customers to Bertolotti, and

WHEREAS, the Service Agreement also gave Bertolotti a non-exclusive right to collect industrial garbage, salvageable waste, and recyclable materials within the City, and

WHEREAS, the term of this Service Agreement with Bertolotti was for seven (7) years, through September 18, 2008, and

WHEREAS, Bertolotti had the option to request an extension of the Service Agreement upon the successful completion of two years of service and every two years thereafter, and

WHEREAS, on November 13, 2003, the Council extended Bertolotti’s Service Agreement for an additional two years, through September 18, 2010, and
WHEREAS, Bertolotti was in the process of preparing another extension request in 2006, when Waste Management announced that they were no longer interested in providing service in the City of Modesto and the Council decided to reapportion Waste Management’s former Service Area to Gilton Solid Waste and Bertolotti Modesto Disposal, and

WHEREAS, due to the revision of the Service Area map and pressing issues related to the transition of approximately 28,000 residential and 1,700 commercial customers, as well as the need to determine whether or not the transition would be successful, the extension request was postponed by mutual agreement between staff and Bertolotti, and

WHEREAS, the transition has been successfully completed and Bertolotti has demonstrated to staff’s satisfaction that they are able to provide the level and quality of service expected by the City in their expanded Service Area, and has fully cooperated with the City in all public education and other solid waste program efforts, and

WHEREAS, on September 21, 2007, staff received a letter from Bertolotti Modesto Disposal requesting an extension of the Service Agreement through 2014, bringing the term of their Agreement back to the original 7 years granted in 2001, and

WHEREAS, the Economic Development Committee met on November 14, 2007, and supported approving an Extension of the Service Agreement with Bertolotti Modesto Disposal, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Extension of the Service Agreement with Bertolotti Modesto Disposal, Inc.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute a letter amendment to the Service Agreement providing for an automatic one-year extension of the Service Agreement on each anniversary of the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

Attest: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-718

A RESOLUTION APPROVING AN AGREEMENT WITH BIGGS CARDOSA
ASSOCIATES, INC., FOR THE PREPARATION OF DESIGN DEVELOPMENT
AND CONTRACT DOCUMENTS FOR THE VIRGINIA CORRIDOR PHASE V
PROJECT, IN AN AMOUNT NOT TO EXCEED $540,475 AND AUTHORIZING
THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Virginia Corridor Trailway (the "Project") is a conversion of the
original Tidewater Southern/Union Pacific Railroad corridor to a class one bicycle and
pedestrian trail in Modesto, California, and

WHEREAS, the Project is being constructed under a rails-to-trails agreement with
Union Pacific Railroad, and

WHEREAS, the trail runs from College Avenue with a connection to downtown
Modesto to the south, to Pelandale Avenue to the north (approximately 4.2 miles), and

WHEREAS, the Project consists of a 10' wide pathway flanked by landscaping,
benches, lighting, and site amenities, and

WHEREAS, the work to be accomplished in Phase V of the Project consists of
preparation of Design Development and Construction Plans, Specifications and
Engineering for the Project between Granger Avenue and Bowen Avenue, including the
Briggsmore Avenue Overcrossing, and

WHEREAS, future elements of Phase V will include site preparation, grading,
drainage, irrigation, utilities, landscaping, trail, lighting, signage, site amenities,
bike/pedestrian bridge, and relocation of MID and other utility lines, and

WHEREAS, also included will be construction administration assistance by the
consultant, and
WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, a Request for Proposals was sent on August 22, 2007, to approximately one hundred sixty (160) engineering firms, including local companies, of which four responded, and

WHEREAS, proposals were evaluated by staff from the Parks, Recreation and Neighborhoods and Public Works Departments, and

WHEREAS, all four firms were interviewed by City staff on October 10, 11 and 12, with Biggs Cardosa Associates, Inc. selected as the most qualified firm, and

WHEREAS, City staff recommends that an Agreement with the firm of Biggs Cardosa Associates, Inc. be approved to perform the preparation of Design Development and Construction Plans, Specifications and Engineering for the Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Agreement with Biggs Cardosa Associates, Inc., for the preparation of Design Development and Contract Documents for the Virginia Corridor Phase V Project, in an amount not to exceed $540,475.

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 4th day of December, 2007 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-719

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT PROGRAM TO ESTABLISH A NEW SECONDARY CIP, P365, VIRGINIA CORRIDOR PHASE V AND ALLOCATING $3,500,000 IN FUNDING TO THE PROJECT

WHEREAS, the Virginia Corridor Trailway (the “Project”) is a conversion of the original Tidewater Southern/Union Pacific Railroad corridor to a class one bicycle and pedestrian trail in Modesto, California, and

WHEREAS, the Project is being constructed under a rails-to-trails agreement with Union Pacific Railroad, and

WHEREAS, the trail runs from College Avenue with a connection to downtown Modesto to the south, to Pelandale Avenue to the north (approximately 4.2 miles), and

WHEREAS, the Project consists of a 10’ wide pathway flanked by landscaping, benches, lighting, and site amenities, and

WHEREAS, the work to be accomplished in Phase V of the Project consists of preparation of Design Development and Construction Plans, Specifications and Engineering for the Virginia Corridor Trailway between Granger Avenue and Bowen Avenue, including the Briggsmore Avenue Overcrossing, and

WHEREAS, future elements of Phase V will include, site preparation, grading, drainage, irrigation, utilities, landscaping, trail, lighting, signage, site amenities, bike/pedestrian bridge, and relocation of MID and other utility lines, and

WHEREAS, staff desires to establish a Capital Improvement Project for Phase V of the Virginia Corridor Trailway, and
WHEREAS, revenue in the amount of $500,000 from Congestion Mitigation Air Quality Funds and $3,000,000 in Federal Highway Administration funds is available in the primary project A087, Virginia Corridor, for this phase of the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the current Capital Improvement Program to establish a new Secondary CIP, P365, Virginia Corridor Phase V and allocating $3,500,000 in funding to the project.

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 4th day of December, 2007 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

Attest: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-720

A RESOLUTION APROVING AN AGREEMENT WITH STANISLAUS COUNTY, BEHAVIORAL HEALTH AND RECOVERY SERVICES (BHRS), IN THE AMOUNT OF $41,500, TO PROVIDE PARTY PATROL POLICE OFFICERS AND CONDUCT JUVENILE ALCOHOL EDUCATION, PREVENTION AND INTERVENTION PROGRAMS FOR THE CITY OF MODESTO AND STANISLAUS COUNTY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Stanislaus County, Behavioral Health and Recovery Services (BHRS) requires Party Patrol Police Officers to contact, identify and hold accountable minors drinking illegally at home parties and in violation of the law, and

WHEREAS, the Modesto Police Department has developed a first-time offender juvenile alcohol education, prevention and intervention program, and,

WHEREAS, minors contacted by the Party Patrol will be cited and required to attend diversion classes with their parents, and

WHEREAS, the goal of the class is to educate minors and parents of the dangers related to minors consuming alcohol, and

WHEREAS, the Modesto Police Department has seen a reduction in alcohol related injuries and deaths related to juveniles and alcohol since Party Patrol was established, and

WHEREAS, the Modesto Police Department will also provide a marketing campaign, including placing ads in newspapers, yearbooks, as well as produce posters to educate youth about the harmful effects of alcohol, and

WHEREAS, the Modesto Police Department will prepare reports on enforcement actions taken related to juvenile alcohol consumption offenses, and

WHEREAS, the term of this agreement is October 1, 2007, through June 30, 2008, and
WHEREAS, the City shall be compensated $41,500 for the services of Party Patrol Police Officers and to conduct juvenile alcohol education, prevention and intervention program, and

WHEREAS, there is no fiscal impact to the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Stanislaus County, Behavioral Health and Recovery Services (BHRS) in the amount of $41,500 to provide Party Patrol Police Officers and conduct juvenile alcohol education, prevention and intervention programs for the City of Modesto and Stanislaus County.

