MODESTO CITY COUNCIL
RESOLUTION NO. 2007-553

A RESOLUTION APPROVING THE HOMEOWNERS DISPLACEMENT POLICY AND PROGRAMS

WHEREAS, current conditions within the local housing market are affecting both homeowners and mobile home owners and rising rent space in mobile home parks is making space rent unaffordable to many financially vulnerable mobile home owners, and

WHEREAS, financially vulnerable homeowners are also being affected by the cooling housing market and are facing foreclosure in record numbers, and

WHEREAS, in order to assist those citizens being affected by these housing conditions, the City of Modesto Parks, Recreation and Neighborhoods Department is preparing to offer programs to help assist the most economically vulnerable citizens acquire affordable housing, and

WHEREAS, the programs will be administered by the HUD Unit of the Recreation and Neighborhood Services Division and will be offered under the Homeowners Displacement Policy, and

WHEREAS, the programs offered under the Homeowners Displacement Policy will consist of the following:

1. **Voluntary Assistance Program** - A financial and technical assistance program for owner-occupied mobile homes to physically relocate the mobile home to a location with affordable space rent for the mobile home owner.

2. **Security Deposit Program for Mobile Home Owners** – A program for homeowners in the form of security deposit assistance. This program offers security deposit for property owners who have lost their homes in foreclosure or other qualifying event and must move to rental housing.

3. **Security Deposit Program for Homeowners** – A program for homeowners in the form of security deposit assistance. This program offers security deposits for property owners who have lost their homes in foreclosure and must move to rental housing, and
WHEREAS, when funded, these programs will be offered to residents of the City of Modesto who meet the income qualifications and are facing an economic event that qualifies them for assistance, such as foreclosure on their home or lien sale of their mobile home, and

WHEREAS, the Citizens Housing and Community Development Committee met on August 24, 2007 and supported the proposed policy and programs, and

WHEREAS, the Housing Rehabilitation Loan Committee met on August 30, and supported the proposed policy and programs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Homeowners Displacement Policy and Programs, a copy of which is attached hereto and incorporated herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September 2007, by Councilmember Hawn, 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, Hawn, Keating, O’Bryant, Olsen, Mayor Ridenour

NOES:  Councilmembers:  None

ABSENT:  Councilmembers:  Marsh

Attest:  Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:  Susana Acalal Wood, City Attorney
INTRODUCTION

Current conditions within the local housing market are affecting both homeowners and mobile homes owners. Due to rising rent costs many financially vulnerable mobile home owners are unable to afford their current park space rents. Financially vulnerable Homeowners are also being affected by the cooling housing market and are facing foreclosure in record numbers. In light of the current housing market conditions, the City of Modesto is offering programs to help the most economically vulnerable citizens affected by these housing conditions.

The programs being offered to help these citizens include:

I. **Voluntary Assistance Program** - A financial and technical assistance program for owner-occupied mobile homes to physically move the mobile home to a location with affordable space rent for the mobile home owner.

II. **Security Deposit Program** – A program for mobile home owners in the form of security deposit assistance. This program offers financial assistance for mobile home owners who must have their mobile home moved to a location with affordable rent space.

III. **Security Deposit Program** – A program for homeowners in the form of security deposit assistance. This program offers security deposit for property owners who have lost their homes in foreclosure or other qualifying event and must move to rental housing.

In order to qualify for these programs, household incomes must be 50%* or below of the Median Area Income for Modesto as specified by the Department of Housing and Urban Development (HUD) and the applicant must currently be a resident of the City of Modesto. The income limits are as follows, adjusted for household size:

<table>
<thead>
<tr>
<th>Size</th>
<th>Income Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$19,600</td>
</tr>
<tr>
<td>2</td>
<td>$22,400</td>
</tr>
<tr>
<td>3</td>
<td>$25,200</td>
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<td>4</td>
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<td>5</td>
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<tr>
<td>6</td>
<td>$32,500</td>
</tr>
<tr>
<td>7</td>
<td>$34,700</td>
</tr>
<tr>
<td>8</td>
<td>$36,950</td>
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</tbody>
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(HUD income limits effective March 2007. Income limits are subject to change as determined by HUD)
Income will be based on current and anticipated income for the household during the next 12 months. Income guidelines from the Department of Housing and Urban Development can be found in 24 CFR Part 5.

* The City of Modesto reserves the right to qualify households for any program offered under the Homeowner Displacement Policy at up to 80% of the median area income as applicable with HUD Regulations. All exceptions to the 50% of the median area income requirement must be approved by the Recreation and Neighborhoods Deputy Director or his/her designee.

Applicants must have current identification.

The City of Modesto is able to offer these programs through funding from the Department of Housing and Urban Development. Funding for these programs is limited and may run out. Staff is not responsible for notifying applicants if funding is no longer available.

The City of Modesto does not discriminate against persons because of age, sex, marital status, familial status, race, handicap, color, religion, creed, ancestry, or national origin.

The definition of “affordable (space) rent” and “unaffordable (space) rent” in the Homeowners Displacement Policy is only applicable to the programs contained in this policy. The affordable and unaffordable rent definitions contained in this policy do not apply to any other programs or policies offered by the Parks, Recreation and Neighborhoods Department or any other HUD funded program.

A manufactured home is a structure built in a factory and transported as a complete unit. Manufactured homes built after June 15, 1976 bear a HUD label, certifying that the home has been constructed in accordance with the National Manufacturing Housing Construction and Safety Standards (HUD Code). Technically, the term “mobile home” only applies to a factory-built home produced prior to the introduction of the HUD code. For purposes of the Homeowners Displacement Policy all manufactured homes, regardless of manufacture date, will be referred to as a “mobile home”.

Other program details are as follows:

I. **Voluntary Assistance Program for Mobile Home Owners**

A. This program offers financial assistance for mobile home owners to have their mobile home physically moved from a space with unaffordable space rent to a new space with affordable rent. Additional program requirements are:

   i. The applicant must be a registered owner of the mobile home and must have owned the mobile home and occupied the existing space prior to April 1, 2007.

   ii. The existing space rent must be unaffordable to the household and the mobile home owner must be at risk of losing their mobile home because the rent is unaffordable.
Unaffordable is defined as space rent, mortgage, taxes, and insurance combined that is more than 50% of the household's monthly gross income.

iii. The new space rent must be affordable to the household. Affordable space rent is defined as space rent, mortgage, taxes, and insurance combined that is less than 50% of the household's monthly gross income. Applicant must provide proof that new rent space is affordable by providing a budget for staff and proof of monthly obligations.

iv. The owner and park must execute a lease at an affordable rent for not less than a three-year period. Rent increases during the three year term must be in accordance with any mobile home rent stabilization ordinance or memorandum of understandings and long term lease agreements enacted by local governments.

v. Prior to any city expenditures, mobile home owner and mobile home must be approved by new park.

vi. The new space must be located in the city limits of Modesto. If the applicant can document that there is no available affordable space for rent in the City of Modesto, the new space can be located within Stanislaus County.

vii. The new space and park must be in compliance with State of California mobile home regulatory requirements for safe occupancy.

viii. The mobile home must meet housing quality standards after the physical relocation of the mobile home.

B. The financial and technical assistance for the physical relocation of the mobile home will be administered by the HUD program staff of the Parks, Recreation and Neighborhoods Department. The financial assistance is in the form of a grant or loan will be as follows:

i. **Grants** Extremely Low Income Households at less than 30% of Median Area Income are eligible for a one-time grant of up to $12,500 upon approval of the Housing Rehabilitation Loan Committee. Amounts exceeding this limit must be approved by City Council.

ii. **Loans**

a) Very Low Income Households with income between 30% and 50% of Median Area Income are eligible for a deferred payment, 3% simple interest, 20-year loan.

b) In the event the City elects to provide assistance to households with incomes between 50% and 80% of the median income, the assistance will be in the form of a 3%, 15-year loan with monthly-amortized payments required.

c) Additional loan requirements will be:

i. Owner occupancy will be required or the loan can become due and payable.

ii. The loan is due on sale or transfer of the mobile home and is not assumable.
iii. Loan amount not to exceed $12,500 upon approval of the Housing Rehabilitation Loan Committee. Amounts exceeding this limit must be approved by City Council.
iv. Mobile home owner must have sufficient fire insurance on mobile home.

iii. Costs that are eligible under the grant or loan include:

a) Cost to physically move the mobile home to a new space
b) Cost of set up of mobile home in new space to meet park, local and state codes
c) Any necessary permits
d) Landscaping required by park
e) Any Lead Based Paint costs to meet HUD mandated regulations for mobile homes built prior to 1978
f) Any other eligible expenses approved by the Recreation and Neighborhoods Deputy Director or his/her designee.

iv. The technical assistance offered by City staff includes writing the specifications of the move and new installation, putting the work out to bid per City and other mandated guidelines, selection of the contractor, contract execution, and monitoring of the work to ensure successful completion of the move.

II. Security Deposit Program for Mobile Home Owners

This program offers financial assistance for mobile home owners who can no longer afford the rent on their space at a mobile home park, and therefore, the mobile home must be moved to a new space with an affordable rent. The program provides a one time financial assistance for the security deposit for the new rent space. Additional program requirements are:

i. The applicant must be a registered owner of the mobile home and must have owned the mobile home and occupied the existing space prior to April 1, 2007.

ii. The existing space rent must be unaffordable to the household and the mobile home owner must be at risk of losing their mobile home because the rent is unaffordable. Unaffordable is defined as space rent, mortgage, taxes, and insurance combined that is more than 50% of the household’s monthly gross income.

iii. The new space rent must be affordable to the household. Affordable space rent is defined as space rent, mortgage, taxes, and insurance combined that is less than 50% of the household’s monthly gross income. Applicant must provide proof that new rent space is affordable by providing a budget for staff and proof of monthly obligations.
iv. The owner and park must execute a lease at an affordable rent for not less than a three-year period. Rent increases during the three year term must be in accordance with any mobile home rent stabilization ordinance or memorandum of understandings and long term lease agreements enacted by local governments.

v. Prior to any city expenditures, mobile home owner and mobile home must be approved by new park.

vi. The new space must be located in the city limits of Modesto. If the applicant can document that there is no available affordable space for rent in the City of Modesto, the new space can be located within Stanislaus County.

vii. The new space and park must be in compliance with State of California mobile home regulatory requirements for safe occupancy.

viii. The mobile home must meet housing quality standards after the physical relocation of the mobile home.

ix. Financial assistance can be eligible for costs that include:

a) Security deposits required by the new park. The security deposit will be paid to the landlord.

b) Utility hook-ups and deposits

c) Any other eligible expenses approved by the Recreation and Neighborhoods Deputy Director or his/her designee.

III. **Security Deposit Program for Homeowners**

This program offers financial assistance for homeowners who have lost their homes in foreclosure, sold their home in a short sale, or other qualifying event and therefore must move to affordable rental housing. The program provides a one time financial grant for the security deposit for the new rental housing. Additional program requirements are:

i. The applicant must be the property owner of record on April 1, 2007 and the home must be owner occupied and their principal residence.

ii. The applicant must show proof of a legal qualifying event that does, or will, prevent them from living in the home. Additionally, in instances when the homeowner’s foreclosed home is vacant, the homeowner must provide proof that the home has been secured according to the City of Modesto Board-up Standards. The homeowner shall provide the City of Modesto with the contact information for the current caretaker or owner of the property.
iii. The new rent must be affordable to the household. Affordable rent is defined as rent that does not exceed 50% of the household’s monthly gross income.

iv. The new rent must be within Fair Market Rent for the unit size in the Modesto area and the unit size should be appropriate to household size.

v. The housing must be located in the city limits of Modesto.

vi. Applicant must supply the City with a copy of the rental agreement for the new unit. The agreement must be a minimum of a one-year lease.

vii. The new housing will be inspected by City staff and must meet Housing Quality Standards as defined by HUD.

viii. The Security Deposit cannot exceed two times the Fair Market Rent for the unit size in the Modesto area.

ix. The Security Deposit will be paid directly to the landlord.

x. Applications will be approved by the Recreation and Neighborhoods Deputy Director or his/her designee.
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-554

A RESOLUTION APPROVING AN APPLICATION FOR $200,000 IN FUNDING FROM THE HABITAT CONSERVATION FUND PROGRAM UNDER THE CALIFORNIA WILDLIFE PROTECTION ACT OF 1990 FOR THE CONSTRUCTION AND INSTALLATION OF 1,550 LINEAL FEET OF PEDESTRIAN TRAIL IN THE TUOLUMNE RIVER REGIONAL PARK, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT APPLICATION

WHEREAS, the people of the State of California have enacted the California Wildlife Protection Act of 1990, which provides funds to the State of California for grants to local agencies to acquire, enhance, restore or develop facilities for public recreation and fish and wildlife habitat protection purposes, and

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility for the administration of the Habitat Conservation Fund (“HCF”) Program, setting up necessary procedures governing Project Application under the HCF Program, and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the City of Modesto to certify by resolution the approval of an application before submission of the application to the HCF Program, and

WHEREAS, the City desires to apply for $200,000 in funding under the HCF for the construction and installation of 1,550 lineal feet of pedestrian trail within the Tuolumne River Regional Park, and

WHEREAS, the proposed 1,550 lineal feet of pedestrian trail within the Tuolumne River Regional Park is consistent with the Habitat Conservation Fund Program grant project criteria, and

WHEREAS, the City will enter into a contract with the State of California to complete the Project,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

1. The City of Modesto approves the filing of an Application for the Habitat Conservation Fund Program, and

2. Certifies that the City has or will have available, prior to commencement of any work on the Project included in this Application, the required match and sufficient funds to complete the Project and

3. Certifies that the City has or will have sufficient funds to operate and maintain the Project, and

4. Certifies that the City has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide; and

5. Delegates the authority to the City Manager or his designee to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the Project.

6. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September 2007, by Councilmember Hawn, 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, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-555

A RESOLUTION APPROVING A GRANT APPLICATION FOR $150,000 IN FUNDING FROM THE FEDERAL RECREATIONAL TRAILS PROGRAM, FOR THE CONSTRUCTION AND INSTALLATION OF 2,850 LINEAL FEET OF BIKE/PEDESTRIAN TRAIL WITHIN THE PELANDALE/SNYDER BIKE TRAIL AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS.

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

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

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

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

WHEREAS, the proposed 2,850 lineal feet of pedestrian trail within the Pelandale/Snyder Bike Trail is consistent with the Recreational Trails Program grant project criteria, and

WHEREAS, the City will enter into a contract with the State of California to complete the Project,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

1. Approves the filing of a grant application for the Recreational Trails Program, and

2. Certifies that the City has or will have available prior to commencement of any work on the project included in this application, sufficient funds to operate and maintain the project, and

3. Certifies that the City has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide, and

4. Appoints the City Manager or his designee to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the Project.

5. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September 2007, by Councilmember Hawn, 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, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: ________________
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: ________________
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-556

A RESOLUTION ACCEPTING THE REPORT ON XCLAMATION FEST 2007,
AND APPROVING XCLAMATION FEST 2008, HOSTED BY CHRIS RICCI
PRESENTS, INC. IN DOWNTOWN MODESTO ON SATURDAY, JULY 19, 2008.

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

WHEREAS, the Safety and Communities Committee met on March 5, 2007, and
supported approval of the Xclamation Fest 2007 for July 21, 2007, and

WHEREAS, on April 3, 2007, by Resolution No. 2007-217, the City Council
approved Xclamation Fest 2007, hosted by Chris Ricci Presents, Inc. in downtown
Modesto on Saturday, July 21, 2007, and

WHEREAS, the seventh annual Xclamation Fest was held on Saturday, July 21,
2007, and

WHEREAS, this downtown music and arts festival was successful both
financially and for providing a safe, entertaining festival for Modesto residents, and

WHEREAS, the proposed date for the 2008 annual Xclamation Fest is Saturday,
July 19, 2008, and

WHEREAS, Mr. Ricci coordinates all Xclamation Fest events with the Modesto
Police Department, the Downtown Improvement District, and the Modesto Centre Plaza
staff in order to secure approvals and coordination for the event, and

WHEREAS, this event is of financial benefit to the City of Modesto and
downtown merchants, and
WHEREAS, at its September 5, 2007, meeting, the Safety and Communities Committee accepted the staff report on Xclamation Fest 2007 and supported Xclamation Fest 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts staff’s report on Xclamation Fest 2007, held in Downtown Modesto on Saturday, July 21, 2007.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves Xclamation Fest 2008, to be held in Downtown Modesto on Saturday, July 19, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, 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, Hawn, Keating, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-557

A RESOLUTION APPROVING A CONTRACT FOR THE PURCHASE OF RETIRED CITY OF MODESTO POLICE CANINE BY THE ASSIGNED MODESTO POLICE DEPARTMENT CANINE HANDLER, OFFICER COX, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID CONTRACT.

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 Cox, wishes to purchase and assume possession of his assigned canine, Buddy, 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 their assigned department handler,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the contract with Officer Cox for the purchase of his retired police canine, Buddy, 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 25th day of September, 2007, by Councilmember O’Bryant, 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, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ÁLCALA 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 August, 2007, by and between the City of Modesto, a municipal corporation of the State of California, hereinafter referred to as “CITY”, and Jamie Cox, canine handler for the Modesto Police Department, hereinafter referred to as “HANDLER”.