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 4th day of December, 2007, 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2007-721

A RESOLUTION AMENDING THE FISCAL YEAR 2007/2008 OPERATING BUDGET, ESTIMATING REVENUE OF $41,500, AND APPROPRIATING FUNDS FOR OVERTIME PARTY PATROL OFFICERS AND PROGRAM COSTS

WHEREAS, Stanislaus County, Behavioral Health and Recovery Services (BHRS) requires Party Patrol Police Officers to contact, identify and hold accountable minors drinking illegally at home parties and in violation of the law, and

WHEREAS, minors contacted by Party Patrol will be cited and required to attend diversion classes with their parents, and

WHEREAS, the goal of the class is to educate minors and parents of the dangers related to minors consuming alcohol, and

WHEREAS, the Modesto Police Department has seen a reduction in alcohol related injuries and deaths related to juveniles and alcohol since Party Patrol was established, and

WHEREAS, the term of this agreement is October 1, 2007, through June 30, 2008 and

WHEREAS, the City shall be compensated $41,500 for the services of overtime Party Patrol Police Officers and to conduct juvenile alcohol education, prevention and intervention program, and

WHEREAS, the 2007/2008 Operating Budget will be amended as indicated:

| Expense: | To: 0420-190-2093-0130 | $41,500 | Officers’ Overtime Hours Cost |
| Revenue: | To: 0420-190-2093-3730 | $41,500 | School/County Contribution |
WHEREAS, due to the contract date, this should be set up as a multi-year appropriation.

WHEREAS, there is no fiscal impact to the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of that it hereby approves the agreement with Stanislaus County, Behavioral Health and Recovery Services (BHRS) in the amount of $41,500 for the provision of Party Patrol Police Officers and the juvenile alcohol education, prevention and intervention program for the City of Modesto and Stanislaus County.

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 4th day of December, 2007, 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Morris, City Clerk

(Seal)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-722

A RESOLUTION APPROVING THE PROTECTED-PERMISSIVE TRAFFIC SIGNALS REPORT FOR 2007

WHEREAS, the City has protected-permissive traffic signal phasing at 47 intersections, and

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

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

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

WHEREAS, after reviewing the data presented in the attached evaluation, staff made minor adjustments to the amber and all-red timing and protected-permissive signs at Sisk Road and Target Center Drive, and

WHEREAS, the Safety & Communities Committee at its December 3, 2007, meeting reviewed this report and authorized its presentation to the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Protected-Permissive Traffic Signals report for 2007.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

Attest: [Signature]
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
SUSANA ALCALA WOOD, City Attorney
A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC., FOR THE PROJECT TITLED “CALIFORNIA AVENUE IMPROVEMENTS - MARK TWAIN JUNIOR HIGH SCHOOL SAFE ROUTE TO SCHOOL” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $150,986.70

WHEREAS, a report has been filed by the Public Works Director that the project titled “California Avenue Improvements- Mark Twain JHS Safe Route to School” has been completed by George Reed, Inc., in accordance with the contract agreement dated September 5, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “California Avenue Improvements- Mark Twain JHS Safe Route to School” is hereby accepted as complete from said contractor George Reed, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $150,986.70, 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 4th day of December, 2007, 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: O'Bryant

ATTEST: JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-724

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR’S AUTHORITY TO ISSUE CHANGE ORDERS ON THE PROJECT ENTITLED “2007 CAPE SEALS” FROM 10 PERCENT ($59,167.92) TO 11 PERCENT ($65,676.39) OF THE ORIGINAL CONTRACT PRICE WITH INTERMOUNTAIN SLURRY SEAL, INC.

WHEREAS, on April 3, 2007, by Resolution No. 2007-214, the City Council awarded a $591,679.16 contract to Intermountain Slurry Seal, Inc., to construct the “2007 Cape Seals” project, and

WHEREAS, the contractor started work on May 14, 2007, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the project, and

WHEREAS, the cost of the extra work was estimated to be as high as $65,676.39, an amount which exceeds the Director’s authority for the project as established by the Council’s Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of $59,167.92,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director’s authority to issue change orders on the project entitled “2007 Cape Seals” from 10 percent ($59,167.92) to 11 percent ($65,676.39) of the original contract price with Intermountain Slurry Seal, Inc.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007, 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-725

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR’S AUTHORITY TO ISSUE CHANGE ORDERS ON THE PROJECT ENTITLED “SYLVAN/ROSELLE INTERSECTION IMPROVEMENTS” FROM 10 PERCENT ($281,999.22) TO 13 PERCENT ($366,598.99) OF THE ORIGINAL CONTRACT PRICE WITH TEICHERT CONSTRUCTION

WHEREAS, on July 5, 2006 by Resolution No. 2006-422, the City Council awarded a $2,819,992.25 contract to Teichert Construction to construct the “Sylvan/Roselle Intersection Improvements” project, and

WHEREAS, the contractor started work on August 1, 2006, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the new roundabout, and

WHEREAS, the cost of the extra work was estimated to be as high as $366,598.99, an amount which exceeded the Director’s authority for the project as established by the Council’s Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of $281,999.22,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director’s authority to issue change orders on the project entitled “Sylvan/Roselle Intersection Improvements” from 10 percent ($281,999.22) to 13 percent ($366,598.99) of the original contract price with Teichert Construction.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007, 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-726

A RESOLUTION APPROVING THE PROPOSED 2007-08 REVENUE ENHANCEMENTS AND DEPARTMENT BUDGET REDUCTIONS TO HELP MAINTAIN THE CITY’S 8% GENERAL FUND POLICY RESERVE

WHEREAS, the Finance Department has been reviewing 2006-07 fiscal year finances and evaluating the financial forecast for the 2007-08 fiscal year, and

WHEREAS, the Finance Director made presentations to the Finance Committee on September 24, October 22, November 13 and November 26 regarding the financial status of the General Fund, and

WHEREAS, the Finance Department informed the Finance Committee that due to current economic conditions, the City’s projected General Fund revenues need to be reduced by approximately $5.3 million;

WHEREAS, the City Manager requested all department heads to review their operating budgets and provide proposed reductions that would not result in reductions in force or reduce service levels, and

WHEREAS, the Finance Department presented the proposed budget reductions and additional revenue generation ideas to the Finance Committee on November 13 and November 26, 2007, and

WHEREAS, the Finance Committee reviewed the proposed revenue enhancements and budget reductions and has forwarded its recommendations to the full City Council, and

WHEREAS, the City Council considered the recommendations of the Finance Committee,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 
Council hereby approve the following: 

ADDITIONAL REVENUES AND BUDGET REDUCTIONS. That the proposed 
additional revenues and budget reductions for FY 2007-08 be approved ($7,746,168) as detailed 
in Exhibit A, which is incorporated by reference herein. 

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the 
steps necessary to implement the approved budget adjustments shown in Exhibit A. 

The foregoing resolution was introduced at a regular meeting of the Council of the City 
of Modesto held on the 4th day of December, 2007, by Councilmember Hawn, who moved its 
adoption, which motion is being duly seconded by Councilmember Marsh, was upon roll call 
carried and the resolution adopted the following vote:

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

NOES: Councilmembers: Dunbar 

ABSENT: Councilmembers: O’Bryant

Attest: 

JEAN MORMIS, City Clerk 

APPROVED AS TO FORM: 

By: 

SUSANA ALCALA WOOD, City Attorney
### Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

<table>
<thead>
<tr>
<th>Department</th>
<th>Proposed New Revenues</th>
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<th>(Increase) Decrease Fund Balance</th>
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<tbody>
<tr>
<td>City Manager</td>
<td>Generate salary and benefit cost savings by leaving the Management Analyst position vacant for the remainder of the year.</td>
<td></td>
<td>($58,080)</td>
<td>The workload will be absorbed through the use of interns for part of the year. The remaining workload will be distributed to other staff members as appropriate.</td>
<td>YES</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Reduce spending in office supply, training and small equipment line items; reduce open encumbrances.</td>
<td></td>
<td>($43,551)</td>
<td>No significant short-term impact.</td>
<td>NO</td>
<td>2</td>
</tr>
<tr>
<td>Total City Manager Department Proposal:</td>
<td></td>
<td></td>
<td>($101,631)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Personnel</td>
<td>Generate salary and benefit cost savings by leaving a vacant Employee Relations Specialist position open until November</td>
<td></td>
<td>($46,701)</td>
<td>Duties will be absorbed by current ERS &amp; Deputy Director; delays will occur in resolving issues and responding to depts.</td>
<td>YES</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Generate salary and benefit cost savings by leaving a vacant Senior Admin. Office Assistant position open until November</td>
<td></td>
<td>($32,983)</td>
<td>Duties will be absorbed by other dept. staff and Personnel Director. Delays will occur in resolving issues and responding to depts.</td>
<td>YES</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>Recognize salary and benefit cost savings created by underfilling a Personnel Analyst position with an Admin. Analyst I.</td>
<td></td>
<td>($14,533)</td>
<td>No impact. Savings would be realized anyway as decision to underfill was made prior to budget reduction request.</td>
<td>YES</td>
<td>5</td>
</tr>
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<tr>
<td>Personnel</td>
<td></td>
<td>Recognize salary and benefit cost savings created by a Personnel Analyst on medical leave.</td>
<td>($8,825)</td>
<td>No impact. Savings would be realized anyway as decision to take leave without pay was made without regard to budget conditions.</td>
<td>YES</td>
<td>6</td>
</tr>
<tr>
<td>Personnel</td>
<td></td>
<td>Recognize salary and benefit cost savings due to filling Organization Specialist position at a lower salary</td>
<td>($5,716)</td>
<td>None.</td>
<td>YES</td>
<td>7</td>
</tr>
<tr>
<td>Personnel</td>
<td></td>
<td>Reduce spending in office supply, professional services and small equipment line items.</td>
<td>($26,978)</td>
<td>Most reductions relate to fewer recruitments due to hiring freezes. $13,478 was for Interest-base Negotiation Training. If this is required, other funds will have to be cut.</td>
<td>YES</td>
<td>8</td>
</tr>
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**Total Personnel Department Proposal:**

($135,436)
## Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

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<tr>
<td>Parks, Rec &amp; Neighborhoods</td>
<td>Recognize salary and benefit cost savings by reducing hours for part-time Public Information Officer</td>
<td>($6,050) Quality of flyers may decline; time needed for proofing may increase.</td>
<td>YES</td>
<td>9</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Recognize salary and benefit cost savings by not filling the Confidential Sr. Admin. Office Assistant position and discontinuing support to Community Qualities Forum</td>
<td>($46,551) Support of CQF will need to be reassigned; workload on other dept. employees increased; some clerical support can be reassigned.</td>
<td>YES</td>
<td>10</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Recognize salary and benefit cost savings by not filling the vacant Parks Associate Planner position</td>
<td>($76,408) Current staff will handle additional workload. Ability to respond to planning issues and inspections will be impacted.</td>
<td>YES</td>
<td>11</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Recognize salary and benefit cost savings by reallocating Crewleader &amp; Parks Mte. Mechanic positions</td>
<td>($9,964) No impact. This action aligns positions with the current service needs.</td>
<td>NO</td>
<td>12</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Recognize salary and benefit cost savings from the 2 month vacancy of the Maintenance Worker position</td>
<td>($10,052) Creates deferred maintenance issues; could create safety issues.</td>
<td>YES</td>
<td>13</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Recognize salary and benefit cost savings from filling new positions at lower than anticipated salary levels.</td>
<td>($5,378) No impact. Savings are due to retirements, resignations &amp; terminations.</td>
<td>NO</td>
<td>14</td>
<td></td>
<td></td>
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<td>Parks, Rec &amp; Neighborhoods</td>
<td>Recognize reduction in rental &amp; class revenues due to the reduction in staffing related to construction at King-Kennedy Center.</td>
<td>$4,100</td>
<td></td>
<td>Minimal impact due to construction period. Fewer events held, thus less staff are needed.</td>
<td>YES</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>Recognize salary and benefit cost savings from having a Code Enforcement Officer work a reduced schedule (.8 FTE vs. 1.0 FTE).</td>
<td>($8,960)</td>
<td></td>
<td>This employee is limited to 80% schedule due to PERS issues.</td>
<td>NO</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>Generate salary and benefit cost savings by reducing part-time Guest Services staff hours.</td>
<td>($5,000)</td>
<td></td>
<td>Staff is not needed at the currently budgeted level.</td>
<td>NO</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>Charge Fire Dept. for vacant lot enforcement.</td>
<td>($5,000)</td>
<td></td>
<td>None. Charges were not included in adopted budget.</td>
<td>NO</td>
<td>21</td>
</tr>
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<tr>
<td>Parks, Rec &amp; Neighborhoods</td>
<td>Increase Service Credit charges to Compost Program</td>
<td>Without spending reduction</td>
<td>$(16,819)</td>
<td>None</td>
<td>NO</td>
<td>22</td>
</tr>
<tr>
<td></td>
<td>Reduce the cost of printing the Winter/Spring/Summer Activity Guides</td>
<td>Quality could decline, decreasing professional appearance of guides.</td>
<td>$(10,287)</td>
<td>NO</td>
<td></td>
<td>23</td>
</tr>
<tr>
<td></td>
<td>Recognize less pool fee revenue from the closure of Beyer High pool and continued closure of Davis High Pool</td>
<td>Less revenue due to the closure of these pools.</td>
<td>$2,838</td>
<td>NO</td>
<td></td>
<td>24</td>
</tr>
<tr>
<td></td>
<td>Savings in part-time salary, utilities and chemical costs from the closure of Beyer High pool and continued closure of Davis High Pool</td>
<td>Participants will use Modesto or Johansen High. Attendance at Davis, Beyer and Downey was minimal</td>
<td>$(10,242)</td>
<td>NO</td>
<td></td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>Reduce costs associated associated with new mtce. Contract with Modesto Nuts.</td>
<td>Limits funding available for cost increases related to field maintenance.</td>
<td>$(35,000)</td>
<td>YES</td>
<td></td>
<td>26</td>
</tr>
<tr>
<td></td>
<td>Reduce General Fund contribution to Thurman Field mtce.</td>
<td>Reduces improvements made to the facility.</td>
<td>$(35,000)</td>
<td>YES</td>
<td></td>
<td>27</td>
</tr>
<tr>
<td></td>
<td>Reduce Service Credits to Cultural Administration from Centre Plaza Fund.</td>
<td>No impact if Deputy Director position remains unfilled. Costs to Centre Plaza increase if position is filled before 6/30.</td>
<td>$(1,973)</td>
<td>YES</td>
<td></td>
<td>28</td>
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<td>Parks, Rec &amp; Neighborhoods</td>
<td>Delay McCrory mansion foundation structural study</td>
<td></td>
<td>($50,000)</td>
<td>No immediate impact but erosion problem must be addressed.</td>
<td>YES</td>
<td>29</td>
</tr>
<tr>
<td></td>
<td>Generate part-time salary and supply cost savings by cancelling the Gracea Park 2008 Spring weekend program</td>
<td></td>
<td>($4,000)</td>
<td>No Spring program would be held, but participation was minimal at 27 per day.</td>
<td>Discussion Item</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>Generate part-time salary and supply cost savings by closing programs and closing the pool at Whitemore Park</td>
<td></td>
<td>($8,000)</td>
<td>Participants will go to another park for drop-in programs; pool needs major repairs not budgeted; last summer’s participation totaled 320</td>
<td>Discussion Item</td>
<td>31</td>
</tr>
<tr>
<td></td>
<td>Reduce General Fund Contribution to Golf CIP</td>
<td></td>
<td>($50,000)</td>
<td>Limits funding available for improvements or emergency repairs to courses or buildings.</td>
<td>YES</td>
<td>32</td>
</tr>
<tr>
<td></td>
<td>Reduce General Fund Contribution to Parking lot maintenance program</td>
<td></td>
<td>($80,000)</td>
<td>Maintenance of lots will be deferred; safety could become an issue if not restored soon.</td>
<td>YES</td>
<td>33</td>
</tr>
<tr>
<td></td>
<td>Recognize Service Credit Revenue collected from other departments.</td>
<td></td>
<td>($13,885)</td>
<td>No impact. These credits were not included in adopted budget.</td>
<td>YES</td>
<td>34</td>
</tr>
<tr>
<td></td>
<td>Recognize Fine Revenue received in excess of projected YTD amount.</td>
<td></td>
<td>($20,000)</td>
<td>None</td>
<td>YES</td>
<td>35</td>
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<td>Recognize savings from newly hired Fund Development Specialist</td>
<td></td>
<td>($9,694)</td>
<td>No impact. New hire started at lower salary level.</td>
<td>YES</td>
<td>36</td>
<td></td>
</tr>
<tr>
<td>Recognize 6 mo. savings from Acting Dept. Director</td>
<td></td>
<td>($30,352)</td>
<td>No impact. Reflects appointment of Director to Interim City Manager and Deputy Director to Acting Director</td>
<td>YES</td>
<td>37</td>
<td></td>
</tr>
<tr>
<td>Lower service credit revenue will result from having an acting director for 6 mos.</td>
<td></td>
<td>$19,035</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase service credit revenue from Recycling and Integrated Waste programs</td>
<td></td>
<td>($16,619)</td>
<td>Increases in the garbage rate components allow more cost recovery</td>
<td>NO</td>
<td>38</td>
<td></td>
</tr>
<tr>
<td>Recognize revenue from Landfill fund for discing of Carpenter Road site.</td>
<td></td>
<td>($4,000)</td>
<td>Increases in the garbage rate components allow more cost recovery</td>
<td>NO</td>
<td>39</td>
<td></td>
</tr>
<tr>
<td>Adjust Youth Scholarship Funding to reflect actual awards.</td>
<td></td>
<td>($30,000)</td>
<td>None. This adjust. reflects the awards made in FY 06-07.</td>
<td>NO</td>
<td>40</td>
<td></td>
</tr>
<tr>
<td>Recognize 2 mo. savings from vacant Crewleader for (Nov. - Dec.)</td>
<td></td>
<td>($12,548)</td>
<td>Vacancy is due to a retirement. If not filled by Summer, service impacts could result.</td>
<td>YES</td>
<td>111</td>
<td></td>
</tr>
<tr>
<td>Recognize 4 mo. savings from vacant Mice. Mechanic (Sept. - Dec.)</td>
<td></td>
<td>($20,104)</td>
<td>This extends the savings shown in the initial reductions by 4 mos. If not filled by Summer, service impacts could result.</td>
<td>YES</td>
<td>113</td>
<td></td>
</tr>
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<tr>
<td>Recognize 3 mo. savings from vacant Mtce. Worker II (Oct. - Dec.)</td>
<td>Reduce loan from General Fund to Solid Waste Fund for Carpenter Road Landfill Study</td>
<td>($10,000)</td>
<td>None. Costs for study were less than expected.</td>
<td>YES</td>
<td>127</td>
</tr>
<tr>
<td>Recognize 3 mo. savings from re-assigned Recreation Supervisor (vacant) (Jan. - Mar.)</td>
<td>Reduce loan from General Fund to Solid Waste Fund for Carpenter Road Landfill Study</td>
<td>($33,141)</td>
<td>Position has been vacant since July 1st.</td>
<td>NO</td>
<td>117</td>
</tr>
<tr>
<td>Recognize savings from having an Acting Recreation Program Manager</td>
<td>Reduce loan from General Fund to Solid Waste Fund for Carpenter Road Landfill Study</td>
<td>($16,744)</td>
<td>Savings is from difference in pay level for acting mgr.</td>
<td>YES</td>
<td>116</td>
</tr>
<tr>
<td>Recognize 6 mo. savings from vacant crewleader.</td>
<td>Reduce loan from General Fund to Solid Waste Fund for Carpenter Road Landfill Study</td>
<td>($15,292)</td>
<td>This extends the savings shown in the initial reductions by 3 mos. If not filled by Summer, service impacts could result.</td>
<td>YES</td>
<td>114</td>
</tr>
<tr>
<td>Recognize 6 mo. savings from vacant crewleader.</td>
<td>Reduce loan from General Fund to Solid Waste Fund for Carpenter Road Landfill Study</td>
<td>($17,905)</td>
<td>This position is vacant and will not be filled until 5/08. Other supervisors are taking the</td>
<td>YES</td>
<td>115</td>
</tr>
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**Total P,R,N Department Proposal:** ($1,058,919)
**Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting**