Facts:

Canine “Buddy” has been with the Modesto Police Department since July of 2000. “Buddy” has served the city for seven years. “Buddy” was born in April of 1999 and will be nine years old in April of 2008. “Buddy” has had a long and distinguished career as a police narcotic dog. “Buddy” has reached an age where his health has begun to decline and he is slowing down. 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 “Buddy”. HANDLER was previously the assigned canine handler for “Buddy”.

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
1. **HANDLER** does agree to assume ownership of the Modesto police canine named “Buddy”, 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 **August 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 “Buddy” for at least eighteen (18) months prior to any sale of the aforementioned retired police canine.

4. The retired police canine “Buddy” 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 25th day of September, 2007.

CITY OF MODESTO

GEORGE W. BRITTON, City Manager

NEW OWNER

[Signature]

JEAN MORRIS, City Clerk

ATTEST:

By [Signature]

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2007-558

A RESOLUTION AMENDING THE 2007/08 BUDGET, ESTIMATING REVENUE OF $20,010 FROM ASSET FORFEITURES TO POLICE OPERATIONS FOR THE PURCHASE OF THREE POLICE CANINES AND THE ASSOCIATED COSTS FOR THEIR PURCHASE.

WHEREAS, there will be three police canines retired from the Police Department Canine Unit, and

WHEREAS, the Police Department needs to replace these dogs to maintain its canine unit at full capacity, and

WHEREAS, costs for the dogs and their air transport back to Modesto is $20,010, and

WHEREAS, the Asset Forfeiture Trust Fund has monies available for this purchase, and

WHEREAS, the Safety and Communities Committee considered this item at its September 5, 2007, meeting and recommended forwarding this item to the full Council for its consideration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2007/08 Operating Budget is hereby amended as indicated below:

Appropriate:
To: 0100-190-1961-5000 $20,010 Police Field Operations

Revenue:
From: 0100-190-1961-7202 $20,010 Seized Forfeitures

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 25th day of September, 2007, by Councilmember Hawn, 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, Hawn, Keating, O’Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: Marsh

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

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-559

A RESOLUTION APPROving AND ADOPTING A WATER SUPPLY ASSESSMENT (WSA), PREPARED BY WILLDAN DATED AUGUST 2007, FOR THE PROPOSED WOODGLEN SPECIFIC PLAN PROJECT (PROJECT), DETERMINING THAT AN ASSURED WATER SUPPLY IS AVAILABLE TO MEET THE DEMANDS OF THE PROPOSED WOODGLEN SPECIFIC PLAN PROJECT

WHEREAS, Senate Bill 610 (SB 610) requires water suppliers to conduct Water Supply Assessment (WSA) studies for projects meeting the legislative criteria to determine if a sufficient water supply is available to meet the demands of the proposed Woodglen Specific Plan Project (the “Project”), and requires the governing legislative body to approve and adopt such assessments, and

WHEREAS the proposed Project, located within the Kiernan-Carver Comprehensive Planning District (CPD) bordered by Bangs Avenue on the north, Tully Road on the east, Pelandale Avenue on the south, and Carver Road on the west, is within the City of Modesto’s water service area and meets the criteria of requiring a WSA under SB 610 and SB 221, and

WHEREAS, Willdan has completed a WSA for the Project, and Public Works staff has determined that an assured 20-year water supply for the build-out of the Project can be made on the conditions that conjunctive use water management measures are implemented as identified in the Urban Water Management Plan and the WSA, the Modesto Regional Water Treatment Plant Phase 2 Expansion is constructed and future water supplies are secured,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Water Supply Assessment, prepared by Willdan dated August 2007, for the
proposed Woodglen Specific Plan Project, is hereby approved and adopted, a copy of which is on file with the City Clerk.

BE IT FURTHER RESOLVED that pursuant to the California Water Code Section 10912, the Council hereby finds and determines that an assured water supply is available to meet the demands of the proposed Woodglen Specific Plan Project and that the WSA for the proposed Woodglen Specific Plan Project provides substantial evidence to support this determination.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September 2007, by Councilmember Hawn, 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, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: ____________________________
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By ____________________________
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-560

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR’S AUTHORITY TO ISSUE CHANGE ORDERS ON THE “COLLECTION SYSTEM REHABILITATION PROJECT” FROM 10 PERCENT ($62,001.97) TO 11.1 PERCENT ($68,755.03) OF THE ORIGINAL CONTRACT PRICE WITH D.A. WOOD CONSTRUCTION

WHEREAS, on January 9, 2007, by Resolution No. 2007-060, the City Council awarded a $620,019.70 contract to D.A. Wood Construction to construct the “Collection System Rehabilitation 2006” project, and

WHEREAS, the contractor started work on February 26, 2007, and

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

WHEREAS, the cost of the extra work was estimated to be as high as $68,755.03, 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 $60,001.97,

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 “Collection System Rehabilitation 2006” from 10 percent ($60,001.97) to 11.1 percent ($68,755.03) of the original contract price with D.A. Wood Construction.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, 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, Hawn, Keating, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST:  

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-561

A RESOLUTION ACCEPTING THE WORK BY ROLFE CONSTRUCTION CO., FOR THE PROJECT TITLED “REPLACE MANHOLES: 9TH/J AND 9TH/G STREETS” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $186,749.07

WHEREAS, a report has been filed by the Public Works Director that the project titled “Replace Manholes: 9th/J and 9th/G Streets” has been completed by Rolfe Construction Co., in accordance with the contract agreement dated November 28, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “Replace Manholes: 9th/J and 9th/G Streets” is hereby accepted as complete from said contractor, Rolfe Construction Co., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $186,749.07 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, 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, Hawn, Keating, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Acalá Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-562

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE “BLOCK WALL CONSTRUCTION FOR WELL 21 IN MCHENRY VILLAGE PROJECT” FROM $25,000.00 TO $30,000.00 OF THE ORIGINAL CONTRACT PRICE WITH RICHARD TOWNSEND CONSTRUCTION

WHEREAS, on February 14, 2006, by Resolution No. 2006-093, the City Council awarded a $156,165.00 contract to Richard Townsend Construction to construct the “Block Wall Construction for Well 21 in McHenry Village” project, and

WHEREAS, the contractor started work on March 19, 2007, and

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

WHEREAS, the cost of the extra work was estimated to be as high as $25,119.94, 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 $25,000.00,

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 “Block Wall Construction for Well 21 in McHenry Village” from $25,000.00 to $30,000.00 of the original contract price with Richard Townsend Construction.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, 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, Hawn, Keating, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

SUSANÁ ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-563

A RESOLUTION AUTHORIZING THE PUBLIC WORKS WATER QUALITY CONTROL DIVISION TO MAKE A SOLE SOURCE PURCHASE OF CASS WORKS SOFTWARE AND IMPLEMENTATION SERVICES FROM RJN GROUP, INC. AT A COST OF $49,620 WITH A CONTINGENCY AMOUNT OF $4,962, FOR A TOTAL COST OF $54,582.

WHEREAS, Water Quality Control (WQC) manages the operations and maintenance of wastewater, stormwater and water distribution assets, and

WHEREAS, the Wastewater Collections Division is currently using CASS WORKS for pump maintenance activities and utilizes OASIS for asset management, and

WHEREAS, WQC is currently using MP2 software for the maintenance management of the treatment facilities and is no longer supported by the City’s Information Technology Department (IT) without an upgrade, and

WHEREAS, WQC would like to upgrade the current version of CASS WORKS and transfer all data from the OASIS and MP programs into the new CASS WORKS program, and

WHEREAS, CASS WORKS will also allow WQC to expand its use to other divisions to consolidate wastewater asset management and maintenance activities, and

WHEREAS, utilization of CASS WORKS will bring a single solution to WQC for managing assets, work order processing, and warehouse inventory and simplifies the support services by IT, and

WHEREAS, IT concurs with Public Works that this course of action is the best solution available and recommends RJN Group, Inc. as the sole source for the upgrade and installation of CASS WORKS, and

WHEREAS, funds are budgeted in following accounts for the purchase of CASS WORKS software and implementation services:
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Public Works Water Quality Control Department to make a sole source purchase of CASS WORKS software and implementation services from RJN Group, Inc. at a cost of $49,620 with a contingency amount of $4,962 for a total cost of $54,582.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, 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, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

(S Seal)

APPROVED AS TO FORM:

BY: Susana Alcala Wood, City Attorney
A RESOLUTION APPROVING AN AMENDMENT TO A LEASE AGREEMENT WITH MODESTO EXECUTIVE AIR CHARTER, DBA SKY TREK AVIATION, THAT ALLOWS A SUSPENSION RETROACTIVELY FROM DECEMBER 31, 2005 TO JULY 1, 2008 OF A 5% SUBLEASE FEE OF GROSS RENTS RECEIVED THAT SKY TREK PAYS TO THE CITY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE AGREEMENT.

WHEREAS, Sky Trek Aviation currently leases land at the Modesto Airport from the City and then subleases enclosed hangar space to business entities, and

WHEREAS, the master lease between the City and Sky Trek requires Sky Trek to pay the City a surcharge of five percent (5%) of gross revenues realized for these hangar subleases, and

WHEREAS, sublease fee waiver was originally implemented in 2003 by Council Resolution No. 2003-455 to assist Sky Trek’s competitive position for hangar rentals during the ‘dotcom’ bust, and

WHEREAS, in March 2007 Sky Trek requested another extension of the sublease fee waiver, and

WHEREAS, Sky Trek believes sublease fee is unfair because it already pays the City a variety of fees, including rent, property tax, fuel flow fee, and mil tax, and

WHEREAS, as the Airport’s sole fixed base operator, Sky Trek is the only tenant authorized to sublease hangar space for the principle purpose of storing aircraft, and

WHEREAS, the Council, by Resolution Nos. 2005-35 and 2006-680, has continued to waive this sublease fee, and

WHEREAS, due to change in personnel at the airport, the amendment approved in 2006, which covered December 31, 2005 through July 1, 2007, was not executed, and
WHEREAS, this action is to retroactively suspend the fee waiver from December 31, 2005 to July 1, 2008 to cover the full period of time the Council authorized the amendment in 2005 and an additional one year to July 1, 2008, and

WHEREAS, the Economic Development Committee, at its August 13, 2007 meeting, recommended the suspension of the sublease fee waiver to be retroactively extended from December 31, 2005, to July 1, 2008,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to a lease agreement with Modesto Executive Air Charter, dba Sky Trek Aviation, that allows a suspension retroactively from December 31, 2005 to July 1, 2008 of a 5% sublease fee of gross rents received that Sky Trek pays to the City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment to a lease agreement
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007 by Councilmember Hawn, 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: Councilmember: Dunbar, Hawn, Keating, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: Marsh

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
A RESOLUTION APPROVING THE 2007/2008 FISCAL YEAR ANNUAL ANTICIPATED DBE PARTICIPATION LEVEL (AADPL) GOAL OF 14%, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE DISADVANTAGED BUSINESS ENTERPRISE (DBE) RACE-NEUTRAL IMPLEMENTATION AGREEMENT AND PROGRAM PLAN FOR FEDERALLY FUNDED STREET, AIRPORT, AND TRANSIT PROJECTS

WHEREAS, the City of Modesto, in order to receive federal financial assistance from the U.S. Department of Transportation (DOT) through the California Department of Transportation (Caltrans) and as a condition of receiving this assistance, is required to sign the California Department of Transportation’s Disadvantaged Business Enterprise (DBE) Race-Neutral Implementation Agreement for federally funded street, airport, and transit projects, and

WHEREAS, the City of Modesto wishes to enter into a Disadvantaged Business Enterprise (DBE) Race-Neutral Implementation Agreement, and adopt the 2007/2008 Fiscal Year Annual Anticipated DBE Participation Level (AADPL) goal of 14%,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it is the goal of the City of Modesto that if any United States Department of Transportation funds are used for contract services, it will assure that no portion of the projected goal will be attained by using race-and gender-conscious means in accordance with 49 CFR, Part 26 and other applicable statutes, regulations, and executive orders.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the 2007/2008 Fiscal Year Annual Anticipated DBE Participation Level (AADPL) goal of 14% is hereby established.
BE IT FURTHER RESOLVED by the Council of the City of Modesto that the
City Manager, or his designee, is hereby authorized to execute the DBE Race-Neutral
Implementation Agreement and Program Plan with the Federal Transit Administration.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 25th day of September 2007, by Councilmember Hawn,
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, Hawn, Keating, O'Bryant, Olsen, Mayor
                    Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris
        JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Acalala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-566

A RESOLUTION AUTHORIZING PARTICIPATION IN THE “UNIFIED CERTIFICATION PROGRAM” (UCP) FOR CERTIFYING DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACTORS IN AN AMOUNT NOT TO EXCEED $2,000

WHEREAS, 49 CFR, Part 26 necessitates that the City of Modesto participate in the California Unified Certification Program (UCP), and

WHEREAS, this program is the vehicle for certifying Disadvantaged Business Enterprise (DBE) contractors, and

WHEREAS, Federal regulations require that all jurisdictions receiving federal funds must participate in training costs for the certifying agencies, and

WHEREAS, in order to continue receiving federal funding on street, airport, and transit projects, the City must adopt a UCP consistent with federal regulations and receive approval, and

WHEREAS, financial participation in the UCP is also required in order to continue receiving Federal funding on street projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that participation in the UCP for certifying DBE contractors in an amount not to exceed $2,000 is hereby authorized.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September 2007, by Councilmember Hawn, 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, Hawn, Keating, O’Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: Marsh

ATTEST: 
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-567

A RESOLUTION APPROVING OPERATION OF MOBILE HOME RENTAL
ASSISTANCE PROGRAM.

WHEREAS, the City Council Finance Committee and City Council have been
studying issues regarding rent stabilization as it applies to the mobile home parks located
in Modesto, and

WHEREAS, on August 14, 2007, by motion, the Modesto City Council took
action to accept the market study report on Mobile Homes in Modesto, and

WHEREAS, on August 14, 2007, by motion, the Modesto City Council
introduced a Mobile Home Rent Stabilization Ordinance which included a Memorandum
of Understanding proposed by a group of stakeholders, and

WHEREAS, within the Memorandum of Understanding is an agreement that the
Mobile Home Park Owners will provide funding, up to $20 per space, per year, for a
rental assistance program, with the City providing matching funds, and

WHEREAS, the City Council has chosen the to

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the Council hereby approves the Option 2 – To opt to administer a rental assistance
program. If Signatory Park Owners of 1400 home sites contributed $20 annually per
home site ($28,000 per year,) for example, the City could then provide matching funds of
$28,000 for rental assistance.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September 2007, by Councilmember Hawn, 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, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: [Signature]
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: [Signature]
SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING AN AMENDMENT TO THE CITY OF MODESTO 2007-2008 HUD ANNUAL ACTION PLAN AND AUTHORIZING THE CITY MANAGER TO EXECUTE RELATED DOCUMENTS.

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

WHEREAS, on May 8, 2007, by Resolution No. 2007-281, the Modesto City Council approved the adoption of the 2007-2008 HUD Annual Action Plan, and

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

WHEREAS, notice has been duly given to the community of proposed amendments to the Annual Action Plan, and to provide a 30-day comment period, which began August 25, 2007, and ended on September 25, 2007, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the HUD Annual Action Plan at its August 24, 2007, meeting, and the Committee recommended that the City Council approve amendments to the HUD Annual Action Plan as proposed by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on September 25, 2007, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the proposed amendments to the 2007-2008 HUD Annual Action Plan,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Amendment to the 2007-2008 HUD Annual Action Plan a copy which is attached hereto as Exhibit “1” and incorporated herein by reference.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 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, Hawn, Keating, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
## FY 07-08 Annual Action Plan Amendment

### Exhibit 1

#### CDBG Funding

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#### CDBG Budget

| Housing Development, Preservation & Home Ownership | 804,334 | 50,000 | 50,410 | 140,000 | 580,535 | 1,625,279 | 170,000 | 559,000 | 2,345,279 |
|                                                      |        |        |        |        |        |          |        |        |          |
| Down Payment Assistance Program                    | 120,000|        |        |        |        |          |        |        |          |
| Housing Rehabilitation Program Loans - single-unit | 40,000 | 160,000| 200,000|        |        |          |        |        |          |
| Housing Rehabilitation Program Loans - multi-unit | 83,000 |        |        |        |        |          |        |        |          |
| Emergency Home Repair Program (EHRP) /             |        |        |        |        |        |          |        |        |          |
| Rehabilitation Accessibility Program (RAP) - single-unit | 100,000| 15,000 | 115,000|        |        |          |        |        |          |
| Emergency Home Repair Program (EHRP) /             |        |        |        |        |        |          |        |        |          |
| Rehabilitation Accessibility Program (RAP) - multi-unit | 25,000 | 25,000 |        |        |        |          |        |        |          |
| Minor Home Repair Grant Program (MHRGP)            |        | 4,000  | 4,000  |        |        |          |        |        |          |
| Rehabilitation Property Improvement Programs - single-unit | 14,500 |        |        | 14,500 |        |          |        |        |          |
| Rehabilitation Property Improvement Programs - multi-unit | 500 |        | 500 |        |        |          |        |        |          |
| Neighborhood Revitalization Strategy               | 293,535| 293,535|        |        |        |          |        |        |          |
| Lead-Based Paint Services                          | 10,000 |        |        |        |        |          |        |        |          |
| Housing Demolition                                | 6,000  |        |        |        |        |          |        |        |          |
| Temporary Relocation                              | 10,000 |        |        |        |        |          |        |        |          |
| Homeowner Displacement Program                    |        |        |        |        |        |          | 50,000| 50,000 |          |
| Housing Rehabilitation Administration Total        | 643,334|        |        |        |        |          | 643,334|        |          |
| - Loan Application & Portfolio Processing ($81,686) |        |        |        |        |        |          |        |        |          |
| - Rehabilitation Technical Assistance Inspections & Services ($163,946) |        |        |        |        |        |          |        |        |          |
| - Environmental Review Services ($109,510)         |        |        |        |        |        |          |        |        |          |
| - Housing Rehabilitation Admin ($288,192)          |        |        |        |        |        |          |        |        |          |
| Housing Rehabilitation Accessibility Program        |        | 50,000 | 50,410 | 100,410|        |          |        |        |          |
| Public Facility & Improvement                      | 80,000 |        |        |        |        |          |        |        |          |
| Accessibility Features at City Facilities          | 10,000 |        |        |        |        |          |        |        |          |
| Neighborhood Based Projects                        | 13,000 |        |        |        |        |          |        |        |          |
| The Salvation Army Berberian Winter Shelter Roof  | 55,000 |        |        |        |        |          |        |        |          |
| ADA Curb Ramps                                    |        |        |        |        |        |          |        |        |          |
| Neighborhood Preservation & Stabilization          | 262,382| 0      | 22,500 | 0      | 284,882| 0        | 0      | 284,882|          |
| Code Enforcement - Building Codes                 | 22,500 | 22,500 | 45,000 |        |        |          |        |        |          |
| Code Enforcement - Neighborhoods                  | 219,882| 219,882|        |        |        |          |        |        |          |
| Neighborhood Cleanup                              | 20,000 |        |        |        |        |          |        |        |          |

#### Economic Development Technical Assistance

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-569

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008 ANNUAL OPERATING BUDGET TO REFLECT APPROVED CHANGES TO THE HUD ANNUAL ACTION PLAN AND AUTHORIZING THE FINANCE DIRECTOR TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION.

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

WHEREAS, on May 8, 2007, by Resolution No. 2007-281, the City Council approved the adoption of the 2007-2008 HUD Annual Action Plan, and

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

WHEREAS, these program changes require reallocation of operating budget funds, and

WHEREAS, reallocation of these funds is more fully described on Exhibit “1”, and Attachments B-1 and B-2 attached hereto and incorporated by reference, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the HUD Annual Action Plan at its August 24, 2007, meeting, and the Committee recommended that the City Council approve amendments to the HUD Annual Action Plan as proposed by staff as well as to approve the budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on September 25, 2007, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010
Tenth Street, to consider approval of the proposed amendments to the 2006-2007 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2007-2008 Annual Operating Budget to reflect approved changes to the HUD Annual Action Plan as indicated in Exhibit "1" and Attachments B-1 and B-2, attached hereto and incorporated herein by reference.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Acalal Wood, City Attorney
**FY 07-08 Annual Action Plan Amendment**

### Exhibit 1

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<td>American Red Cross &quot;Emergency Shelter Services&quot;</td>
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<td>The Salvation Army &quot;Berberian Winter Shelter&quot;</td>
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### Exhibit 1

#### CDBG Funding

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REQUEST FOR BUDGET ADJUSTMENT

Exhibit B-1

Contact Person: Grace Hsu
Telephone No.: 571-5506
Department: Parks, Recreation and Neighborhoods
Project Title: CDBG Fund activities
Fund Title: CDBG Funds 1130

Council Action Date: ____________
Resolution Number: ____________

Telephone No.: 571-5506
Resolution Number: ____________

Department: Parks, Recreation and Neighborhoods
Project Title: CDBG Fund activities
Fund Title: CDBG Funds 1130

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

TO
1130-320-3254-3511 | $0 | $120,000 | $120,000 | CDBG Carryover
1130-320-3274-3511 | $0 | $50,000 | $50,000 | CDBG Carryover
1130-320-3215-3511 | $0 | $75,000 | $75,000 | CDBG Carryover
Total | $245,000 |

APPROPRIATIONS

FROM

TO
1130-320-3254-0497 | $120,000 | $120,000 | $240,000 | Down Payment Assistance Program
3250C | $120,000 | $120,000 | $240,000 |
Total | $240,000 |
1130-320-3274-0496 | $0 | $25,000 | $25,000 | Direct Grants
1130-320-3274-0497 | $0 | $25,000 | $25,000 | Direct Loans
Total | $50,000 |
1130-320-3215-6010 | $0 | $7,500 | $7,500 | Engineering/Design/Admin
1130-320-3215-6040 | $0 | $60,000 | $60,000 | Construction
1130-320-3215-6050 | $0 | $3,750 | $3,750 | Contingency
1130-320-3215-6060 | $0 | $3,750 | $3,750 | Construction Admin
Total | $75,000 |
GRAND TOTAL | $245,000 |

Budget adjustments are necessary to reallocate CDBG Entitlement funds that were not spent in prior years.

Request City Council's approval to create two multi-year organizations:
Org 3274 - Homeowner Displacement Program
Org 3215 - 07-08 ADA Curb Ramps

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TRANSFER NO. ________________________ BY: __________ DATE: __________
REQUEST FOR BUDGET ADJUSTMENT

Exhibit B-2

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| APPROPRIATIONS                  |            |                |                  |                |                      |
| FROM                            |            |                |                  |                |                      |
| TO                              |            | $283,000       | $533,000         | Housing Rehabilitation Program Loans (single-unit and multi-unit) |
| 1150-320-3266-0497              | $140,000   | $200,000       | $340,000         | Emergency Home Repair Program / Rehab Accessibility Program (single-unit and multi-unit) |
| Total                           | $450,000   |                |                  |                |                      |
| 1151-320-3272-0496              | $50,000    | $100,000       | $100,000         | Direct Grant    |
| 1151-320-3273-0489              | $293,535   | $100,000       | $393,535         | Project Area Revitalization |
| GRAND TOTAL                     | $600,000   |                |                  |                |                      |

Budget adjustments are necessary to reallocate CDBG Entitlement funds that were not spent in prior years.

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TRANSFER NO. ____________________ BY: __________ DATE: __________
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-570


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

WHEREAS, the Consolidated Annual Performance and Evaluation Report (CAPER) reflects the activities of the City and its sub-recipients for the period of July 1, 2006, through June 30, 2007, and

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

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

WHEREAS, the CAPER was made available for public review and comment from September 10, 2007, through September 25, 2007, and

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

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on September 12, 2007, and reviewed and recommended the CAPER, and
WHEREAS, a duly noticed public hearing was held by the Council on September 25, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider approval of the CAPER,

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

1. That the Consolidated Annual Performance and Evaluation Report for Fiscal Year 2006-2007 is hereby approved, and a copy of said report is on file in the office of the City Clerk.

2. That the City Manager, or his authorized designee, is hereby authorized, after having made any necessary correction, to submit said report to the U.S. Department of Housing and Urban Development (HUD).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: 
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-571

A RESOLUTION ELECTING TO RECEIVE A PORTION OF THE TAX INCREMENTS
PURSUANT TO HEALTH AND SAFETY CODE SECTIONS 33607.7 AND 33607.5

WHEREAS, on July 12, 1983, the City Council of the City of Modesto (the "Council"),
adopted Ordinance No. 2203-C.S. approving and adopting the Redevelopment Plan (the "Original
Redevelopment Plan") for the Modesto Redevelopment Project (the "Project") pertaining to the
"Original Project Area", and

WHEREAS, on June 19, 1984, the Council adopted Ordinance No. 2269-C.S. amending
the Original Redevelopment Plan, and

WHEREAS, on November 5, 1991, the Council adopted Ordinance No. 2793-C.S.
approving and adopting an Amended Redevelopment Plan (the "Redevelopment Plan"), which
replaced the Original Redevelopment Plan and added certain area (the "Amended Area") to the
Project Area, and

WHEREAS, on November 19, 1991, because the Amended Area includes certain areas
located within the unincorporated area of the County, the Board of Supervisors of the County of
Stanislaus adopted Ordinance No. C.S. 454 approving and adopting the Redevelopment Plan,
and

WHEREAS, on November 22, 1994, the City Council adopted Ordinance No. 2931-C.S.
and on December 20, 1994, the Board of Supervisors adopted Ordinance No. C.S. 580
establishing and amending certain limitations with respect to the Redevelopment Plan, and

WHEREAS, Section 33333.6 of the California Community Redevelopment Law (Health
and Safety Code Section 33000 et seq.) provides, in part, that on or after January 1, 2002, a
redevelopment plan adopted on or before December 31, 1993, may be amended to eliminate the
time limit on the establishment of loans, advances, and indebtedness that was previously required by that section prior to January 1, 2002, and

WHEREAS, Section 33607.7 of the Health and Safety Code provides, in part, that if a redevelopment plan adopted prior to January 1, 1994, is amended to increase or eliminate the time limit on the establishment of loans, advances, and indebtedness established pursuant to Section 33333.6, and an agreement was not entered into by the agency and the taxing entity prior to January 1, 1994, that requires payments to the taxing entity, the agency shall pay to such affected taxing entity the amounts required pursuant to subdivisions (b), (c), (d), and (e) of Section 33607.5, and

WHEREAS, Section 33607.5(b) of the Health and Safety Code provides that in any fiscal year in which a redevelopment agency receives tax increments, the community that has adopted the redevelopment project area may elect to receive, and the agency shall pay to it, an amount equal to the community's proportionate share of 25 percent of the tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted (the "City Election"), and

WHEREAS, concurrently herewith, the City Council has considered and introduced for first reading an Ordinance to eliminate and amend certain time limitations with respect to the Redevelopment Plan, including to eliminate the time limit on the establishing of loans, advances, and indebtedness contained in the Redevelopment Plan;
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO

DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City Council hereby elects to receive the City Election for each fiscal year of the Redevelopment Project in which the Agency receives tax increment from the Project Area.

Section 2. The City Clerk is hereby directed and authorized to transmit a copy of this resolution to the Executive Director of the Redevelopment Agency of the City of Modesto and to the tax collector of Stanislaus County.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Keating, 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, Hawn, Keating, O’Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-572

A RESOLUTION DENYING THE APPEAL OF QUALITY TYMES CORPORATION, DBA OCEANS 10 RESTAURANT, AND AKA SIN CITY NIGHTS AND MODIFYING THE POLICE CHIEF'S LETTER OF INTENT TO REVOKE THEIR DANCE PERMIT BY IMPOSING A 30 DAY SUSPENSION, UNTIL OCTOBER 23, 2007, WITH A REPORT DUE BACK TO THE CITY COUNCIL FOR DETERMINATION AS TO THE FINAL STATUS OF THE DANCE PERMIT.

WHEREAS, Quality Tymes Corporation, dba Oceans 10 Restaurant, and aka Sin City Nights was issued a dance permit on July 9, 2007, by the City of Modesto imposing specific conditions for its operation; a copy of said dance permit is attached hereto and incorporated herein by reference as Exhibit "A", and

WHEREAS, by signing for receipt of the dance permit, the responsible party, Rosalind Mitchell acknowledged, read and agreed to comply with every required condition set forth in Exhibit "A", including an acknowledgment that any violation could result in revocation of the dance permit, and

WHEREAS, Modesto Municipal Code Section 4-1.413 authorizes the Police Chief to revoke or suspend a dance permit when violations of the permit occurs, and

WHEREAS, on August 24, 2007, based on a number of violations of the dance permit which had occurred, the Police Chief sent a Letter of Intent to Revoke to Quality Tymes Corporation, dba Oceans 10 Restaurant, and aka Sin City Nights, c/o Rosalind Mitchell (hereafter "Appellant") to revoke their dance permit, a copy of which is attached hereto and incorporated herein by reference as Exhibit "B", and

WHEREAS, by letter dated August 30, 2007, Appellant filed a notice of appeal with the Office of the City Clerk to the decision of the Police Chief revoking their dance
permit, a copy of which is attached hereto and incorporated herein by reference as Exhibit “C”, and

WHEREAS, by an agenda report to the City Council from the Police Chief, dated September 10, 2007, City staff recommended the dance permit for Appellant be revoked, and

WHEREAS, this recommendation was based on nine violations of their dance permit as fully set forth in Exhibit “A”, and

WHEREAS, by letter dated September 21, 2007, Appellant requested a continuance of the hearing on their appeal to October 9, 2007; said request was denied by the City Council, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council at its regular meeting place in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at 5:30 p.m. on September 25, 2007, at which date and time said public hearing was held, the Appellant was present and evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing the Council found and determined that said appeal should be denied, however, the Council determined that based on the testimony provided by the Appellant and evidence presented that in recent weeks the Appellant had made good efforts to address the problems occurring at their premises, the Police Chief’s Letter of Intent to Revoke should be modified by imposing a 30 day suspension, until October 23, 2007, with a report due back to the City Council for determination as to the final status of their dance permit,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of Quality Tymes Corporation, dba Oceans 10 Restaurant, and aka Sin City Nights, for the revocation of their dance permit is hereby denied and that in lieu of revocation the Police Chief's Letter of Intent to Revoke is hereby modified by imposing a 30 day initial suspension, until October 23, 2007, with a report due back to the City Council by the Appellant and the Police Department as to the measures to be taken to ensure Appellant's compliance with all the conditions of their dance permit. Council shall take this report into consideration for the purpose of determining whether the suspension should be lifted, extended or revocation imposed.

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

NOES: Councilmembers: Keating

ABSENT: Councilmembers: Marsh

ATTEST: _Jean Morris_, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _SUSANA ALCALA WOOD_, City Attorney
Exhibit “A”
July 9, 2007

Quality Tymes
953 10th Street
Modesto, CA 95350

Attn: Rosalind Mitchell

Your request for a dance permit for Tymeless Cuisine, located at 953 10th Street, Modesto, CA., has been approved subject to the following conditions:

DANCE PERMIT EXPIRES 09/30/2007

SECURITY:

1. A California State Licensed/Certified Security Company or Guard shall provide security for the business. The company shall be licensed to do business in the City of Modesto.

(a) All security guards shall be licensed, as provisioned by California State Statute or through the Modesto Police Department DED Guard Card Requirements.

(b) All security guard applicants must be able to meet the application requirements by the Department of Consumer Affairs for a guard card/license or by Modesto Police Department DED Guard Card Requirements.

(c) Upon receipt of guard card, a copy of guard card must be furnished to the Modesto Police Department to the attention of Leslie Rodriguez 48 hours of receipt of card.

(d) All security guards currently employed and new hires shall have 60 days to come into compliance with the guard card requirements through the State or the Modesto Police Department.

2. There shall be at least one (1) security officer stationed at the entrance of the business during hours of dancing. These officers shall keep count of patrons entering and leaving the business by use of two mechanical counting device, one for those entering and...
one for those patrons exiting and made available for inspection by the police
department upon demand:

3. There shall be at least one (1) staff personnel stationed at every exit of the
building.

4. There shall be one (1) state licensed and certified security guard per fifty
(50) occupants inside the premises.

PERMIT REQUIREMENTS:

5. If the facility is leased, subletted, or rented, the organization or individual
must apply for a 'Daily Dance Permit' application 15 days in advance of the
event providing proof of security, and a copy of the lease agreement for use
of the facility.

6. If Applicant/establishment is owned as a corporation or partnership, it
shall provide to Modesto Police Department a full disclosure of all partners,
and/or officers, including their addresses and phone numbers. Any changes
in owners, their addresses or phone numbers must be reported to the
Modesto Police Department within 3 business days of any changes.

7. This condition letter shall be posted along with the dance hall
establishment permit in public view and available to law enforcement for
inspection upon request.

8. There shall be no topless dancing, nude dancing and/or male, female
revues permitted on the premises at anytime or any violation to the Adult
Entertainment-Ordinance, MMC 5.9.101 through 5.9.407.

9. Modesto Police Department is not responsible or required to send
reminder notices regarding the renewal of a dance permit. The permit
holder is responsible to file a dance permit application within 15 days of the
expiration date; If the permit expires, the dance permit is no longer valid
and enforcement or administrative fines may be levied.

10. As a condition of the issued dance permit, the Modesto
Police Department must have on file at all times evidence of liability
insurance naming the City of Modesto as an additional insured. Minimum liability amounts must be one million dollars ($1,000,000.00).

11. Facilities who hold a dance permit in the DED shall be operating and linked electronically to a centralized scanning system of an ID reader and a shared telecommunication system upon delivery of equipment.

12. A Dance permit shall not be issued or renewed if the business license fees, filings and/or taxes are not current or paid in full.

13. Modesto Police Department may change or revise conditions of this dance permit with 48-hour written notice.

14. Membership and attendance to the DED (Downtown Entertainment District) monthly meetings facilitated by DID (Downtown Improvement District) is required of a general manager and/or owner of facilities who hold dance permits in the DED area.

UNIFORMS:

15. All private security guards and security staff/bouncers must be in a light colored (white, yellow, tan or light gray) shirts and outer layering with the following on the back of the shirts or outer layering in black or dark blue lettering: ‘SECURITY’. Only black or blue lettering is permitted and no smaller than 4 inches in height. Lettering must be nonogrammed, embroidered or silk-screened. The front of the shirts shall also display the name of the security company and/or the club name and ‘SECURITY’ in smaller, visible print. Dark colored pants are acceptable.