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</tr>
</thead>
<tbody>
<tr>
<td>Police Department</td>
<td></td>
<td>Recognize savings from 3 vacant Police Clerk positions</td>
<td>($188,500)</td>
<td>Overall, staff reductions will impact the department's ability to provide the same level of response to calls.</td>
<td>YES</td>
<td>42</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Recognize savings from 1 vacant Crime Analyst position</td>
<td>($71,300)</td>
<td></td>
<td>YES</td>
<td>43</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Recognize savings from 7 vacant officer positions</td>
<td>($566,529)</td>
<td></td>
<td>YES</td>
<td>44</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Recognize savings from 1 vacant officer position due to job sharing</td>
<td>($83,333)</td>
<td></td>
<td>YES</td>
<td>45</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Recognize savings from 4 vacant Community Service Officer positions</td>
<td>($195,500)</td>
<td></td>
<td>YES</td>
<td>46</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Recognize savings from 1 vacant Sergeant position</td>
<td>($110,500)</td>
<td>One position retired effective 10/30/07.</td>
<td>YES</td>
<td>47</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Recognize savings from 2 vacant Detective positions</td>
<td>($170,010)</td>
<td></td>
<td>YES</td>
<td>48</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Recognize savings from not hiring 2 academy recruits</td>
<td>($100,000)</td>
<td></td>
<td>YES</td>
<td>49</td>
</tr>
<tr>
<td>Department</td>
<td>Proposed New Revenues</td>
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</tr>
<tr>
<td></td>
<td>Recognize savings from 1 vacant Lieutenant position</td>
<td>($127,000)</td>
<td></td>
<td></td>
<td>YES</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td>Recognize savings from 1 vacant Animal Control position</td>
<td>($51,000)</td>
<td>Slower/limited response to animal control calls</td>
<td></td>
<td>YES</td>
<td>51</td>
</tr>
<tr>
<td>Police Department</td>
<td>Reduce spending in Conference Account</td>
<td>($50,000)</td>
<td>Staff will look for lower cost training options; fewer training opportunities will be provided</td>
<td></td>
<td>YES</td>
<td>52</td>
</tr>
<tr>
<td></td>
<td>Increase Revenue Recovery</td>
<td>($475,000)</td>
<td>Downtown policing cost allocated to parking program; Anticipated court revenues</td>
<td></td>
<td>NO</td>
<td>53</td>
</tr>
<tr>
<td></td>
<td>Cancel General Fund Transfer to Range Training Facility</td>
<td>($120,000)</td>
<td>Police CFF program will transfer an additional $90k this year</td>
<td></td>
<td>YES</td>
<td>54</td>
</tr>
<tr>
<td></td>
<td>Recognize savings from 11 sworn vacancies and 1 additional non-sworn vacancy that are estimated to occur later this year</td>
<td>($432,800)</td>
<td>Currently there are 14 sworn vacancies and 6 non-sworn vacancies</td>
<td></td>
<td>YES</td>
<td>55</td>
</tr>
<tr>
<td></td>
<td>Reduce General Fund Contribution to CAD software by using Grant monies</td>
<td>($142,452)</td>
<td>Allows new grant money to replace General Fund set-aside as approved by grant agency</td>
<td></td>
<td>YES</td>
<td>56</td>
</tr>
</tbody>
</table>

Total Police Department Proposal: ($2,893,934)
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<tr>
<td>Community &amp; Econ. Development</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recognize savings from 3 vacant Building Inspector positions</td>
<td>($227,832)</td>
<td>No impact as long as residential building activity remains constant.</td>
<td>YES</td>
<td>57</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recognize savings from holding 1 Associate Civil Engr. Position vacant for 6 months</td>
<td>($50,235)</td>
<td>Will impact plan check time cycle activity for commercial projects.</td>
<td>YES</td>
<td>58</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reduce Admin. Office Assist. II position time by 500 hours this year</td>
<td>($7,500)</td>
<td>No impact this fiscal year. Could impact Tidemark progress next fiscal year.</td>
<td>YES</td>
<td>59</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recognize savings from holding 1 City Engr. Position vacant for 6 months</td>
<td>($13,612)</td>
<td>No impact.</td>
<td>YES</td>
<td>60</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recognize savings from holding 1 Associate Civil Engr. Position vacant for 6 months (LDE)</td>
<td>($38,532)</td>
<td>No impact this fiscal year.</td>
<td>YES</td>
<td>61</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recognize savings from holding 1 Admin. Office Assist. III position vacant for 4 months.</td>
<td>($16,767)</td>
<td>Workload shifted to other staff, which impacts productivity.</td>
<td>YES</td>
<td>62</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recognize savings from holding 1 Senior Planner Position vacant for the rest of the year</td>
<td>($90,336)</td>
<td>Will impact application processing ability and/or ability to complete zoning code amendment.</td>
<td>YES</td>
<td>63</td>
<td></td>
<td></td>
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### Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

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<tr>
<td>Community &amp; Econ. Development</td>
<td>Recognize savings from holding 1 Principal Planner Position vacant 3.5 months.</td>
<td></td>
<td>($31,649)</td>
<td>Position filled 10/16. Savings shown are from July to that date.</td>
<td>YES</td>
<td>64</td>
</tr>
<tr>
<td></td>
<td>Reduce business/professional services expenses</td>
<td></td>
<td>($27,000)</td>
<td>May impact implementation of Citygate assessment and future programs associated with that study.</td>
<td>YES</td>
<td>65</td>
</tr>
<tr>
<td></td>
<td>Close CIP L092 Kiernan Business Park Storm Drain Study, return funding to General Fund.</td>
<td></td>
<td>($46,940)</td>
<td>Funding for this study exceeds what is needed.</td>
<td>YES</td>
<td>66</td>
</tr>
<tr>
<td></td>
<td>Increase service credit revenue from add’l work billable to CIP projects</td>
<td></td>
<td>($11,000)</td>
<td>No impact - proposal will create svc credit of 50% for remainder of year.</td>
<td>YES</td>
<td>67</td>
</tr>
<tr>
<td></td>
<td>Increase service credit revenue from add’l work billable to CIP projects</td>
<td></td>
<td>($26,000)</td>
<td>No impact - proposal will create svc credit of 50% for remainder of year.</td>
<td>YES</td>
<td>134</td>
</tr>
<tr>
<td></td>
<td>Generate savings by reducing software and office supply line items</td>
<td></td>
<td>($2,000)</td>
<td>Purchases can be deferred to next year.</td>
<td>YES</td>
<td>135</td>
</tr>
<tr>
<td></td>
<td>Remove funding for National APA conference.</td>
<td></td>
<td>($2,124)</td>
<td>Cuts one conference for Planning Commission.</td>
<td>YES</td>
<td>136</td>
</tr>
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## Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

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<td></td>
<td></td>
<td>Generate savings by reducing conference, professional svc. &amp; supply line items.</td>
<td>($5,730)</td>
<td>Eliminates contribution to United Way job fair ($1,280) and reduces monies for office supplies and software.</td>
<td>YES</td>
<td>138</td>
</tr>
<tr>
<td></td>
<td>Reduce planning consultant budget</td>
<td>($28,593)</td>
<td>Will impact the ability to complete general fund projects.</td>
<td></td>
<td>YES</td>
<td>68</td>
</tr>
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Total CED Department Proposal: ($628,850)
### Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

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<tr>
<td>City Attorney</td>
<td>Recognize savings from leaving Deputy City Attorney II position vacant until January 2008.</td>
<td>($50,391) Some duties are absorbed by other attorneys; More reliance on outside counsel may result.</td>
<td>YES</td>
<td>69</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Recognize savings from leaving Senior Deputy City Attorney position vacant until January 2008.</td>
<td>($52,043) Some duties are absorbed by other attorneys; More reliance on outside counsel may result.</td>
<td>YES</td>
<td>70</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Recognize savings from leaving vacant Admin. Office Assistant II vacant for remainder of this year</td>
<td>($19,076) Some duties are absorbed by other support staff.</td>
<td>YES</td>
<td>71</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reduce expenditure of prior year carryover monies.</td>
<td>($39,272) Delay portions of office redesign.</td>
<td>YES</td>
<td>72</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reduce spending for books and periodicals by 10%.</td>
<td>($5,041) Reduces the number of law books and resource material purchased.</td>
<td>NO</td>
<td>73</td>
<td></td>
<td></td>
</tr>
</tbody>
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**Total City Attorney Department Proposal:**

($165,825)

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<tr>
<td>City Clerk</td>
<td>Leave City Auditor position vacant for 6 months (Jan - June 2008)</td>
<td>($50,626) Fewer internal audits will be completed during the year.</td>
<td>YES</td>
<td>74</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total City Clerk Department Proposal:**

($50,626)
## Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

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<tr>
<td><strong>Fire Department</strong></td>
<td></td>
<td><strong>Leave Fire Mechanic position vacant for the rest of the year.</strong></td>
<td>($62,600)</td>
<td>Delays repairs; could increase costs associated with outside maintenance work.</td>
<td>YES</td>
<td>75</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Leave 8 firefighter positions vacant for 8 months.</strong></td>
<td>($428,000)</td>
<td>Increases overtime expenses.</td>
<td>YES</td>
<td>76</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Remove funding for 4th position on truck companies. (9 firefighter positions)</strong></td>
<td>($329,000)</td>
<td>Delays response to emergency needs on fire and rescue scenes.</td>
<td>NO</td>
<td>77</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Reduce funding for apparatus replacement.</strong></td>
<td>($420,000)</td>
<td>Delays apparatus replacement schedule; No significant impact if restored next year.</td>
<td>YES</td>
<td>78</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Recognize savings from naturally occurring events, other vacancies</td>
<td>($275,000)</td>
<td>None. Represents historical savings over the last 7 years.</td>
<td>NO</td>
<td>79</td>
</tr>
<tr>
<td><strong>Fire Department</strong></td>
<td></td>
<td>Recognize recurring Worker's Compensation program reimbursements</td>
<td>($221,000)</td>
<td>None. Represents historical savings over the last 7 years.</td>
<td>NO</td>
<td>80</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Reduce spending on repair/maintenance, tools and field supplies</td>
<td>($248,100)</td>
<td>Delays completion of base radio upgrades; delays mobile inspection project; defers mtce.</td>
<td>YES</td>
<td>81</td>
</tr>
</tbody>
</table>

**Total Fire Department Proposal:**

($1,981,700)
## Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

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<tr>
<td>Information Technology</td>
<td></td>
<td>Reduce spending on legal expenses</td>
<td>($23,364)</td>
<td>None.</td>
<td>NO</td>
<td>82</td>
</tr>
<tr>
<td><strong>Total I.T. Department Proposal:</strong></td>
<td></td>
<td></td>
<td>($23,364)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Works</td>
<td></td>
<td>Reduce Professional Services Account</td>
<td>($11,157)</td>
<td>This one time reduction will diminish the division's ability to respond to grant opportunities.</td>
<td>YES</td>
<td>83</td>
</tr>
<tr>
<td>Traffic Services</td>
<td></td>
<td>Increase Service Credits</td>
<td>($5,000)</td>
<td>Staff will charge costs more fully to all capital projects.</td>
<td>YES</td>
<td>84</td>
</tr>
<tr>
<td>Administration</td>
<td></td>
<td>Increase Service Credits with Water &amp; Sewer Funds for PCE Litigation Work (Salary for 5 weeks of trial work)</td>
<td>($13,094)</td>
<td>Funding allows the city to have staff present during the PCE litigation trial, slated to begin in November.</td>
<td>YES</td>
<td>85</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Add Service Credit to cover cost of hourly employees working on personnel matters</td>
<td>($43,622)</td>
<td>This allows the department to maintain compliance with laws, rules and MOU requirements.</td>
<td>NO</td>
<td>86</td>
</tr>
<tr>
<td>Department</td>
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<td>-------------</td>
</tr>
<tr>
<td>Move remaining admin. Staff to 10th St. Place from Elm and reduce charge for building maintenance</td>
<td>Move remaining admin. Staff to 10th St. Place from Elm and reduce charge for building maintenance</td>
<td>($8,000)</td>
<td>This will consolidate staff and allow the admin. program to save on building maintenance.</td>
<td>NO</td>
<td>87</td>
<td></td>
</tr>
<tr>
<td>Reduce spending on supplies, conference, training materials and vehicle pool costs.</td>
<td>Reduce spending on supplies, conference, training materials and vehicle pool costs.</td>
<td>($9,142)</td>
<td>Reduces training opportunities for staff.</td>
<td>YES</td>
<td>88</td>
<td></td>
</tr>
<tr>
<td>Environmental Planning &amp; Research</td>
<td>Reduce service credits from Water and Sewer based on a new service agreement.</td>
<td>($1,000)</td>
<td>Less work activity related to water/sewer enterprise activities will occur.</td>
<td>YES</td>
<td>89</td>
<td></td>
</tr>
<tr>
<td>Reduce spending for supplies, conferences and computers</td>
<td>Reduce spending for supplies, conferences and computers</td>
<td>($5,139)</td>
<td>Training will be reduced for general fund related activities. Computer equip. will not be purchased this fiscal year.</td>
<td>YES</td>
<td>90</td>
<td></td>
</tr>
<tr>
<td>Community Forestry</td>
<td>Recognize salary savings from vacant O&amp;M Crewleader position.</td>
<td>($11,000)</td>
<td>Reduces productivity in field as Tree Trimmer Crewleader is backfilling this position.</td>
<td>YES</td>
<td>91</td>
<td></td>
</tr>
<tr>
<td>Recognize salary savings from vacant Tree Trimmer position</td>
<td>Recognize salary savings from vacant Tree Trimmer position</td>
<td>($7,000)</td>
<td>400 trees have not been pruned due to this vacancy; overall 1,300 trees will not be pruned.</td>
<td>YES</td>
<td>92</td>
<td></td>
</tr>
<tr>
<td>Recognize salary savings from vacant Maintenance Worker II position.</td>
<td>Recognize salary savings from vacant Maintenance Worker II position.</td>
<td>($13,606)</td>
<td>Reduces clearance pruning and stump removal efforts.</td>
<td>NO</td>
<td>93</td>
<td></td>
</tr>
<tr>
<td>Graffiti Abatement</td>
<td>Reduce or eliminate overtime</td>
<td>($13,113)</td>
<td>Reduced ability to respond to graffiti complaints will result.</td>
<td>YES</td>
<td>94</td>
<td></td>
</tr>
</tbody>
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Total Public Works Department Proposal: ($141,173)
### Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