SAFETY PROVISIONS:

16. Occupancy for the premises shall be posted above the main entrance visible to the public and also posted above every bar(s) location within establishment.

17. At no time shall the occupancy exceed the rated number posted for occupancy. If it is determined that the premise is over their posted
occupancy, the Police Department shall have the authority to restrict further entrance of patrons until the facility has abated their occupancy issue.

18. Entertainment provided by the licensee shall not be audible beyond the entertainment venue under the control of the licensee.

19. Patrons shall be prohibited from 'in-and-out' privileges to the club without paying a cover charge each and every time they re-enter the club or; if there is no cover charge, patrons must allow one hour before they re-enter the club on the same evening. The establishment is required to document such entrance and exit activity by electronic ID scanner or other verifiable means and must produce this to law enforcement upon demand.

20. The licensee is responsible for the orderly disbursement of all patrons upon closing and within thirty (30) minutes prior to the establishments' closing time.

21. Security staff will remain on the premises until all patrons have left the vicinity of the premises and surrounding neighborhoods when the business closes and discourage any loitering in the parking areas to business during and at the close of business.

22. At all time during hours of operation, the business shall remain open and accessible to law enforcement and the fire department.

23. A soft close is authorized under the following conditions:
   (a) Dancing shall cease at approximately 2:00 A.M., so that patrons can be cleared from the establishment by 3:00 A.M.
   (b) All sales of alcohol must cease at 1:30 A.M.
   (c) Consumption of alcohol must stop by 2:00 A.M. and drinks are to be collected and disposed of.
   (d) No new patrons are to be allowed into the club after 1:30 A.M.
   (e) No outside advertising of 'soft close' or after hours dancing.
   (f) Patrons requesting taxi service or alternative transportation will be given reasonable assistance by the club management/security staff.
   (g) Conditions to this soft close can be amended and the authorization
   (h) The soft closing is revocable at any time by the Modesto Police

Page 4 of 7

All Internationally Accredited Law Enforcement Agency
ABC REQUIREMENTS:

24. Licensee shall adhere to all conditions of their ABC license issued to the premises.

25. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under control of the licensee.

26. On duty employees for the business shall not consume alcoholic beverages or be under the influence of an alcoholic beverage on the premises during hours of operation.

27. Hose areas adjacent to the business shall be maintained litter free. All litter shall be removed within (3) three hours of closing time.

SPECIAL EVENTS:

28. Any valid dance establishment permit holder that holds a special event shall notify the Modesto Police Department by electronic e-mail notification to include both CSO Leslie Rodriguez (RodriguezL@modestoPD.com) and Lt. Ron Cloward ClowardR@modestoPD.com not less than twenty four (24) calendar days in advance of the special event.

(a) A "special event" is defined as any live performance, concert, live music event, live entertainment or any person or persons providing musical entertainment with live or recorded music.

(b) The Modesto Police Department shall review the written notification of the special event and determine, based upon past experience and/or research, whether it is reasonably likely that the special event may draw a large attendance, evoke increased violence, noise, public drunkenness, drug-trafficking and other illegal activity.
(c) The Modesto Police Department will notify the permit holder of its determination 14 calendar days before the event, provided the Modesto Police Department receives timely notice of the special event. If the Modesto Police Department determines that the special event is reasonably likely to draw a large attendance, evoke increased violence, noise, public drunkenness, drug trafficking or other illegal activities, the Modesto Police Department will require the dance establishment to increase its security requirements. The additional security required for any special event is an express condition of the dance permit and is in addition to all other security requirements of the dance establishment permit.

(d) Additionally, the holder of the establishment’s dance permit will be responsible for costs of additional police officers, community service officers and other staffing as determined by the Modesto Police Department, based upon past experience and/or research which is required to maintain the tranquility, good order, and well being of the downtown area and the community at large prior to, during, and after the dance establishment’s special event. The Modesto Police Department will invoice the dance establishment permit holder for the cost of additional police officers, community service officers, or other staffing within fifteen (15) days of the special event. The dance establishment permit holder shall pay said invoice within fifteen (15) days of the date on the invoice.

FINES, SUSPENSION AND REVOCATION:

29. The licensee agrees to pay for police services provided by the City of Modesto for costs of police services, as determined by the Chief of Police and are a result of public disorder arising from patrons of the establishment.
30. Any violations of these conditions, local ordinances or state laws may result in administrative fines, or the immediate suspension and/or revocation of the dance hall permit per Modesto Municipal Code 4-1.413 (Revocation of Permit).

Sincerely,

Roy W. Warden,
Chief of Police

Lt. Ron Coward
Operations Division

Received, read, agreed and acknowledged

By: [Signature]
Rosalind Mitchell
CITY OF MODESTO
POLICE DEPARTMENT

PERMIT

Dance Hall Establishment

AUTHORIZATION IS HEREBY GRANTED TO OPERATE THE ABOVE ACTION IN ACCORDANCE WITH ARTICLE 4, CHAPTER 1, TITLE 401, MODESTO MUNICIPAL CODE AT

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CHIEF OF POLICE & DEPUTY CITY CLERK
Exhibit “B”
Letter of Intent to Revoke

Quality Times Corporation
C/O Rosalind Mitchell
4400 Gomes Rd
Modesto, Ca. 95354

August 24, 2007

Dear Ms. Mitchell

It is the intent of the Chief of Police of the Modesto Police Department to revoke your dance permit pursuant to:

4-1.413 MMC; Revocation of Permit.

A dance permit may be revoked or suspended by the Chief of Police of the City of Modesto upon five (5) days' notice to the holder thereof, for violation of any of the provisions of this article, or of any condition imposed upon any permit, or of any rule or regulation promulgated hereunder, or of any state or local law. No person whose permit has been revoked shall be granted or issued a new permit, nor shall any new permit be granted or issued to any person who was or is an agent, employee or representative of the person whose permit was revoked unless the following conditions are satisfied:

(a) Twelve (12) months or more have elapsed since the former permittee was notified of the intended revocation;

(b) The former permittee has, to the satisfaction of the Chief of Police, corrected all conditions and violations upon which the revocation was based or has provided to the Chief of Police acceptable plans for procedures reasonably likely to prevent future violations should the permit be reissued;

An Internationally Accredited Law Enforcement Agency
(c) Such other conditions as the Chief of Police may reasonably require. 
(Added by Ord. 2503-C.S., § 1, amended by Ord. 2613-C.S., § 1, effective 11-3-88)

Basis for Revocation

The basis for this revocation is related to multiple violations of the dance permit. These violations were observed and documented on June 17, 2007 by Detective Steve Stanfield under case number #07-56621 and on July 15, 2007 under case #07-67252 by Lieutenant Ron Cloward. The violations are as follows:

Violation #1 (June 17, 2007)

You were unable to present a copy of your current dance permit upon request. Once you found a copy of a dance permit it was the expired permit from previous months. This is a violation of Condition Seven of the dance permit, which states; This condition letter shall be posted along with the dance hall establishment permit in public view and available to law enforcement for inspection upon request.

Violation #2 (June 17, 2007)

The performance of Go-Go dancers in cages is deemed a special event and no notification was made. This is a violation of Condition Twenty-Eight of the dance permit, which states; A “special event” is defined as any live performance, concert, live music event, live entertainment or any person or persons providing musical entertainment with live or recorded music.

Violation #3 (June 17, 2007)

The ABC license was not posted as per the requirements of ABC. It was eventually located under the counter. This is a violation of Condition Twenty-Four of the dance permit, which states; Licensee shall adhere to all conditions of their ABC license issued to the premises.

Violation #4 (July 15, 2007)

There was only one mechanical counter located at the front door to be used to count patrons entering only. This is a violation of Condition Two of the dance permit which states; There shall be at least one (1) security officer stationed at the entrance of the business during hours of dancing. These
officers shall keep count of patrons entering and leaving the business by use of two mechanical counting device, one for those entering and one for those patrons exiting and made available for inspection by the police department upon demand.

Violation #5 (July 15, 2007)

There was no security staff stationed at the back door of the business during hours of dancing. This is a violation of Condition Three of the dance permit, which states; There shall be at least one (1) staff personnel stationed at every exit of the building.

Violation #6 (July 15, 2007)

There were only six security personnel on staff for the night. The count I was given was 330 patrons inside. This is a violation of Condition Four of the dance permit, which states; There shall be one (1) state licensed and certified security guard per fifty (50) occupants inside the premises.

Violation #7 (July 15, 2007)

The security personnel were wearing white T-shirts. Some of these T-shirts had no writing on them at all that identified them as “SECURITY”. Others had the words, “Security” on the back only. This is a violation of Condition Fifteen of the dance permit, which states; All private security guards and security staff/bouncers must be in a light colored (white, yellow, tan or light gray) shirts and outer layering with the following on the back of the shirts or outer layering in black or dark blue lettering; ‘SECURITY’. Only black or blue lettering is permitted and no smaller than 4 inches in height. Lettering must be monogrammed, embroidered or silk-screened. The front of the shirts shall also display the name of the security company and/or the club name and ‘SECURITY’ in smaller, visible print. Dark colored pants are acceptable.

Violation #8 (July 15, 2007)

Patrons were leaving and re-entering the club at will. This is a violation of Condition Nineteen of the dance permit, which states; Patrons shall be prohibited from "in-and-out" privileges to the club without paying a cover charge each and every time they re-enter the club or; if there is no cover charge, patrons must allow one hour before they re-enter the club on the same evening. The establishment is required to document such entrance and exit activity by electronic ID scanner or other verifiable means and must produce this to law enforcement upon demand.
Violation #9 (July 15, 2007)

As the night came to a close, patrons were being pushed out of the club at one time and security went back inside while people stood on the sidewalk outside. This is a violation of Conditions Twenty-One and Twenty-Three of the dance permit, which states; Security staff will remain on the premises until all patrons have left the vicinity of the premises and surrounding neighborhoods when the business closes and discourage any loitering in the parking areas to business during and at the close of business. The licensee is responsible for the orderly disbursement of all patrons upon closing and within thirty (30) minutes prior to the establishments' closing time.

The Modesto Police Department has met with the staff and ownership of your business and discussed these issues listed above. As of July 21, 2007 the shirts were still the same, patrons were still being put out of the business at one time with no observations of the soft close. Patrons have also continued to enter and leave at will.

Discussions have also taken place with the staff and management regarding the need to implement the electronic identification scanning system as mentioned in the dance permits. The clubs in the DED are currently all coming online with their equipment. To date Tymeless has not made any contact or attempt to get online with this system.

This system is required per Condition Eleven of the dance permit, which reads;

"Facilities who hold a dance permit in the DED shall be operating and linked electronically to a centralized scanning system of an ID reader and a shared telecommunication system upon delivery of equipment."

Due to the continued record of violations and refusal to comply with the conditions of your dance permit, the Modesto Police Department intends to revoke your dance permit as per 4-1.413 MMC.

The five day notice period required by the provisions of Modesto Municipal Code section 4-1.413 for the revocation of a dance permit commences with the personal service of this letter of intent, which will be served by Lt. Cloward on the date set forth below. The five day notice period will be calculated as five working days commonly defined as Monday through Friday, excluding holidays.
You also have a right to appeal this action pursuant to 4-1.415 of the Modesto Municipal Code which states;

Any person aggrieved by any action taken by any City official pursuant to this article may appeal to the Council of the City of Modesto in accordance with the provisions of Chapter 4 of Title 1 of this Code. (Added by Ord. 2563-C.S., § 1, effective 1-7-88)

YOU ARE HEREBY NOTIFIED that, effective 12:00 a.m. on the 31 day of August, 2007, the dance permit of the business known as Tymeless Cuisine and/or Sin City Nights is REVOKED.

YOU ARE FURTHER NOTIFIED that, after that date and time, Tymeless Cuisine/Sin City Nights, or any other operator of the property currently known by those business names, will be in violation of the permit requirements of the Modesto Municipal Code, and subject to any and all penalties set forth therein, if public dance activities are permitted on the premises unless the dance permit for the premises has first been reinstated.

Dated: 8/29/2007

By: ____________________________
Modesto Police Department
Exhibit "C"
Quality Tymes operates *Oceans 10* restaurant providing elegant classic refined dining. Our dinner selections will be created by our Executive Chef featuring Pacific Rim Cuisine prepared simply and presented elegantly in an intimate setting.

*Oceans 10* entertainment features *Sin City Nights* which provides a Las Vegas style entertainment setting for late night dining, dancing, and refreshments, with live and recorded music.

The development of the Quality Tymes Corporation business plan relies extensively on the existence of a dance permit. Our permit has been in place for over a year. We have worked hard during this year to provide vitality and high quality services to this location within the downtown redevelopment zone. We have worked tirelessly with city officials.

We have never been cited for any infractions. We have attended DED meetings as an active participant, and we have complied with all requests for modification of our business plan as they have occurred from all city offices. We believe we have fostered a solid constructive working relationship with Modesto Police to enhance the safety of the patrons we serve. Effective and timely communication has been an essential part of this relationship.

On August 23 we received two Administrative Citations. One day later, at midnight on August 24, we were served a Notice of Intent to Revoke our dance permit based on the citations received the day before. This was based on police reports filed over 30 days prior. We were never notified of police reports being filed concerning our business operating procedures, despite being in constant contact with the Police and requesting feedback on our operations.

Quality Tymes Corporation is appealing the Modesto Police Letter of Intent to Revoke based on the criteria outlined below.
Notice of Appeal  
Quality Tymes Corporation  
8/30/2007

for over 30 days is justified or in line with standards enforced for other similar organizations in the Downtown district.

The equitable enforcement of dance permit enforcement is the main criteria by which Quality Tymes does not believe our permit should be revoked. Without equitable enforcement of the permit requirements, the City of Modesto has created the ability to selectively allow one business to succeed while another is eliminated. The variances in enforcement of the dance permit regulations have been an issue that requires the immediate attention of the City Council in order to prevent the disruption of businesses trying to develop in the Modesto area.

The nature of each violation and concern noted in the Letter of Intent to Revoke and how it has been addressed are described below. We want to emphasize our continued willingness to work with the city officials responsible for enforcement of these measures. However, we request that you immediately grant our appeal or it jeopardizes our ability to continue our business.

Violation #1 6/17 - Copy of Dance Permit Not Posted

The Quality Tymes dance permit has been on display hanging on the wall three feet inside the front door. Newly hired staff had removed it while cleaning and had placed it under the counter at the front hostess station. It took less than 5 minutes to check the main office and under the counter to locate the permit. It has been hanging in its right spot since and staff has been educated on the fact that it is not to be moved. The extent of concern regarding this incident was not communicated, even during our dance permit renewal two weeks later on June 30. The situation has been corrected, and does not warrant the revocation of our dance permit.

Violation #2 6/17 - Introduction of “go-go dancers” deemed an “event”

There was no event on June 17, 2007. As part of our normal course of business, Quality Tymes hosts birthday parties, wedding receptions, dinners, and business receptions for up to 300 people. Many of these functions allow us to remain open to the public. On June 17, 2007 a customer hosted a birthday party under the name Sin City Nights. At the same time we initiated a change of format that includes some of the bartenders and hostesses acting as “go-go” dancers. This did not cause us to change our level of staffing or present any additional load on the public safety system, and therefore does not rise to the level of an event requiring prior notification. The extent of concern regarding this incident was not communicated, even during our dance permit renewal two weeks later on June 30. We are now identifying which nights include dancers in our regular monthly schedule notification to Modesto Police. This incident does not warrant the revocation of our dance permit.

Violation #3 6/17 - ABC License not posted

Cleaning had taken place where the ABC license, which has been on display since our opening on 12/31/2005, was taken down. The license was mistakenly placed under the counter instead of on the wall. In less than 5 minutes this oversight was corrected while the officers were present and the license remains on display as it always has. The extent of concern regarding this incident was not communicated, even during our dance permit renewal two weeks later on June 30. This incident does not warrant the revocation of our dance permit.

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Violation #4 7/15 - Single mechanical counter
We use the electronic scanner as a counter for the number of people entering the building, and a single mechanical counter for the number of people exiting the building. We do this to help minimize the number of things the front door security must juggle in the event of trouble. We have not been notified that this is an unacceptable procedure. Backup mechanical counters are available on site so a two mechanical counter system can be used in the event of the failure of the electronic scanner. No concerns about our counting methods have been communicated to us. The method we use provides the necessary double count system to determine the number of people in the building. This incident does not warrant revocation of our dance permit.

Violation #5 7/15 - No staff at back door
It has been Quality Tymes’ understanding from ABC regulations that there can be only one entrance and exit when liquor is being served. Under this definition, we considered the front door as our only exit and kept it staffed with security. Modesto Police has now clarified that their use of the term exit on the dance permit includes the fire exits which are not used as entrances during our hours of operation. The rear fire exit is now being staffed. This incident does not warrant revocation of our dance permit.

Violation #6 7/15 - 6 Security insufficient for 330 people
Quality Tymes’ records show the security staff at 7 people on the night in question. This is sufficient staffing under the dance permit conditions. We share the Modesto Police concern about sufficient security staffing and our proud of our lack of major violent incidents at our facility. We are concerned that the Police officer did not check with management or the owners on site concerning the accurate count of the number of security staff on duty that evening. We are ensuring the door personnel know the accurate number of security working as well as providing refresher training on the importance of keeping an accurate door count.

Violation #7 7/15 - Security T-shirts not properly marked
The requirement for front markings on shirt had been overlooked on the first printing of new security uniforms. These are the shirts that were in use temporarily on July 15th. Replacement shirts with the necessary marking on the front identifying the wearer as security were ordered the next business day (Monday, 7/16). The printing for these shirts was completed on July 21. The shirts were placed in use that evening, 7/21. Modesto Police did speak with us about their concerns around the markings on the shirts. We took immediate action and the situation has now been corrected. This incident does not warrant revocation of our dance permit.

Violation #8 7/15 - Re-entry
Pending completion of the permit process for a permanent outside patio, Quality Tymes has negotiated an agreement with Lt. Cloward that allows patrons to exit the building and remain
Notice of Appeal Quality Tymes Corporation 8/30/2007

within the crowd control ropes for the purpose of smoking without being considered “in and out”. Patrons who exit the crowd control area must comply with the rules concerning “in and out” privileges. Modesto Police did speak with us about their concerns regarding compliance with re-entry policies. After some discussion they agreed that enforcement of the method we have described provides compliance with the re-entry policy. We are continuing our efforts to obtain a permit for a permanent outside patio which we expect to complete in the next 30-60 days. This incident does not warrant revocation of our dance permit.

Violation #9 7/15 - Disbursing crowd

Quality Tymes security regularly and completely disburses the crowd exiting our building. On the night in question, a neighboring business was vending food on the sidewalk after club closing hours. This resulted in a crowd forming in front of 949 10th Street business from patrons exiting other establishments on the street, which gave the appearance of spilling over in front of our establishment. Because our crowd was gone, our security did not remain on the street and were not available to assist in disbursing this gathering. Security procedures have been changed so that our security now maintains a presence on the street until all the other establishments in the neighborhood complete their close to ensure these people do not gather in front of our establishment. The sale of food products on the sidewalk next door to our establishment has been restricted. Modesto Police has mentioned to us that they felt we were not doing enough crowd disbursement. We have changed our closing procedures to allow more of our security presence, even after our crowd is disbursed, to ensure these other patrons do not gather in front of our establishment. This incident does not warrant revocation of our dance permit.

On 7/21 shirts were still the same

As stated above, the revised shirts were completed on 7/21/2007 and placed in service on that night for X-Fest. The letter of intent does not say whether the 7/21 observation was done after midnight on Friday, when the new shirts were not yet available from the printer, or before midnight on Saturday, when the new shirts were in use. We acted swiftly to correct this concern as soon as it was identified. The situation has been corrected and does not warrant the revocation of our dance permit.

7/21 No observation of Soft Close

Under the conditions of the dance permit, a soft close is authorized but not required. Our closing procedures involve shutting down portions of the facility starting at 1:15 AM in an attempt to begin moving customers out toward their destinations. At 1:50 AM we require patrons to exit the building. This allows us to disburse our customers from the street in the small time window between the crowds created by the closing of the much larger establishments around us. Since there is no requirement for a soft close, and there have been no public safety incidents as a direct result of our procedures, this concern does not warrant the revocation of our dance permit. Previous attempts to implement a soft close procedure have not been successful. We are continuing our discussions with Modesto Police to explore procedures that allow us to do an effective soft close.
7/21 Continued concerns with Re-entry

Pending completion of the permit process for a permanent outside patio, we have negotiated an arrangement with Lt. Cloward to allow patrons to exit the building and remain within the crowd control ropes for the purpose of smoking without being considered “in and out”. Patrons who exit the crowd control area must comply with the rules concerning “in and out” privileges. Modesto Police did speak with us about their concerns regarding compliance with re-entry policies. After some discussion they agreed that enforcement of the method we have described provides compliance with the re-entry policy. We are continuing our efforts to obtain a permit for a permanent outside patio which we expect to complete in the next 30-60 days. This incident does not warrant revocation of our dance permit.

Electronic ID system

We are actively working with Tony of Copper Rhino to obtain the necessary software to come on-line with the DED system. Our commitment to complying with this requirement has been demonstrated by our purchase and use of the required hardware on June 26, 2007. We are already electronically scanning IDs as part of our screening process. The only reason we are not already on the system is the failure of the responsible person to provide us with the necessary software. We are actively coming into compliance with this requirement, along with the other establishments in the DED. This concern does not warrant the revocation of our dance permit.

We have noted in the past our objection to the fact that this process is under the control of the manager of an establishment which has a vested interest in the success or failure of other businesses in using the system. We want to renew our request that the control of steps needed for compliance with this requirement be placed with the DED or with Modesto Police.

“Continued Record of Violations”

There has been no record of violations prior to the issuance if the notice of intent. We have regularly met and discussed compliance issues with Modesto Police, but no violation notices have been issued. On August 22, 2007, obviously in conjunction with the Letter of Intent to Revoke, two Administrative Citations were issued each based on a date and incidents identified as violations above. This is our first written notification of any variance to the conditions of our dance permit. The copies of police reports attached to the Notice of Intent to Revoke are the first time we have seen that police reports have been filed regarding our business. All violations occurred on one date. There has been no continued record of violations.

“Refusal to comply with the conditions of your dance permit”

We have taken immediate steps to make the necessary changes to rectify the situation each time Modesto Police has identified a concern to us. At no time have we refused to comply with the conditions of our permit.

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Notice of Appeal

Quality Tymes Corporation 8/30/2007

Copies of police reports

Quality Tymes was not made aware in a timely manner that police reports had been filled out concerning our business. The two reports attached to the Notice of Intent to Revoke are the first notification we have had of any formal activity by the Modesto Police. One of these reports is over 60 days old and pre-dates the renewal of our dance permit on June 30. The other report is over 30 days old. If these concerns rise to the level of revoking our dance permit, formal notification should have been given so corrective actions could be taken and identified before such drastic punitive action was taken.

Uneven enforcement

Quality Tymes feels the action of revoking our dance permit is an unreasonable response to the history and level of violations noted and our response to them. We are aware of other establishments in downtown who have had multiple violations of building, fire, and ABC regulations who have not had their dance permits revoked. Although several establishments were cited by the ABC during X-fest, dance permits have not been revoked based on those violations. Several establishments have had multiple, well publicized incidents requiring massive Police response and their dance permits have not been revoked.

Quality Tymes has not required massive Police response, excessive oversight, or expenditure of Police resources. However, we have continually been selectively reviewed for our compliance with the regulations without prior citations.

Finally, the Modesto Police have notified the DED that they do not intend to renew dance permits for establishments that hold a type 47 ABC license. This includes Quality Tymes. The ability to provide dining, dancing, and entertainment is a central component to the business plan for our downtown business. There is no provision in the regulations for denying a dance permit based on the type of ABC license.

If overuse of Police resources is a concern, Quality Tymes recommends restriction of permits based on conditions that are identified and not corrected in a timely manner. Furthermore, repeated violent incidents resulting in arrests and expenditure of Police resources should be considered.
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-573

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR LANDSCAPING, IRRIGATION AND THE CFD REIMBURSABLE ROSELLE AVENUE IMPROVEMENTS FOR THE VILLAGE RANCH UNIT NO. 1 SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, CENTEX HOMES, A Nevada General Partnership, is the ("DEVELOPER") of the VILLAGE RANCH UNIT 1 SUBDIVISION ("DEVELOPMENT"), and

WHEREAS, DEVELOPER was to construct a CFD-funded improvements ("CFD-FUNDED IMPROVEMENTS") and all Public Improvements ("IMPROVEMENTS") located within the DEVELOPMENT, and

WHEREAS, the Construction Administration Office, in a memorandum to staff, indicates that said CFD-FUNDED IMPROVEMENTS, which is 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 DEVELOPER, has been completed to the satisfaction of the Public Works Department, and

WHEREAS, DEVELOPER has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $327,523.00 each, and
WHEREAS, DEVELOPER has filed a warranty bond in the amount of $32,752.30 to guarantee the improvements in the DEVELOPMENT, and

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

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept said CFD-FUNDED IMPROVEMENTS and IMPROVEMENTS in said DEVELOPMENT as complete, and authorize the City Clerk to record a Notice of Completion and to release the securities upon expiration of the statutory periods.

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

1. The CFD-funded improvements, which include Roselle Avenue Widening between Kodiak and Floyd per the AGREEMENT, and as shown in the Engineer's Estimate are hereby accepted and the City Clerk is hereby authorized to record a Notice of Completion for said improvements.

2. The public improvements in the DEVELOPMENT are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements.

3. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $327,523 upon recordation of the Notice of Completion.
4. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amounts of $327,523 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

5. The City Clerk is hereby authorized to release the warranty bond to guarantee the improvements in the amount of $32,752.30 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October 2007, by Councilmember Hawn, 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, Hawn, Keating, Marsh, O’Bryan, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
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 2nd day of October 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

(seal)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-575

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH CLEARWIRE LLC, A NEVADA LIMITED LIABILITY COMPANY, FOR THE LEASE OF CELL TOWER SITE IN BEYER PARK FOR CHANGE OF ANTENNAS AT THE SITE AND THE ADDITION OF A TOWER MOUNTED AMPLIFIER (TMA) AND AUTHORIZING THE CITY MANAGER TO SIGN THE AMENDMENT TO AGREEMENT

WHEREAS, on June 7, 2005, by resolution No. 2005-294, Clearwire LLC, a Nevada Limited Liability Company entered into a lease with the City of Modesto for a cellular tower site located on a portion of APN 085-049-016 commonly known as Beyer Park, and

WHEREAS, Clearwire desires to amend the contract to enhance and upgrade the existing antennas at the site and to add a Tower Mounted Amplifier (TMA), and

WHEREAS, City staff concurs with the proposed amendment, with the following additional requirements:

• The hours of the work day correspond to the hours that construction can be done within the City of Modesto. Clearwire is required to check with the City’s Building Department for those specific times.

• Clearwire is required to notify City staff of the exact days and times their contractors will be on site so that the City can coordinate their activities that are being conducted at Beyer Park with Clearwire’s work needs.

• If there is an interruption in the City’s activities where the City would have a loss of revenue, Clearwire and/or its subcontractors would reimburse the City for its loss.

• If there is change/damage to the area that Clearwire is working in, the property must be put back to its original condition. This includes, but is not limited to, plants, trees and hardscape.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement with Clearwire LLC, for the lease of cell tower site in Beyer Park for change of antennas at the site and the addition of a Tower Mounted Amplifier (TMA), with the above mentioned additional requirements.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October 2007, by Councilmember Hawn, 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, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: ________________
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: ________________
SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING A SIXTY (60) DAY EXTENSION TO A 6-MONTH PROVISIONAL APPOINTMENT FOR CARA GALBRAITH, ADMINISTRATIVE OFFICE ASSISTANT I.

WHEREAS, the Parks, Recreation and Neighborhoods Department has three vacant Parking Maintenance Worker positions, and

WHEREAS, one of these positions was alternate filled and under filled with an Administrative Office Assistant I, and

WHEREAS, Cara Galbraith was provisionally appointed as Administrative Office Assistant I on April 24, 2007, and

WHEREAS, Cara Galbraith was called upon to assist in an out-of-class capacity to assist the Parking Crewleader, and

WHEREAS, the Parks, Recreation and Neighborhoods Department desires to extend the provisional appointment of Cara Galbraith to this position until a successful candidate can be hired in the capacity of Parking Supervisor, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a sixty (60) day extension to the six-month provisional appointment of Cara Galbraith to the position of Administrative Office Assistant I is hereby approved.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October 2007, by Councilmember Hawn, 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, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-577

A RESOLUTION APPROVING A STANDARD AGREEMENT FOR CONSULTANT SERVICES WITH BRYCE CONSULTING, INCORPORATED TO CONDUCT A COMPENSATION STUDY OF NON-SWORN POSITIONS WITHIN THE CITY IN AN AMOUNT NOT TO EXCEED $53,000 AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT

WHEREAS, the City desires to obtain the services of Bryce Consulting, Incorporated (Bryce Consulting) to conduct a compensation study, and

WHEREAS, the City desires to enter into a Standard Consultant Agreement with Bryce Consulting in the total amount of $53,000 which includes professional fees and expenses, and

WHEREAS, the firm of Bryce Consulting is specially trained, experienced and competent to conduct a compensation study of non-sworn positions within the City, and

WHEREAS, the public interest, economy and general welfare will be served by this agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approves a Standard Agreement For Consultant Services with Bryce Consulting, Incorporated to conduct a compensation study of non-sworn positions within the City for an amount not to exceed $53,000.

BE IT FURTHER RESOLVED that the City may request additional work to be performed on an hourly basis for an amount not to exceed $3000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 2nd of October, 2007, by Councilmember Hawn, 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, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney

ATTEST:  
JEAN MORRIS, City Clerk
A RESOLUTION ACCEPTING THE 2007 GANG RESISTANCE EDUCATION AND TRAINING (G.R.E.A.T.) PROGRAM GRANT IN THE AMOUNT OF $150,000 FROM THE U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE, FOR TWO POLICE OFFICERS (EXISTING POSITIONS) TO EDUCATE STUDENTS TO REDUCE THEIR INVOLVEMENT IN DELINQUENT BEHAVIOR, VIOLENCE, AND GANG MEMBERSHIP; AND AUTHORIZING THE POLICE CHIEF TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, the City of Modesto Police Department desires to undertake a certain Program designated as the 2007 Gang Resistance Education and Training (G.R.E.A.T.) Program to be funded in part by a grant from the U.S. Department of Justice, Bureau of Justice Assistance, and

WHEREAS, said $150,000 Program grant will fund 75% of the cost of two full-time Police Officers to educate middle school and elementary school students to reduce their involvement in delinquent behavior, violence, and gang membership, and

WHEREAS, $78,244 will be appropriated from the General Fund reserves to fund 25% of the cost of two full-time Police Officers to educate middle school and elementary school students to reduce their involvement in delinquent behavior, violence, and gang membership, and

WHEREAS, said Program grant will fund 5% of an existing Police Sergeant’s position to oversee the G.R.E.A.T. Program, and

WHEREAS, said Program grant will also fund one temporary part-time Police Clerk ($8,635),
NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the 2007 Gang Resistance Education and Training (G.R.E.A.T.) Program grant in the amount of $150,000 from the U.S. Department of Justice, Bureau of Justice Assistance.

BE IT FURTHER RESOLVED that the Police Chief is hereby authorized to execute the necessary program documents, including any extensions, amendments, or subsequent contracts with the U.S. Department of Justice, Bureau of Justice Assistance in relation thereto.

BE IT FURTHER RESOLVED that the grant funds received hereunder shall not be used to supplant expenditures controlled by this body.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October, 2007, by Councilmember Hawn, 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, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: None

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

APPROVED AS TO FORM:
By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2007-579  

A RESOLUTION AMENDING THE FISCAL YEAR 2007/08 OPERATING BUDGET, ESTIMATING REVENUE OF $150,000 FOR THE 2007 GANG RESISTANCE EDUCATION AND TRAINING (G.R.E.A.T.) PROGRAM.