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<tr>
<td>Finance</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administration</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Underfill Admin. Office Assistant position.</td>
<td></td>
<td>($7,586)</td>
<td>This will allow us to continue processing the insurance certificates and agenda items without interruption</td>
<td>YES</td>
<td>95</td>
</tr>
<tr>
<td>2</td>
<td>Reduce spending on supplies, conferences and computer equipment</td>
<td></td>
<td>($5,250)</td>
<td>Staff training will be shifted to lower cost activities. Replacement of some equipment will be delayed.</td>
<td>YES</td>
<td>96</td>
</tr>
<tr>
<td>Budget</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Remove appropriation for Deputy Director position</td>
<td></td>
<td>($150,374)</td>
<td>The Director will handle the additional workload. A new Rate Analyst position is proposed to handle utility rate work.</td>
<td>NO</td>
<td>97</td>
</tr>
<tr>
<td>4</td>
<td>Reduce Service Credit revenue attributed to work of Deputy Director</td>
<td></td>
<td>$85,152</td>
<td></td>
<td>NO</td>
<td>98</td>
</tr>
<tr>
<td>5</td>
<td>Use &quot;Out-of-Class&quot; appointment to fill vacant Admin. Analyst position</td>
<td></td>
<td>($30,466)</td>
<td>The Executive Assistant position will handle the duties of the Admin. Analyst.</td>
<td>YES</td>
<td>99</td>
</tr>
<tr>
<td>6</td>
<td>Recognize Vacancies in Budget Officer and Budget Analyst positions</td>
<td></td>
<td>($133,141)</td>
<td>Direct supervision of all budget staff will be shifted to the Manager of Budget &amp; Fiscal Analysis</td>
<td>YES</td>
<td>100</td>
</tr>
</tbody>
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### Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

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<td></td>
<td></td>
<td>Recognize savings from vacant Budget Analyst; Hire Temporary Budget Analyst; fill position full-time March 2006.</td>
<td>($16,109)</td>
<td>This will allow accounting staff to be cross-trained on budget duties while budget staff will be cross-trained on accounting tasks.</td>
<td>YES</td>
<td>101</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Request Above Class pay for 2 Accountant II's and 2 Senior Accountants for work that is in addition to their normal workload.</td>
<td>$11,118</td>
<td>Finance is proposing to leave 2 budget positions vacant. This will allow accounting staff to assume budget duties resulting from these vacancies to ensure that critical budget tasks are performed timely.</td>
<td>NO</td>
<td>102</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Capture savings from vacant Accountant II position for 1 month and fill at lower step; <em>this item goes with items #6 &amp; #8 above.</em></td>
<td>($19,380)</td>
<td>One staff member has left to work for Public Works. Workload will be shifted to remaining staff.</td>
<td>NO</td>
<td>103</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Leave Admin. Analyst (PD grants) vacant for 5 months</td>
<td>($33,803)</td>
<td>Existing staff has been handling the workload on an as-available basis.</td>
<td>YES</td>
<td>104</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Reduce spending on supplies, conferences and computer equipment</td>
<td>($5,650)</td>
<td>Staff training will be shifted to lower cost activities. Replacement of some equipment will be delayed.</td>
<td>YES</td>
<td>105</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Increase service credits to Storm Drain fund for Utility Billing services</td>
<td>($184,034)</td>
<td>No impact. Add'l cost is offset by lower general cost allocation charge.</td>
<td>NO</td>
<td>106</td>
</tr>
<tr>
<td>Purchasing</td>
<td></td>
<td>Use provisional/contract appointment to fill vacant buyer position</td>
<td>($30,234)</td>
<td>This allows commodity purchases to be handled timely in spite of buyer vacancy.</td>
<td>YES</td>
<td>107</td>
</tr>
<tr>
<td><strong>Total Finance Department Proposal:</strong></td>
<td></td>
<td></td>
<td>($569,757)</td>
<td></td>
<td></td>
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</tbody>
</table>
A RESOLUTION APPROVING THE PROPOSED POLICY RECOMMENDATIONS TO HELP MAINTAIN THE CITY'S 8% GENERAL FUND POLICY RESERVE AND PROVIDING FOR CERTAIN TRANSFERS OF FUNDS

WHEREAS, the Finance Department has been reviewing 2006-07 fiscal year finances and updating the financial forecast for the 2007-08 fiscal year, and

WHEREAS, the Finance Director made presentations to the Finance Committee on September 24, October 22, November 13 and November 26, 2007 regarding the financial status of the General Fund, and

WHEREAS, the Finance Department provided policy recommendations in order to provide additional cost savings or revenue to the General Fund, and

WHEREAS, the Finance Committee reviewed the recommended policy actions and forwarded its recommendations to the full City Council, and

WHEREAS, the City Council considered the recommendations of the Finance Committee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approve the following policy actions which are more fully described in Exhibit A, which is incorporated by reference herein:

POLICY 1. FORGIVE THE FY2002-03 FLEET REPLACEMENT FUND LOAN TO THE GENERAL FUND. The existing General Fund debt of $1.75 million to the Fleet Replacement fund will be forgiven as of July 1, 2007. Annual payments of $212,000.00 from the General Fund will be reclassified as vehicle replacement charges made to the Fleet Replacement Fund.

POLICY 2. REQUIRE THE STORM DRAINAGE FUND TO PAY ITS FULL SHARE OF GENERAL FUND COSTS. The General Fund subsidies from FY 2006-07 ($879,000) and 2007-08 ($753,000) will be treated as advances to the Storm Drainage Fund. The full value of
service charges for billing services and administrative overhead costs will also be charged to the Storm Drainage Fund. Upon adoption of a new storm drain rate study, the General Fund will recapture these advances to the Storm Drain fund.

POLICY 3. REQUIRE ALL PROGRAMS TO PAY THEIR ALLOCABLE SHARE OF GENERAL FUND OVERHEAD COSTS. The administrative overhead cost plan will be used to determine the programs that will receive an allocation of overhead costs as shown in Exhibit B which is incorporated by reference herein.

POLICY 4. INITIATE REPAYMENT OF THE LOANS FROM THE GENERAL FUND TO THE REDEVELOPMENT AGENCY. The loans made to the Redevelopment Agency by the General Fund shall be repaid in an amount that may vary by year but that is estimated to average $500,000.00 annually. The amount of repayment shall be determined by the City Council and Agency Board at the time and place that the Annual Operating Budgets of the General Fund and Redevelopment Agency are considered for adoption each year. The repayment shall be of the principal amount only which is estimated to be $20.9 million.