WHEREAS, the Police Department acquired a program award in the sum of $150,000 from the U.S. Department of Justice, Bureau of Justice Assistance for two full-time police officers to educate students to reduce their involvement in delinquent behavior, violence, and gang membership, and

WHEREAS, the Program pays 75% of the cost of two full-time Police Officers and 25% will be paid by the City of Modesto, and

WHEREAS, the Program pays for 5% of an existing Police Sergeant’s position to oversee the G.R.E.A.T. Program, and

WHEREAS, the Program pays for a temporary part-time Police Clerk ($8,635),

and

WHEREAS, the City match for the G.R.E.A.T. Program is $78,244 which will be transferred from the General Fund, and

WHEREAS, this grant is multi-year,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the FY 2007/2008 Operating Budget is hereby amended as indicated below to initiate said Program:
## Expense:

<table>
<thead>
<tr>
<th>To:</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0410-190-2908-0110</td>
<td>$129,505</td>
<td>Salaries</td>
</tr>
<tr>
<td>0410-190-2908-0140</td>
<td>8,635</td>
<td>Part-time</td>
</tr>
<tr>
<td>0410-190-2908-0188</td>
<td>74,594</td>
<td>Fringe Benefits</td>
</tr>
<tr>
<td>0410-190-2908-0209</td>
<td>2,470</td>
<td>Training</td>
</tr>
<tr>
<td>0410-190-2908-0301</td>
<td>13,040</td>
<td>Office Supplies</td>
</tr>
</tbody>
</table>

Total $228,244

## Revenue:

<table>
<thead>
<tr>
<th>To:</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0410-190-2908-3508</td>
<td>$150,000</td>
<td>Federal Program –</td>
</tr>
<tr>
<td></td>
<td></td>
<td>G.R.E.A.T.</td>
</tr>
</tbody>
</table>

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 2nd day of October, 2007, by Councilmember Hawn, 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, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

ATTEST: 

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE PROJECT ENTITLED "SYLVAN/ROSELLE INTERSECTION IMPROVEMENTS" FROM 8 PERCENT ($225,599.38) TO 10 PERCENT ($281,999.22) 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 $232,412.82, 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 $225,599.38,

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 8 percent ($225,599.38) to 10 percent ($281,999.22) 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 2nd day of October, 2007, by Councilmember Hawn, 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, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH HARRIS & ASSOCIATES FOR CONSTRUCTION MANAGEMENT SERVICES OF THE COLLECTION SYSTEM REHABILITATION 2006 PROJECT IN THE NOT-TO-EXCEED AMOUNT OF $19,970.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on January 9, 2007, by Resolution No. 2007-060, Council awarded the Collection System Rehabilitation 2006 project to D.A. Wood Construction, and

WHEREAS, due to staffing levels, on February 13, 2007, by Resolution No. 2007-117, Council approved an Agreement for Construction Management Services with Harris & Associates to manage the sewer rehabilitation project, and

WHEREAS, this project replaced the sanitary sewer pipelines on various streets throughout the City due to aging pipes that are high maintenance either because of root intrusion, cracked pipe, or damaged pipe joints, and

WHEREAS, construction contract work is nearing completion, and

WHEREAS, fifteen (15) discrepancies were noted from closed circuit TV inspection by the City’s Water Quality Control Center, and

WHEREAS, the contractor disputes that all 15 are legitimate discrepancies, and

WHEREAS, the contractor has submitted a $74,000 extra work claim for change of site conditions at Bonita Avenue, and

WHEREAS, while replacing the sewer lines on Bonita Avenue the contractor claims that the sandy soils encountered made the replacement labor and equipment intensive, and
WHEREAS, in September of 2007, Harris & Associates submitted a revised fee and scope for Construction Management Services of Collection System Rehabilitation 2006 in the amount of $19,970, and

WHEREAS, Harris & Associates will help to bring the claim and discrepancies to resolution, and

WHEREAS, Harris & Associates is well qualified to perform Construction Management Services and is a respected firm that has provided Construction Management Services for a variety of prior City projects in a satisfactory manner, and

WHEREAS, Harris & Associates’ construction manager, has over 25 years of experience managing construction projects, and has successfully managed the Modesto 9th Street Bridge project, and has completed the Sylvan Avenue Pedestrian Overcrossing, and

WHEREAS, City staff recommends that the Agreement for Construction Management Services with Harris & Associates be amended to oversee corrective work and resolve the extra work claim, due to current staffing levels, and

WHEREAS, an Amendment to Agreement for Construction Management Services with Harris & Associates for a revised scope of work related to the Collection System Rehabilitation 2006 project in the not-to-exceed amount of $19,970 is necessary in order to complete the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement for Construction Management Services with Harris & Associates for a revised scope of work related to the Collection System Rehabilitation 2006 project in the not-to-exceed amount of $19,970.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October, 2007, by Councilmember Hawn, 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, Hawn, Marsh, O’Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: Keating

ATTEST: 

JEAN MORRIS, City Clerk
(SEAL)

APPROVED AS TO FORM:

By 

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING THE CONTINUATION OF IMPLEMENTING THE EXISTING OUTSIDE SERVICE AGREEMENTS (OSAs), PURSUING OSAs WITH THE REMAINING PROPERTIES REQUIRED TO ENTER INTO OSAs PER THE NORTH MCHENRY TAX SHARING AGREEMENT, AND DIRECTING STAFF TO EXPAND THE BOUNDARIES OF THE RECOMMENDED ANNEXATION AREA TO INCLUDE NOT ONLY THE NORTH MCHENRY TAX SHARING AGREEMENT AREA, BUT ALSO LOGICAL ADJOINING AREAS WITH APPROPRIATE PLANNING DESIGNATIONS.

WHEREAS, on December 8, 1998, by Resolution No. 98-659, the City of Modesto and the County of Stanislaus entered into an agreement subsequently referred to as the North McHenry Tax Sharing Agreement (Agreement), and

WHEREAS, this Agreement remains in effect and covers property on the east and west side of McHenry Avenue from Standiford/Sylvan to the south and Kiernan Avenue/Claribel Road to the north including both incorporated properties and unincorporated properties, and

WHEREAS, a report on the Agreement and the “gaps” in Outside Service Agreements (OSAs) for this area was presented to the City Council on June 6, 2006, and

WHEREAS, in the Council report, it was determined that several properties in the Agreement area were receiving water service without having an executed OSA, and

WHEREAS, Council directed staff to continue collecting business license fees and utility taxes from the four existing businesses in the Agreement area and to place the revenue in a protest account separate from the General Fund until negotiations were completed with the County, and

WHEREAS, Council directed staff provide an update on the OSAs for properties and businesses in the Agreement area and to pursue annexation of the area, and
WHEREAS, a subsequent report was prepared for presentation to Council in August 2006; however, this was continued to allow staff to meet with business owners in the North McHenry area, and

WHEREAS, staff researched tax generation from various businesses in the Agreement area to provide accurate data, and this required staff to use comparisons between businesses within the City and outside the City, which was more complex than initially anticipated, and

WHEREAS, staff researched records through the County Recorder’s Office database, the City Attorney’s Office, and the City Clerk’s Office to determine if there were any OSAs or other agreements not discovered prior to the June 6, 2006 report:

1) Initially, it appeared there were 25 businesses/properties required to enter into OSAs; of the 25, two are exempt due to non-profit status and two have current OSAs (Mistlin Honda and Grand EventslEnterprise Rent-a-Car);

2) Nine other businesses were exempted from the Agreement because of a pre-existing agreement between City and Berberian family executed in 1990; and

3) Excluding the properties exempted under the Berberian Agreement, there are 12 businesses required to enter into an OSA with City,

and

WHEREAS, the Finance Committee, at its August 15, 2007 meeting, approved staff’s recommendation to continue implementation of the existing OSAs and pursue the businesses required to enter into OSAs per the Agreement, and

WHEREAS, the Committee requested that the boundaries of the recommended annexation be expanded to include not only the Agreement area, but also logical adjoining areas with appropriate planning designations, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the continuing of implementation of the existing Outside Service Agreements in the North McHenry Tax Sharing Agreement Area.
BE IT FURTHER RESOLVED that the Council hereby approves pursuing Outside Service Agreements with the remaining properties required to enter into Outside Service Agreements per the North McHenry Tax Sharing Agreement.

BE IT FURTHER RESOLVED that the Council hereby directs staff to expand the boundaries of the recommended annexation area to include not only the North McHenry Tax Sharing Agreement area, but also logical adjoining areas with appropriate planning designations.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October, 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, O’Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: None

ATTEST: ____________________________
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: ____________________________
SUSANA ALCALA WOOD, City Attorney
WHEREAS, this Council is conducting proceedings pertaining to the formation of City of Modesto City's Community Facilities District No. 2007-2 (Kiernan Business Park West) (the “District”), the establishment of an appropriations limit for the District, and the levy of a special taxes sufficient to pay all costs necessary to finance certain Facilities and Services, as described in the City's Resolution No. 2007-484, adopted on August 14, 2007.

WHEREAS, the owners of all of the property in the District waived those provisions related to the timing and conduct of the election referenced in Sections 13 and 14 of this Council’s Resolution No. 2007-484 and Sections 9, 10 and 11 of this Council’s Resolution No. 2007-484, each adopted on August 14, 2007, and, as a result, this Council called an election within the District (the “Election”) for September 25, 2007, relative to the foregoing; and

WHEREAS, consultant to the City has recommended that the rate and method of special taxes, attached as Exhibit A to Resolution No. 2007-484, be revised to include an enforcement provision. This revision does not increase either the maximum special taxes or the probable special taxes to be paid by the owner of any lot or parcel; and

WHEREAS, on September 25, 2007, the Election was held; and

WHEREAS, the City Clerk has certified that the proposition of levying the special taxes and establishing an appropriations limit for the District was approved by at least two-thirds (2/3) of the votes cast at the Election;
NOW, THEREFORE, BE IT RESOLVED, ORDERED AND FOUND, by the City Council of the City of Modesto, that:

1. The Election was duly and validly conducted in conformity with all applicable laws, rules and regulations pertaining thereto. It is hereby determined that the owners of the property in the District is as set forth in the Affidavit of City Clerk as to Distribution of Official Ballots, submitted to this Council and on file with the City Clerk.

2. The ballot proposition presented to the qualified electors of the District at the Election received at least two-thirds (2/3) of the votes cast at the Election. A copy of the City Clerk’s certificate of election results is attached hereto as Exhibit A.

3. The City Clerk is directed to enter this resolution on the minutes of this City Council, which shall constitute the official declaration of the result of such election.

4. The City Clerk is further authorized and directed to record a notice of special tax lien with the County Recorder of the County of Stanislaus, within 15 days from the date hereof, in accordance with the provisions of Section 3114.5 of the California Streets and Highways Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October 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

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
EXHIBIT A
CERTIFICATE OF CITY CLERK

I, JEAN MORRIS, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2007-583, the Resolution of Formation, adopted on October 2, 2007 by the City Council of the City of Modesto, I did conduct a Special Tax for City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West) on October 2, 2007, and that the election was conducted by mail or in person at the City Hall of the City of Modesto.

I further certify that the following shows the full text of the measure submitted to the voters at the election and the full and true totals of all votes cast for and against the measure.

Proposition A. Shall an appropriations limit in the amount of $130,600 per fiscal year be established for City of Modesto Community Facilities District No. 2007-2 (the "District") of the City of Modesto ("the City"), and shall special taxes with the rates, method of apportionment, and manner of collection as provided in Exhibit A to the City's Resolution No. 2007-484 (the "Resolution of Intention") adopted by the City Council of the City of Modesto on August 14, 2007, including any amendments thereto up to, and including the election date, which are incorporated herein by this reference, be levied within the District in order to finance certain public facilities (the "Facilities") as set forth in the Resolution of Intention and services (the "Services") also set forth in the Resolution of Intention, including any incidental expenses related thereto?

TOTAL VOTES CAST: YES 76   NO 0

Jean Morris
City Clerk of the City of Modesto
Dated: 10/05/2007
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-584


WHEREAS, the City Council (the “Council”), did, on August 14, 2007, adopt Resolution No. 2007-484, entitled “A Resolution of the City Council of the City of Modesto of Intention to Establish City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West) and Authorize the Levy of Special Taxes Therein” stating its intention to establish its City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West) (the “District”), and levy special taxes therein, pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”), and

WHEREAS, Resolution No. 2007-484 (1) describing the proposed boundaries of the District, the name of the District, and the types of facilities (the “Facilities”) and services (the “Services”) proposed to be financed by the District, (2) providing that, except where funds are otherwise available to pay for the Facilities to be financed by the District, including the incidental expenses thereof, special taxes sufficient to pay the costs thereof, secured by recordation of a continuing lien against all nonexempt real property in the District, will be levied within the boundaries of the District, (3) specifying the rate, method of apportionment, and manner of collection of the special taxes in sufficient detail to allow each landowner or resident
within the proposed District to estimate the maximum amount that he or she will have to pay, and (4) setting a hearing thereon, is incorporated herein by this reference, and

WHEREAS, notice of the hearing was duly published as required by law, as evidenced by the affidavit of publication on file with the City Clerk, and

WHEREAS, at the time and date set for the hearing, September 25, 2007, the Council opened the public hearing and continued it to October 2, 2007, and

WHEREAS, at the time and date set for the continued public hearing, the Council held the public hearing, as required by the law relative to the proposed formation of the District, the levy of the special taxes, and all other matters set forth in Resolution No. 2007-484, and

WHEREAS, at least 15 days prior to the hearing, a map of the proposed boundaries of the District, entitled “Boundary Map of City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West)” (the “Boundary Map”) was recorded pursuant to Section 3111 of the California Streets and Highways Code in the office of the County Recorder of the County of Stanislaus, in Book 4 of Maps of Assessment and Community Facilities Districts, at page 96, and

WHEREAS, prior to the hearing a report (the “Report”) containing a description of the Facilities and Services required to adequately meet the needs of the District and an estimate of the cost of providing the Facilities and Services, including, to the extent the purchase of completed Facilities or the payment of incidental expenses is proposed, the estimated fair and reasonable cost thereof, was filed with the Council as a part of the record of the hearing and duly considered by this Council, and

WHEREAS, consultant to the City has recommended that the rate and method of special taxes, attached as Exhibit A to Resolution No. 2007-484, be revised to reflect the
reduction in reimbursement of costs associated with the construction of certain street
improvements within Healthcare Way. This revision does not increase either the maximum
special taxes or the probable special taxes to be paid by the owner of any lot or parcel, and

WHEREAS, at the hearing all persons desiring to be heard on all matters
pertaining to the formation of the District, the levy of the special taxes, and all other matters set
forth in Resolution No. 2007-484, including all interested persons or taxpayers for or against the
establishment of the District, the extent of the District, or the furnishing of specific type or types
of Facilities or Services, were heard and considered, and a full and fair hearing was held thereon,
and

WHEREAS, at the hearing evidence was presented to the Council on the matters
before it, and the Council, at the conclusion of the hearing, was fully advised as to all matters
relating to the formation of the District, the levy of the special taxes, and all other matters set
forth in Resolution No. 2007-484, and

WHEREAS, written protests against the establishment of the District, the
furnishing of specified type or types of Facilities and Services within the District as listed in the
Report, or the levying of the special taxes, have not been filed with the City Clerk by fifty
percent (50%) or more of the registered voters, or six registered voters, whichever is more,
residing within the territory proposed to be included in the District, or the owners of one-half
(1/2) or more of the area of land in the territory proposed to be included in the District and not
exempt from this special taxes, and

WHEREAS, the Stanislaus County Registrar of Voters has certified there are less
than twelve (12) registered voters residing in the District; accordingly, the qualified electors in
the District are the landowners, and
WHEREAS, the City Clerk has concurred in the election date herein set forth for the election herein called,

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The proposed special taxes to be levied in the District have not been precluded by majority protest pursuant to Section 53324 of the Act. All protests (there were none) to the establishment of the District, the extent thereof, or the furnishing of the Facilities and Services proposed therefore, or the levy of the special taxes proposed to be levied in the District, are hereby overruled.

SECTION 3. As proposed in Resolution No. 2007-484, a community facilities district is hereby established pursuant to the Act, designated “City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West),” the boundaries of which are shown on the Boundary Map.

SECTION 4. (a) The Facilities to be financed by the District are set forth in Exhibit B attached hereto and by this reference incorporated herein. The Facilities are public facilities having a useful life of five years or longer.

(b) The Facilities are necessary to meet the increased demands placed upon the City and other local agencies operating within the area of the District as a result of development occurring in the District.

(c) No land within the District is devoted primarily to agricultural, timber or livestock uses or is being used for the commercial production of agricultural, timber or livestock products.
SECTION 5. (a) The Services to be financed by the District are set forth in Exhibit B attached hereto and by this reference incorporated herein. The proposed Services are governmental services which the City is authorized by law to provide since they are in addition to those provided in the territory of the District before the District was created.

(b) The Services are necessary to meet the increased demands placed upon the City and other local agencies operating within the area of the District as a result of development occurring in the District.

SECTION 6. The Report related to the Facilities and Services shall be a part of the record in these proceedings. For purposes hereof, the Report shall refer to the Report as modified, amended, revised or corrected pursuant to and in accordance with any resolution or order heretofore adopted or made by this Council.

(a) As stated in Resolution No. 2007-484, except where funds are otherwise available, it is the intention of this Council, subject to the approval of the qualified electors of the District, to levy special taxes sufficient to pay for the Facilities to be financed by the District, the Services to be financed by the District, and to pay incidental expenses related thereto, secured by recordation of a continuing lien against all nonexempt real property in the District.

(b) The rate, method of apportionment, and manner of collection of the special taxes, in sufficient detail to allow each landowner or resident within the District to estimate the maximum amount that he or she will have to pay, is described in Exhibit A attached hereto and by this reference incorporated herein.

(c) There is no ad valorem property tax currently being levied on property within the District for the exclusive purpose of making lease payments or paying principal or
interest on bonds or other indebtedness incurred to finance the construction of capital facilities which are the same the Facilities to be financed by the District.

(d) Any reimbursement made to the District pursuant to Section 53313.5(e) of the California Government Code shall be utilized to reduce or minimize the special taxes levied within the District or to finance additional Facilities within the District.

(e) The special taxes as apportioned to each parcel pursuant to Exhibit A is based on the cost of making the Facilities and Services available to each parcel, or other reasonable basis, and is not based on or upon the ownership of real property.

(f) Pursuant to Section 53314.9 of the Act, this Council may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or that work-in-kind for any authorized purpose, including, but not limited to, paying any cost incurred by the City in creating the District.

SECTION 7. The description of the proposed voting procedure, as set forth in Resolution No. 2007-484, is incorporated herein by this reference, and shall be the voting procedure to be used in these proceedings.

SECTION 8. The District Administrator is hereby designated as the office, department or bureau which will be responsible for annually preparing the current roll of special tax levy obligations by assessor’s parcel number on nonexempt property within the District and which will be responsible for estimating future special tax levies. The name, addresses, and telephone number of the office of the District Administrator, and the person responsible for administering the District, is as follows:
Such officer is hereby directed to establish procedures to promptly respond to inquiries concerning current and future estimated tax liability pursuant to Section 53340.2 of the Act.

SECTION 9. Upon a determination by this Council, after the canvass of the returns of the election contemplated in Sections 13 and 14 hereof, that at least two-thirds (2/3) of the votes cast upon the question of levying the special taxes were in favor thereof, the City Clerk shall record the notice of special tax lien provided for in Section 3114.5 of the California Streets and Highways Code. Upon recordation of the notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special taxes shall attach to all nonexempt real property in the District, and this lien shall continue in force and effect until collection of the special taxes by this Council ceases, or, in the case of the Annual Facilities Special Tax Component of the special taxes (as defined in Exhibit A), the obligation to pay that component of the special taxes is prepaid and permanently satisfied and the lien thereof cancelled in accordance with the Act.

SECTION 10. All prior proceedings taken with respect to the establishment of the District were valid and in conformity with the requirements of the Act.

SECTION 11. In accordance with Section 53325.7 of the Act, the annual appropriations limit of the District, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, is hereby preliminarily established at $500,000, and this annual appropriations limit shall be submitted to the voters of the District as hereafter provided. The
proposition establishing the appropriations limit shall become effective if approved by the qualified electors voting thereon and shall thereafter be adjusted in accordance with the applicable provisions of Section 53325.7 of the Act.

SECTION 12. (a) This Council hereby calls a special election and submits the question of levying the special taxes, and the establishment of the annual appropriations limit for the District in connection therewith, to the qualified electors within the District, in accordance with and subject to the Act, the terms of which shall, unless waived as herein provided, be applicable to such election.

(b) Fewer than twelve (12) persons have been registered to vote within the territory of the District for each of the ninety (90) days preceding the close of the hearing referenced herein. Accordingly, for the purposes of these proceedings, the qualified electors shall be the landowners within the District. The vote shall be by such landowners, or their authorized representatives, each having one vote for each acre or portion thereof that such landowner owns in the District as of the close of the hearing; and the ballots for the special election shall be distributed by mail with return postage prepaid or by personal service to each such landowner, all as provided in Section 53326 of the Act.

(c) The Council hereby designates the City Clerk, and the City Clerk hereby agrees to serve, as the election official to conduct the election. The shortening of the election as herein provided has been concurred in by the City Clerk.

(d) If the City Clerk receives appropriate waivers of time limits and other requirements pertaining to the conduct of the election by all of the owners of land included in the District (collectively, the “Landowners”) on or before the 2nd day of October 2007, the election
shall be held on the 2nd day of October 2007. Otherwise, the election shall be held on the first Tuesday after that date which is 90 days after the date this Resolution is adopted.

(e) Unless waived by the Landowners, there shall be prepared and included in the ballot material provided to each voter an impartial analysis and arguments and rebuttals, if any, as provided in Section 53327 of the Act. The election shall be conducted by the City Clerk in the manner required by this Resolution, the Act and applicable laws.

(f) Unless waived by the Landowners, the City Clerk shall publish this Resolution as notice of the special election.

SECTION 13. If two-thirds (2/3) of the votes cast upon the question of levying the special tax are cast in favor of levying the special taxes, as determined by this Council after the canvass of the returns of the consolidated election, this Council may levy the special taxes within the District in the amount and for the purposes specified in this Resolution. The special taxes may be levied only at the rate and may be apportioned only in the manner specified in this Resolution, subject to the Act, except that the special taxes may be levied at a lower rate.

SECTION 14. The City Clerk, as the designated election official, shall, within three business days after the adoption of this Resolution, obtain a certified copy thereof. The City Clerk has previously been provided with a map of the boundaries of the District, a sufficient description from which to determine the boundaries of the District, and the assessor’s parcel numbers for the land within the District.

SECTION 15. The Council hereby determines that the formation of the proposed District is the creation of a government funding mechanism which is not a project under the provisions of C.E.Q.A. pursuant to Section 15378(b)(4) of the C.E.Q.A. guidelines.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October 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

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
Exhibit “A”

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-2
(KIERNAN BUSINESS PARK WEST)

AMENDED AND RESTATATED
RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor’s Parcel in Community Facilities District No. 2007-2 (Kiernan Business Park West) [herein “CFD No. 2007-2” or “the CFD”] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2007-2, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2007-2 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

“Administrative Expenses” means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2007-2, including, but not limited to, levying and collecting the Special Taxes; the fees and expenses of legal counsel; charges levied by the County Auditor’s Office, Tax Collector’s Office, and/or Treasurer’s Office; costs related to annexing property into the CFD; costs related to property owner inquiries regarding the Special Taxes; and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.

“Annual Maintenance Special Tax” means a special tax levied in any Fiscal Year to pay the Annual Maintenance Special Tax Requirement, as defined below.

“Annual Maintenance Special Tax Requirement” means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay Administrative Expenses, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or
(based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

“Assessor’s Parcel” or “Parcel” means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

“Assessor’s Parcel Map” means an official map of the County Assessor designating parcels by Assessor’s Parcel number.

“Authorized Services” means those services that are authorized to be funded by CFD No. 2007-2.

“CFD Formation” means the date on which the Resolution of Formation to form CFD No. 2007-2 was adopted by the City Council.

“City” means the City of Modesto.

“City Council” means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2007-2.

“County” means the County of Stanislaus.

“Final Map” means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a structure. The term “Final Map” shall not include any Assessor’s Parcel Map or subdivision map or portion thereof, that does not create lots that are in their final configuration, including Assessor’s Parcels that are designated as remainder parcels.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Maximum Annual Maintenance Special Tax” means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

“Maximum One-Time Facilities Special Tax” means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

“Maximum Special Taxes” means, collectively, the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax.

“Net Taxable Acreage” or “Net Taxable Acre” means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by the subdivision, the
Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

“One-Time Facilities Special Tax” means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.

“Original Parcel” means an Assessor’s Parcel included in CFD No. 2007-2 at the time of CFD Formation or added to the CFD upon annexation. Assessor’s Parcels included in the CFD at the time of CFD Formation and an Assessor’s Parcel expected to annex into the CFD are identified in Attachment I hereto. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C below.

“Proportionately” means that the ratio of the actual Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Taxable Property.

“Public Property” means any property within the boundaries of CFD No. 2007-2 that is owned by the federal government, State of California, County, City, or other public agency.

“Special Taxes” means, collectively, the One-Time Facilities Special Tax and the Annual Maintenance Special Tax.

“Subdivision Map” means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

“Successor Parcel” means an Assessor’s Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a structure is permitted.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2007-2 which are not exempt from the Special Tax pursuant to law or Section G below.

“Taxable Public Property” means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2007-2 that, at the time of CFD Formation, were expected to be Taxable Property, and, based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year.
B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall determine (i) the current Assessor’s Parcel numbers for all Parcels of Taxable Property in CFD No. 2007-2, (ii) the Net Taxable Acreage of each Parcel, and (iii) the Annual Maintenance Special Tax Requirement.

C. MAXIMUM SPECIAL TAXES

1. Original Parcels

Table 1 below identifies the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax assigned to each Original Parcel in the CFD at the time of CFD Formation. Separate Maximum Special Taxes shall be assigned to Parcels added to the CFD as a result of future annexations.

<table>
<thead>
<tr>
<th>Assessor’s Parcel Number</th>
<th>Fiscal Year 2007-08 Maximum One-Time Facilities Special Tax*</th>
<th>Fiscal Year 2007-08 Maximum Annual Maintenance Special Tax*</th>
</tr>
</thead>
<tbody>
<tr>
<td>078-013-006</td>
<td>$ 65,316</td>
<td>$ 2,539</td>
</tr>
<tr>
<td>078-013-018</td>
<td>$ 5,059</td>
<td>$ 197</td>
</tr>
<tr>
<td>078-013-035</td>
<td>$ 0</td>
<td>$ 93,880</td>
</tr>
<tr>
<td>078-013-037</td>
<td>$ 145,718</td>
<td>$ 5,665</td>
</tr>
</tbody>
</table>

* Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below.

2. Successor Parcels

Upon recordation of a Subdivision Map that subdivides an Original Parcel, the Administrator shall allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels by applying the following steps:

Step 1: Determine the total combined Net Taxable Acreage within all Successor Parcels created from subdivision or reconfiguration of the Original Parcel.

Step 2: Divide the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the Net Taxable Acreage determined in Step 1 to determine a Maximum One-Time Facilities Special Tax and a Maximum Annual Maintenance Special Tax per Net Taxable Acre.
Step 3: Multiply the Maximum Special Taxes per Net Taxable Acre determined in Step 2 by the Net Taxable Acreage of each Successor Parcel of Taxable Property to determine the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax for each Parcel.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2.

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Original Parcel’s Maximum Special Tax shown in Table 1, escalated to the current Fiscal Year pursuant to Section D below.

D. ESCALATION OF MAXIMUM SPECIAL TAXES

1. One-Time Facilities Special Tax

Beginning in January 2008 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be increased by an amount equal to four percent (4.0%) of the amount in effect for the prior Fiscal Year. Each annual adjustment of the One-Time Facilities Special Tax shall become effective on the subsequent July 1.

2. Annual Maintenance Special Tax

Beginning in January 2008 and each January thereafter, the Maximum Annual Maintenance Special Tax assigned to each Parcel shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. METHOD OF LEVY OF THE SPECIAL TAX

1. One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2007-2 and shall be collected as set forth in Section F below.
2. **Annual Maintenance Special Tax**

Each Fiscal Year, the Administrator shall determine the Annual Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

**Step 1:** The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Taxable Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year.

**Step 2:** If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor’s Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

F. **COLLECTION OF SPECIAL TAX**

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any structure on Taxable Property within CFD No. 2007-2, and shall be immediately delinquent if not so paid.

The Annual Maintenance Special Tax for CFD No. 2007-2 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Maintenance Special Taxes through foreclosure or other available methods. The Annual Maintenance Special Tax shall be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services and all Administrative Expenses have been reimbursed.

G. **EXEMPTIONS**

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Taxes, no Special Taxes shall be levied on Public Property except Taxable Public Property, as defined herein.

H. **INTERPRETATION OF SPECIAL TAX FORMULA**

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the Rate and Method of Apportionment of Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City’s discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Taxes.
I. ENFORCEMENT

All delinquent One-Time Facilities Special Taxes, or delinquent Annual Maintenance Special Taxes billed off the County tax roll, shall be subject to an immediate 10% penalty plus interest charges of 1.5% as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City’s discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursing the delinquency by an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.
**ATTACHMENT 1**
**CITY OF MODESTO**
**COMMUNITY FACILITIES DISTRICT NO. 2007-2**
**(KIERNAN BUSINESS PARK WEST)**

**SUMMARY OF ORIGINAL PARCELS**
**AND MAXIMUM SPECIAL TAXES**

<table>
<thead>
<tr>
<th>Assessor's Parcel Number</th>
<th>Acreage</th>
<th>Fiscal Year 2007-08 Maximum One-Time Facilities Special Tax*</th>
<th>Fiscal Year 2007-08 Maximum Annual Maintenance Special Tax*</th>
</tr>
</thead>
<tbody>
<tr>
<td>078-013-006</td>
<td>7.23</td>
<td>$65,316</td>
<td>$2,539</td>
</tr>
<tr>
<td>078-013-018</td>
<td>0.56</td>
<td>$5,059</td>
<td>$197</td>
</tr>
<tr>
<td>078-013-035</td>
<td>49.43</td>
<td>$0</td>
<td>$93,880</td>
</tr>
<tr>
<td>078-013-040 **</td>
<td>14.91</td>
<td>$158,098</td>
<td>$28,318</td>
</tr>
</tbody>
</table>

* Maximum Special Taxes are subject to the annual adjustments described in Section D of the RMA.

** This Parcel is not included in the CFD at the time of CFD Formation. The Maximum Special Tax shall apply to this Parcel upon annexation into the CFD.
RESOLUTION NO. 2007-585

A RESOLUTION APPROVING A GRANT APPLICATION FOR $1,956,525 FOR THE CALIFORNIA RIVER PARKWAYS GRANT PROGRAM UNDER THE WATER SECURITY, CLEAN DRINKING WATER, COASTAL AND BEACH PROTECTION ACT OF 2002 (PROPOSITION 50), AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE NECESSARY DOCUMENTS

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

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

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

WHEREAS, the City of Modesto if selected, will enter an agreement with the State of California to carry out the linear walkway within the Tuolumne River Regional Park Gateway Project (the Project),

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

1. Approves the filing of an application for the linear walkway within the Tuolumne River Regional Park Gateway Project, and

2. Certifies that the City of Modesto will have sufficient funds to operate and maintain the project consistent with the land tenure requirements, and

3. Certifies that it will comply with the provisions of Section 1771.8 of the State Labor Code regarding payment of prevailing wages on Projects awarded with Proposition 50 funds, and

4. Certifies that the Project will comply with any laws and regulations including, but not limited to, legal requirements for building codes, health and safety codes, disabled access laws, and, that prior to commencement of construction, all applicable permits will have been obtained, and
5. Appoints the City Manager or his designee, as agent to conduct all negotiations, execute and submit all documents including but not limited to applications, agreements, payment requests and so on, which may be necessary for the completion of the Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

Attest: ____________________________
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: ________________________________
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-586

A RESOLUTION AUTHORIZING THE PURCHASE OF MODULAR OFFICE AND COMMUNITY ROOM FURNITURE, FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, BY ACCESSING THE TERMS OF A COMPETITIVELY BID CONTRACT FROM THE COUNTY OF STANISLAUS, CONTRACT NO. 16091802, TO KELLER OFFICE ENVIRONMENTS, FOR AN ESTIMATED TOTAL COST OF $45,000; AND FURTHER AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR THE PURCHASE OF THE MODULAR OFFICE AND COMMUNITY ROOM FURNITURE

WHEREAS, the Neighborhood Center at Marshall Park combines Fire, Police, and Parks, Recreation and Neighborhoods Department activities in one service center location, and

WHEREAS, construction for the Neighborhood Center at Marshall Park began last year, and is expected to be completed by December 2007, and

WHEREAS, modular office and community room furniture will be purchased through a competitively bid contract from the County of Stanislaus which will include miscellaneous task chairs, meeting room furniture, partitions, desk chairs, and a few corner desk units, and

WHEREAS, by accessing the terms of a competitively bid contract from the County of Stanislaus or “piggybacking”, the City of Modesto will save time and money, and

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

WHEREAS, the Purchasing Manager, acting within his discretion, invoked this exception for the purchase of office and community room furniture, by accessing the terms of a competitively bid contract from the County of Stanislaus, Contract No. 16091802, to Keller Office Environments, Modesto, CA,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the purchase of modular office and community room furniture for the Parks, Recreation and Neighborhoods Department by accessing the terms of a competitively bid contract from the County of Stanislaus, Contract No. 16091802, to Keller Office Environments, for an estimated total cost of $45,000.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for the purchase of the modular office and community room furniture.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

Attest: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE AND AWARD INFORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF EQUIPMENT (DEFINED IN TWO GROUPS) FOR THE NEIGHBORHOOD CENTER AT MARSHALL PARK, FOR AN ESTIMATED TOTAL COST OF $25,000; AND FURTHER AUTHORIZING THE PURCHASING MANAGER TO ISSUE PURCHASE ORDERS TO THE SELECTED VENDORS

WHEREAS, the Neighborhood Center at Marshall Park combines Fire, Police, and Parks, Recreation and Neighborhoods Department activities in one service center location, and

WHEREAS, construction for the Neighborhood Center at Marshall Park began last year, and is expected to be completed by December 2007, and

WHEREAS, the fitness room will service not only the fitness requirements of the Fire and Police personnel, but will also be open to the public on certain days/hours, and

WHEREAS, the items listed below are needed to furnish the Neighborhood Center at Marshall Park for utilization by its tentative opening date of mid-December,

<table>
<thead>
<tr>
<th>Group 1</th>
<th>Item</th>
<th>Unit</th>
<th>Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fitness Equipment</td>
<td>Treadmill</td>
<td>Each</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Elliptical Fitness Cross trainer</td>
<td>Each</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>5 Weight Stack Multi Gym with Seated Leg Press</td>
<td>Each</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Deluxe Multi Bench</td>
<td>Each</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Dumbbell Rack</td>
<td>Each</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Plate Holders</td>
<td>Each</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Dumbbell Set 5-100 lbs.</td>
<td>Set</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Olympic Bar</td>
<td>Each</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Plate Set 500 lb.</td>
<td>Set</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Vinyl Mat Treadmill</td>
<td>Each</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Vinyl Mat Bike/stepper</td>
<td>Each</td>
<td>1</td>
</tr>
<tr>
<td>Group 2</td>
<td>Item</td>
<td>Unit</td>
<td>Quantity</td>
</tr>
<tr>
<td>---------</td>
<td>-------------------------------------------</td>
<td>------</td>
<td>----------</td>
</tr>
<tr>
<td>Electronic Equipment</td>
<td>42” Plasma TV Each</td>
<td>Each</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>24” Plasma TV Each</td>
<td>Each</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Tilt Wall Mount for 42” Plasma TV Each</td>
<td>Each</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>DVD Player Each</td>
<td>Each</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Rolling Service Cart Each</td>
<td>Each</td>
<td>2</td>
</tr>
</tbody>
</table>

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the purchase of equipment (defined in two groups) for the Neighborhood Center at Marshall Park, for an estimated total cost of $25,000.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to take the necessary steps to issue purchase orders to the selected vendors.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

Attest: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
A RESOLUTION ACCEPTING THE WORK BY TNT INDUSTRIAL CONSTRUCTION, INC., FOR THE PROJECT TITLED “TWIN PONDS PUMP STATIONS” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $1,684,707.25

WHEREAS, a report has been filed by the Public Works Director that the project titled “Twin Ponds Pump Stations” has been completed by TNT Industrial Construction, Inc., in accordance with the contract agreement dated March 7, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “Twin Ponds Pump Stations” is hereby accepted as complete from said contractor, TNT Industrial Construction, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $1,684,707.25 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 9th day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST: ______________________

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By ______________________

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION ACCEPTING THE WORK BY RICHARD A. HEAPS ELECTRICAL CONTRACTOR, INC., FOR THE PROJECT TITLED “TRAFFIC SIGNAL INSTALLATION AT 16TH AND J STREETS” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $159,361.76

WHEREAS, a report has been filed by the Public Works Director that the project titled “Traffic Signal Installation at 16th and J Streets” has been completed by Richard A. Heaps Electrical Contractor, Inc., in accordance with the contract agreement dated January 23, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “Traffic Signal Installation at 16th and J Streets” is hereby accepted as complete from said contractor, Richard A. Heaps Electrical Contractor, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $159,361.76, 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 9th day of October, 2007, by Councilmember O’Bryant, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
A RESOLUTION ACCEPTING THE WORK BY R.L. DAVIS CONSTRUCTION CO., INC., FOR THE PROJECT TITLED "PUMP STATION FOR WELL 62 AT FREEDOM PARK" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $647,543.63

WHEREAS, a report has been filed by the Public Works Director that the project titled "Pump Station for Well 62 at Freedom Park" has been completed by R.L. Davis Construction Co., Inc., in accordance with the contract agreement dated September 13, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Pump Station for Well 62 at Freedom Park" is hereby accepted as complete from said contractor, R.L. Davis Construction Co., Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $647,543.63 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 9th day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST: JEA MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-591

A RESOLUTION APPROVING THE COOPERATIVE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR THE PLANNING AND CONSTRUCTION OF THE PROJECT TITLED “DALE ROAD/KIERNAN ROAD (STATE ROUTE 219) IMPROVEMENTS” AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, continued growth in northern Modesto and Stanislaus County have increased traffic volume at the Dale Road/Kiernan Road intersection, and

WHEREAS, the increased traffic has reduced the level of service of the existing intersection, and

WHEREAS, the intersection serves both City and County residents, and

WHEREAS, the intersection lies on the border between the City and the County, and

WHEREAS, the City and State desire to reduce congestion and delays at the Dale Road/Kiernan Road intersection by widening the intersection, and

WHEREAS, the proposed project is to be completed under a Cooperative Agreement between the City of Modesto and the California Department of Transportation and will consist of widening Dale Road at State Route 219 and modifying signals, signs and striping, and

WHEREAS, the anticipated project funding is to be budgeted in CIP account 2370-430-H930 “Dale Rd/Kiernan Intersection Improvements” as follows: CITY: Local Matching Funds + Kaiser Mitigation $1,770,000; FEDERAL: Demonstration Funds $2,240,000; CMAQ: Congestion Mitigation for Air Quality (CMAQ) $320,000; STATE: Transportation Improvement Program (STIP) $2,770,000; for a total estimated project cost of $7,100,000, and administered by the City, and
WHEREAS, the City will be the lead in completing the design, approval, bidding and inspection for the proposed improvements, and

WHEREAS, an Agreement is needed between the California Department of Transportation and the City of Modesto for the planning and construction of the project titled "Dale Road/Kiernan Intersection (State Route 219) Improvements,"

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Cooperative Agreement between the City of Modesto and the California Department of Transportation (Caltrans) for the planning and construction of the Project titled “Dale Road/ Kiernan Intersection (State Route 219) Improvements.”

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 9th day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-592

A RESOLUTION AUTHORIZING STAFF TO SOLICIT COMPETITIVE PROPOSALS FOR A NEW MODESTO AREA DIAL-A-RIDE (MADAR) CONTRACT AND TO COMBINE THE MADAR PROCUREMENT WITH THE CITY OF CERES AND COUNTY OF STANISLAUS TRANSIT OPERATIONS CONTRACT PROCUREMENTS.

WHEREAS, on June 3, 2003, by Resolution No.2003-270 the City entered into an agreement with Storer Transit Systems to operate the Modesto Area Dial-a-Ride paratransit service, and

WHEREAS, said agreement is due to expire on June 27, 2008, and

WHEREAS, a new contract is necessary to replace the contract that will expire, and

WHEREAS, solicitation of proposals through the use of a request for proposals (RFP) process is the best method of selecting a new contractor, and

WHEREAS, the City of Ceres and the County of Stanislaus transit operation contracts end on approximately the same date as Modesto, and

WHEREAS, a joint solicitation with the City of Ceres and the County of Stanislaus is likely to produce cost savings due to the expanded size of the procurement, and

WHEREAS, by an agenda report to the City Council dated September 20, 2007, from the Public Works Director, City staff recommended to the Council that an RFP process, as described in said agenda report, be utilized to solicit proposals for a new contract to replace the contract that will expire June 27, 2008,
NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that City staff is hereby authorized to solicit competitive proposals for a new MADAR contract and to combine the MADAR procurement with the city of Ceres and County of Stanislaus transit operations contract procurements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-593

A RESOLUTION APPROVING AN AGREEMENT CONSENTING TO COMMON USE BETWEEN THE MODESTO IRRIGATION DISTRICT AND THE CITY OF MODESTO REGARDING THE CONSTRUCTION OF A 230,000 VOLT TRANSMISSION LINE BY THE MODESTO IRRIGATION DISTRICT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Modesto Irrigation District is planning to construct a 230,000 volt electrical transmission main, and

WHEREAS, the 230,000 volt electrical transmission main will be an above-ground facility, and

WHEREAS, the proposed electrical transmission main will cross over a 22.5 foot wide permanent sewer easement held by the City of Modesto, and

WHEREAS, the proposed electrical transmission main will cross over a 25.0 foot wide Access and Utility Easement held by the City of Modesto, and

WHEREAS, the proposed electrical transmission main will not interfere with existing and future City of Modesto utilities or construction, and

WHEREAS, the completed electrical transmission main will provide dependable and reliable service to the community, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement Consenting to Common Use between the Modesto Irrigation District and the City of Modesto regarding the construction of a 230,000 volt transmission line by the Modesto Irrigation District.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 9th day of October, 2007, by Councilmember Dunbar,
who moved its adoption, which motion being duly seconded by Councilmember Hawn,
was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:
By Susana Alcala Wood, City Attorney
A RESOLUTION REJECTING THE BID FOR THE PROJECT TITLED “PAMELA MONTEROSSO PARK” AND AUTHORIZING STAFF TO RE-ADVERTISEMENT THE PROJECT AT A FUTURE DATE

WHEREAS, the sole bid received for the “Pamela Monterosso Park” project was opened at 11:00 a.m. on September 25, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the sole bid received for the “Pamela Monterosso Park” project was 43.15% above the consultant’s estimate, and

WHEREAS, this bid for the project exceeded the consultant’s estimate by an excessive amount, and

WHEREAS, during the bid evaluation process staff determined that the bid unreasonably exceeded the consultant’s estimate. Therefore, staff recommends the bid be rejected and staff be allowed to re-advertise the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bid received for the “Pamela Monterosso Park” project opened in the office of the City Clerk on September 25, 2007, is hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project at a future date.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2007 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST: 

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT - 
WASTEWATER COLLECTIONS TO ISSUE A FORMAL REQUEST FOR 
QUALIFICATIONS (RFQ) FOR GEOGRAPHIC INFORMATION SYSTEM (GIS) 
PROFESSIONAL SERVICES IN AN AMOUNT NOT TO EXCEED $250,000.

WHEREAS, on May 2, 2006, the State Water Resources Control Board (Regional 
Board) initiated Order No. 2006-0003-DWQ, which implemented a new Waste Discharge 
Requirement (WDR) for Wastewater Collections, and

WHEREAS, the WDR regulation contains requirements for monitoring, 
reporting, developing, and implementing Sanitary Sewer Management Plans (SSMPs), 
and

WHEREAS, one of the requirements of this new WDR is that the City develop 
and maintain a complete sanitary sewer utilities inventory with details of the data 
components by November 2, 2008, and

WHEREAS, staff contacted the Information Technology (IT) Department to assist 
in the development of specifications for this system, and

WHEREAS, Wastewater Collections has worked with IT on specifications for the 
RFQ and staff is requesting authorization to issue a formal RFQs for this project, and

WHEREAS, funds are budgeted in the Wastewater Operation Account No. 6210- 
480-5212-0235 for these professional services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto 
that it hereby authorizes the Public Works Department - Wastewater Collections to issue a 
formal Request for Qualifications (RFQ) for geographic information system (GIS) professional 
services in an amount not to exceed $250,000.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

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

APPROVED AS TO FORM:

BY: 
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-596

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS AT THE PRESIDENTIAL PRIMARY ELECTION A BALLOT MEASURE ENTITLED "THE ACCOUNTABILITY IN CITY HALL MEASURE OF 2008".

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

SECTION 1. Pursuant to Article 11 of Section 3 of the California Constitution and Section 9255(a)(2) of the California Elections Code, and California Government Code Section 34458, the Council of the City of Modesto proposes to and does hereby, on its own motion, submit to the qualified electors of the City of Modesto, at the Presidential Primary election to be held on February 5, 2008, a ballot measure entitled "The Accountability in City Hall Measure of 2008".

SECTION 2. That a measure is to appear on the ballot as follows:

<table>
<thead>
<tr>
<th>Should the City of Modesto Charter be amended per the “Accountability in City Hall Measure of 2008” as follows:</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increase public employee accountability:</td>
<td></td>
<td></td>
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<tr>
<td>Remove certain civil service protections;</td>
<td></td>
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<tr>
<td>Redefine officers/employees duties;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Establish City Auditor powers/duties;</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Increase Council Authority:                                   |     |    |
| Redefine Mayor’s role;                                        |     |    |
| Require Department Policy Statements;                         |     |    |
| City Manager selection/removal;                               |     |    |
| Establish Council salary setting commission;                  |     |    |
| Charter officer selection/removal;                           |     |    |

| Increase Council Budget Oversight:                           |     |    |
| Create economic forecast/budget message;                     |     |    |
| Draft budget;                                                 |     |    |
| Final budget modifications;                                  |     |    |
| Final budget adoption?                                        |     |    |
SECTION 3. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election Department of the County of Stanislaus.

SECTION 4. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney
A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE BALLOT MEASURE ENTITLED "THE ACCOUNTABILITY IN CITY HALL MEASURE OF 2008" TO THE CITY ATTORNEY FOR THE PURPOSE OF PREPARING AN IMPARTIAL ANALYSIS OF SAID MEASURE.

WHEREAS, the Modesto City Council has directed the City Clerk to submit to the voters at the next Presidential Primary election to be held on February 5, 2008, a measure seeking approval of a ballot measure entitled "The Accountability in City Hall Measure of 2008".

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk of the City of Modesto is hereby directed pursuant to California Elections Code Section 9280 to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

The resolution was approved as to form:

By
SUSANA ALCALA WOOD, City Attorney

JEAN MORRIS, City Clerk

(SEAL)
A RESOLUTION AUTHORIZING THE MEMBERS OF THE CITY COUNCIL, OR ANY OF THEM, TO FILE WRITTEN ARGUMENTS IN FAVOR OF OR IN OPPOSITION TO THE BALLOT MEASURE ENTITLED “THE ACCOUNTABILITY IN CITY HALL MEASURE OF 2008”.

WHEREAS, the Modesto City Council has directed the City Clerk to submit to the voters at the Presidential Primary election to be held on February 5, 2008, a ballot measure entitled “The Accountability in City Hall Measure of 2008”.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that pursuant to California Elections Code Section 9282 the members of the City Council, or any of them, are hereby authorized to file written arguments in favor of or in opposition to said measure and to change such arguments until and including the date and time after which no arguments may be filed with the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2007, by Councilmember O’Bryant, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING AN AMENDMENT TO CHAPTER III OF THE MODESTO URBAN AREA GENERAL PLAN TO ADOPT CHANGES TO THE LAND USE DESIGNATIONS FOR THE MODESTO REDEVELOPMENT PROJECT AREA IN COMPLIANCE WITH THE MODESTO REDEVELOPMENT AREA MASTER PLAN AND ENVIRONMENTAL IMPACT REPORT

WHEREAS, a General Plan for the City of Modesto entitled “City of Modesto Urban Area General Plan”, was adopted by the City Council by Resolution No. 95-409, on August 15, 1995, and as amended by Resolution No. 2003-122 on March 4, 2003, in accordance with Section 65300 of the Government Code, and

WHEREAS, on March 4, 2003, the City Council of the City of Modesto recertified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan by Resolution No. 2003-123, and

WHEREAS, Government Code Section 65358 permits the amendment of a General Plan up to four (4) times per calendar year, and

WHEREAS, the Modesto Urban Area General Plan has been further amended by Modesto City Council Resolution Nos. 95-584, 96-20, 96-338, 96-639, 97-3, 97-137, 97-158, 98-293, 99-162, 99-564, 2000-303, 2000-633, 2001-47, 2001-476, 2002-154, 2002-526, 2003-101, and 2003-122, copies of which are on file in the office of the City Clerk, and

WHEREAS, the General Plan has not been amended this calendar year, and

WHEREAS, the Redevelopment Agency of the City of Modesto (the “Agency”) has updated its Redevelopment Master Plan (the “Master Plan”) and Environmental Impact Report (the “EIR”) to revise certain Land Use Designations, and

WHEREAS, said Redevelopment Land Use Designations are also incorporated into said General Plan which General Plan must then be amended to remain in compliance with said Master Plan, and
WHEREAS, the proposed general plan amendment was referred to adjacent cities and Stanislaus County, affected school districts, Local Agency Formation Commission, the Stanislaus Council of Governments, affected federal agencies, and affected Native American groups for a 45-day review period, as set forth in Government Code Section 65352, and

WHEREAS, pursuant to Government Section 65354, the Planning Commission is required to make a written recommendation on the proposed General Plan Amendment to the City Council prior to the amendment of a General Plan, and

WHEREAS, on September 26, 2007, the Planning Commission held a duly noticed public hearing in Room 2001 located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary relating to this proposed amendment to the Modesto Urban Area General Plan was considered, and

WHEREAS, as part of the Master Plan review and as the lead agency, the Agency will be considering the certification of the Redevelopment EIR (State Clearinghouse No. 2006071118), which EIR concluded that the proposed Amendment to the Urban Area General Plan is within the scope of said Redevelopment EIR, and

WHEREAS, on October 9, 2007, the City Council held a duly noticed public hearing in the Council Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary relating to this proposed amendment to the Modesto Urban Area General Plan was considered,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that the Proposed General Plan Amendment to the City’s General Plan is needed in order to:

1. Promote redevelopment and eliminate blighted conditions
2. Create a unique and recognizable image for Modesto
3. Promote the economic viability of the RDA Project Area by attracting new and diversified businesses
4. Implement higher density, mixed-use development to create a balanced, vibrant downtown and active neighborhood centers
5. Revise the Land Use Designations and City’s development standards to include mixed-use zoning categories, overlay districts, targeted corridors, and design guidelines
6. Develop a variety of housing types in the Redevelopment Area, particularly in the Downtown, to act as a catalyst for other types of development
7. Enhance the visual appeal of Modesto’s public spaces by upgrading existing and creating new parks, plazas, and streets that offer public access
8. Develop historic 10th and I Streets as attractive, pedestrian-oriented streets and create a clear sense of arrival at Modesto’s downtown by enhancing the Sixth and I Street gateway and the intersection of 10th and I Streets
9. Promote efficient automobile, bicycle, and pedestrian circulation and linkages into and through the Redevelopment Area

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Agency’s Master Plan is compatible with surrounding, existing, and planned land uses and that the Redevelopment Agency Board will be certifying the Final EIR for the Redevelopment Project Area.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the Amendment to the Urban Area General Plan as described in Exhibit “A”, attached hereto and incorporated herein by this reference.

The foregoing resolution was introduced at a regular meeting of the City Council held on the 9th day of October, 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: Dunbar, Hawn, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST: 

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-600

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF WILLIAM A. JAQUES FROM THE AIRPORT ADVISORY COMMITTEE

WHEREAS, WILLIAM A. JAQUES was appointed a member of the Airport Advisory Committee February 25, 2003, and

WHEREAS, WILLIAM A. JAQUES has tendered his resignation from the aforementioned committee effective October 8, 2007, and

WHEREAS, WILLIAM A. JAQUES 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 WILLIAM A. JAQUES from the Airport Advisory Committee hereby is accepted with regret.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION CALLING FOR A SPECIAL MUNICIPAL ELECTION TO BE HELD ON FEBRUARY 5, 2008, AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS TO CONSOLIDATE THE PRESIDENTIAL PRIMARY ELECTION WITH THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON THAT DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE

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

SECTION 1. Pursuant to Article 11, Section 3 of the California Constitution, Section 9255(a)(2) of the California Elections Code, and California Government Code Section 34458, the Council of the City of Modesto proposes to and does hereby, on its own motion, submit to the qualified electors of the City of Modesto, at a special municipal election to be held on February 5, 2008, a proposal to amend Sections 601, 703, 800, 801, 900, 903, 1201, 1303 and 1304 of the Modesto City Charter and to add Sections 725, 902.1, 1302.1 and 1302.2 and to revoke Section 1302 as approved by Council on October 9, 2007.

SECTION 2. That it hereby orders the City Clerk to submit the charter amendments to the voters at a special municipal