POLICY 5. SUSPEND, FOR ONE YEAR, THE GENERAL FUND CONTRIBUTION TO THE OTHER POST EMPLOYMENT BENEFITS (OPEB) FUND. The General Fund contribution to the OPEB Fund that represents the long-term portion of the retiree benefit liability ($953,545) shall be cancelled in FY 2007-08. This action shall not affect the payment of current benefits under this program.

POLICY 6. MAINTAIN FUNDING TO THE WORKER’S COMPENSATION INSURANCE FUND AT THE 50% CONFIDENCE LEVEL. The annual General Fund contribution to increase the level of funding for the Worker’s Compensation Insurance Fund of $894,631 shall be cancelled in FY 2007-08. This action shall not affect the payment of current benefits under this program.

POLICY 7. TRANSFER $650,000 FROM THE INFORMATION TECHNOLOGY RESERVE FUND TO THE GENERAL FUND. A portion of the General Fund contribution for
the City’s Enterprise Resources Program ($650,000) transferred to the Information Technology Fund in FY 2005-06 shall be returned to the General Fund.

POLICY 8. TRANSFER $500,000 FROM THE GAS TAX FUND TO THE GENERAL FUND. The General Fund subsidy for street improvement activities in FY 2007-2008 shall be reduced by $500,000.00 and $500,000.00 in unallocated Local Transportation Funds shall be transferred to fund these costs.

POLICY 9. SUSPEND, FOR ONE YEAR, THE OPERATING DEPARTMENTS’ FLEET EQUIPMENT REPLACEMENT CHARGES. The General Fund Operating Department’s fleet equipment replacement charges ($882,930) shall be deferred in FY 2007-08. The timing and amount of repayment shall be determined at the time the FY 2008-2009 General Fund operating budgets are adopted.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the policy actions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007, by Councilmember Hawn, who moved its adoption, which motion is being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted the following vote:

AYES: Councilmembers: Hawn, Keating, Marsh, Olsen, Mayor Ridenour
NOES: Councilmembers: Dunbar
ABSENT: Councilmembers: O’Bryant

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: __________________________
SUSANA ALCALA WOOD, City Attorney
Recommended Financial Policy Items

Re-characterize FY2002-2003 Fleet Fund Loan to General Fund and Continue Annual Payments

In 2002-2003, the decision was made to lend $2.0 million in “excess Fleet Replacement Fund cash reserves” to the General Fund. This amount represented cash that was not needed immediately for the replacement of equipment. Since this cash will be needed in the future to pay for vehicle replacements, the General Fund began making principal and interest payments in the amount of $212,000.00 starting in fiscal 2005-2006.

At the time the loan was issued, the General Fund vehicle replacement accounts were not reduced in the Fleet Fund and the scheduled vehicle replacements have been made on time using available cash. Staff's recommendation to the City Council is to forgive the loan to the General Fund as of July 1, 2006 but retain the payments that were intended to restore the cash balance in the Fleet Replacement Fund to ensure that the Fleet Fund has the cash necessary to fund all vehicle replacements on the original timeline. If the City Council accepts staff’s recommendation,

**General Fund**
The General Fund unappropriated reserve will increase by $1.75 million dollars due to the reduction in outstanding debt and the reclassification of the 2006-2007 loan repayment as a vehicle replacement charge.

The General Fund will continue to pay $212,000 to the Fleet Fund as a vehicle replacement charge. By doing so, the Fleet Replacement Fund will recapture the cash it gave up in FY ‘02-03 and will maintain vehicle replacements according to the existing timeline.

**Fleet Replacement Fund**
The Fleet Replacement Fund reserve will decrease by $1.75 million.

The Fleet Replacement Fund will adjust its replacement charges to include the $212,000.00 annual payment instead of treating it as the return of principal and interest.

*Cause the Storm Drain Fund to Account for All of Its Costs*

For the last several years, the General Fund has been subsidizing the Storm Drain Fund in the amount of $879,000.00 for the 2006-2007 fiscal year and $753,000 for the 2007-2008 fiscal year. Staff has been meeting to discuss issues related to the next storm drain rate study and the question of how to
ensure that the new rates fully capture the program costs was raised. After conferring with the city’s auditors, staff has developed the following recommendations:

The City Council can declare that the subsidies from the 2006-2007 and 2007-2008 fiscal years are advances to the Storm Drain Fund. By taking this action, the General Fund has the opportunity to recapture these amounts in the event that a new rate structure is adopted in the future.

Staff is also recommending that the Storm Drain Fund should pay its full share of any general fund costs that relate to its operations, such as overhead and billing services. At the time the current year budget was adopted, the Storm Drain Fund was not allocated all of the applicable service credits that it would normally be charged. If these costs are not charged to the Storm Drain Fund, the upcoming rate study will not be able to capture these costs and include them as part of the rate base. In the near term, the Storm Drain fund will reflect a deficit fund balance until new rates are adopted which will make the fund self-sufficient.

If the City Council wishes to characterize the subsidies to the Storm Drain Fund as advances to the fund, a resolution declaring this intent should be adopted. In addition to reclassifying the subsidies, the resolution should also indicate that the advances are intended to be repaid following the adoption of the new Storm Drain Rate Study. By declaring its intent to be repaid from the future rate study, the city will be in compliance with Governmental Accountant Standards Board pronouncement 34 (GASB 34), which requires that all advances of this nature shall have an identified repayment timeline.

If the City Council adopts the resolution described above, the effect that the creation of the interfund advances would have on the General Fund and Storm Drain Fund are shown below:

General Fund
There would be no change to the unappropriated fund balance during the 2007-2008 fiscal year as the result of reclassifying prior year subsidies as advances. This is due to the accounting requirement that the advances must be treated as long-term receivables. Only after new revenues are approved for the Storm Drain fund can these amounts be repaid. Following the adoption of a new fee structure, staff would establish a timeline for repayment of the advances made by the General Fund.

Storm Drain Fund
The ending balance of the Storm Drain Fund will be decreased by the amount of all advances made to it by the General Fund and by the increase in overhead charges allocated to it by the General Fund.
Require all Programs to Pay Their Allocable Share of General Fund Overhead Costs

The city allocates the General Fund administrative overhead costs to a variety of programs and funds each year. After reviewing the overhead cost allocations, staff has determined that not all programs that should be charged a portion of these overhead costs are being billed for their share of these costs. There are a number of reasons for this, including the fact that certain programs cannot receive an overhead charge because regulatory restrictions limit or prohibit the allocation of any overhead charges. Other programs lack the resources to absorb additional costs from the overhead allocation model. Staff is still reviewing the list of programs that have not been charged their share of the General Fund overhead costs in order to determine which ones have the resources to pay at least a portion of the allocated costs. Among these programs is the Local Transportation Fund, which provides resources to pay for street maintenance and street construction projects. The overhead costs that have been allocated to the street function are in excess of $500,000.00 per year. In order for the fund to be able to pay the overhead costs, staff must identify street maintenance and street project costs that can be reduced by this amount.

Initiate repayment of the loan from the General Fund to the Redevelopment Agency

Based on current revenue trends and available reserves, the RDA can begin repayment of the loans made to it by the General Fund. Assuming that repayment begins in the 2007-2008 fiscal year, the amount of repayment can average $500,000 per year while leaving the agency with the resources to handle routine administrative costs. The loan repayment will come from non-housing project money and not from the low-moderate income housing fund.

The actual amortization period and terms of the loan repayment depend upon whether the agency is expected to repay principal and interest, or principal only. The amount of the loan principal is approximately $20.9 million and interest adds approximately $38.9 million to this amount for a total debt of $59.8 million.

If the City Council and Agency Board agree that the subsidy loan should be repaid an average of $500,000.00 per year, the effects on the General Fund and the RDA will be as follows:

General Fund
The amount of the loan will be recognized on the balance sheet and will increase the fund balance of the General Fund by $500,000 each year. The balance of the loan will be recorded as a long-term receivable.
EXHIBIT A

RDA
The balance sheet of the RDA project fund will reflect the entire amount of the loan payable. The annual repayment of the loan will be budgeted each year, starting with the current year.

Suspend for One Year, the General Fund Contribution to the Employee Benefit Fund that Represents the Reduction of the Long-term Portion of the Retiree Benefit Liability

The Employee Benefit Fund allocates slightly more than $1.0 million across all funds that have employees who receive benefits under the retiree benefit program. The General Fund’s share of this “surcharge” is $953,545. Staff is recommending that this contribution should be cancelled for the current year and restarted when the General Fund has the resources to begin making the contribution again.

If the City Council adopts this recommendation, the effect on the General Fund and the Employee Benefit Fund will be:

General Fund
The expense for retiree benefits will be decreased by $953,545.00 and unappropriated fund balance will increase by this amount.

Employee Benefit Fund
Contribution revenue will decrease by $953,545.00 and the net outstanding liability for retiree benefits will increase by this amount.

Maintain Funding to the Worker's Compensation Insurance Fund at the 50% Confidence Level instead of the 70 - 75% Confidence Level

The Worker's Compensation Insurance Fund allocates slightly more than $1.0 million across all funds, in the form of a surcharge, to increase the level of funding to the 70 - 75% confidence level from the expected level or 50% confidence level. The General Fund’s share of this “surcharge” is approximately $896,000.00 per year. Staff is recommending that this surcharge be cancelled for the current year and restarted when the General Fund has the resources to begin making the contribution again, since the city’s ability to maintain the reserve level for this program should be tied to the city’s overall financial health. This means that when adequate resources exist to fund the reserve at the 70-75% confidence level, the city should do so.

If the City Council adopts this recommendation, the effect on the General Fund and the Employee Benefit Fund will be:
General Fund
The expense for worker’s compensation benefits will be decreased by $896,000.00 and unappropriated fund balance will increase by this amount. Please note that this is a one-time savings since future contributions will be determined once the actuarial analysis for the 2008-2009 fiscal year has been reviewed.

Worker’s Compensation Insurance Fund
Contribution revenue will decrease by $896,000.00 and the total funding for worker’s compensation will be equal to the expected liability level, or the 50% confidence level.

Return the Unappropriated Portion of the Financial Software Reserve in the Information Technology Fund
The City Council approved a transfer from the General Fund to the Information Technology Fund during the 2005-2006 fiscal year for the purpose of creating a reserve that would be used to pay a portion of the costs for the city’s new financial software program. At the same time, the Water and Sewer funds both set aside $500,000.00 within their reserves to fund a portion of the new software. Staff will be bringing a recommendation to the Finance Committee for the approval of a consultant contract that will start the development of specifications for the new program. After paying for the cost of specification development, staff estimates that there will be $650,000.00 available in the Information Technology Reserve.

At this time staff is recommending that the balance of $650,000.00 should be returned to the General Fund.

Utilize Unallocated Local Transportation Fund Monies to Offset the City’s Contribution for Street Maintenance Activities
The city currently spends more than is required toward the Maintenance of Effort spending limit for street maintenance that is imposed under Proposition 42. This year, no Proposition 42 monies have been allocated and therefore no Maintenance of Effort spending limit exists. Staff identified $500,000.00 in LTF monies that were allocated to the city late in the 2006-2007 fiscal year and set them aside until a suitable use could be identified.

At this time staff is recommending that these monies should be directed for use in the street maintenance program in the place of General Fund monies.

Defer the Fleet Replacement Charges to the General Fund
The Fleet Replacement Fund has sufficient cash reserves that will allow it to replace vehicles this year without a contribution from the General Fund. The FY
2007-2008 fleet replacement charge to the General Fund is approximately $883,000.00.

Staff is recommending that this payment should be deferred until such time as the General Fund has the resources to pay this amount.
# City of Modesto Overhead Cost Allocation for FY 2007-2008

<table>
<thead>
<tr>
<th>Fund #</th>
<th>Fund Description</th>
<th>Original Allocation</th>
<th>Updated Allocation</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>1130</td>
<td>CDBG</td>
<td>124,848</td>
<td>135,488</td>
<td>10,640</td>
</tr>
<tr>
<td>6000</td>
<td>Parking Fund</td>
<td>26,679</td>
<td>39,293</td>
<td>12,614</td>
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<tr>
<td>6100</td>
<td>Water Enterprise</td>
<td>722,380</td>
<td>563,449</td>
<td>-158,931</td>
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<tr>
<td>6210</td>
<td>Sewer Enterprise</td>
<td>760,932</td>
<td>744,672</td>
<td>-16,260</td>
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<tr>
<td>6280</td>
<td>Storm Drain Fund</td>
<td>249,352</td>
<td>65,318</td>
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<tr>
<td>6310</td>
<td>Airport</td>
<td>38,256</td>
<td>144,743</td>
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<tr>
<td>6520</td>
<td>Bus Service</td>
<td>43,714</td>
<td>13,856</td>
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<tr>
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<td>Transportation Center</td>
<td>9,742</td>
<td>7,493</td>
<td>-2,249</td>
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<tr>
<td>6540</td>
<td>Fixed Route Transit</td>
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<tr>
<td>6550</td>
<td>Bus Fixed Route Altern.</td>
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<td>6600</td>
<td>Golf Fund</td>
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<tr>
<td>7200</td>
<td>Fleet Fund</td>
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<td><strong>Totals:</strong></td>
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<td>2,077,713</td>
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<td>RDA</td>
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<td>RDA</td>
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<td>RDA</td>
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<td>Fleet Equip. Replace.</td>
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<td></td>
<td><strong>Totals:</strong></td>
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<td>689,545</td>
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**Totals:** 2,560,386 2,843,196 282,810
A RESOLUTION APPROVING A LETTER AGREEMENT AMENDING THE SCOPE OF WORK FOR THE AGREEMENT WITH SCS ENGINEERS FOR THE SITE ASSESSMENT OF THE CLOSED CARPENTER ROAD LANDFILL TO BEGIN IMPLEMENTATION OF THE RECOMMENDATIONS CONTAINED IN THE SCS REPORT WITHIN THE $299,500 CURRENTLY APPROVED, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LETTER AGREEMENT

WHEREAS, the City of Modesto operated the Carpenter Road landfill from 1956 to 1968, and the landfill includes fill sites on both the west and east sides of Carpenter Road, in between Kenneth and Robertson Roads and the Tuolumne River, and

WHEREAS, in the future, the landfill will become part of the Tuolumne River Regional Park, and

WHEREAS, in December, 2005, one of the wells on the east fill area tested high for methane gas, and

WHEREAS, during subsequent tests, the methane levels in this well continued to exceed the state’s limits, and because of this, the California Integrated Waste Management Board (CIWMB) required the City to determine the cause of the high methane readings and develop a Mitigation and Monitoring Plan to ensure that the closed landfill remains in compliance with state law, and

WHEREAS, the Regional Water Quality Control Board has requested that the impacts of the landfill on groundwater be assessed, and

WHEREAS, in order to prepare the plan, a Site Assessment had to be performed by a qualified engineering firm, and

WHEREAS, due to the uncertainties of what the contractor might find in the Site Assessment and what measures might be needed based on those findings, the Agreement for Assessment and Plan development services was task-based, and
WHEREAS, once each task was completed, the City would decide on whether or not the contractor would proceed with the next step, and

WHEREAS, in June, 2007, after an RFP process, the City Council authorized the City Manager to execute a task-based agreement with SCS Engineers for the Site Assessment and development of a Methane Gas Mitigation, and

WHEREAS, based on the results of the Site Assessment and the recommendations of SCS Engineers, staff believes that it will not be necessary to proceed with preparing a plan for mitigation work at the landfill, and

WHEREAS, it appears that the focus should now shift to installation of gas probes and design and installation of groundwater monitoring wells in the correct locations, on-going monitoring of methane gas and groundwater at the site, as well as site security and ongoing maintenance of the landfill cover, and

WHEREAS, based on discussions with SCS Engineers and County landfill staff, staff believes that the cost of installing and monitoring the new gas probes and groundwater monitoring wells will be within the funds originally projected for this project, and

WHEREAS, the Economic Development Committee met on November 14, 2007, and supporting approving a letter agreement amending the Scope of Work for the Agreement with SCS Engineers for the Site Assessment of the closed Carpenter Road Landfill to begin implementation of the recommendations contained in the SCS report within the $299,500 currently approved,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a letter agreement amending the Scope of Work for the Agreement with SCS Engineers for the Site Assessment of the closed Carpenter Road
Landfill to begin implementation of the recommendations contained in the SCS report within the $299,500 currently approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007, 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

Attest: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney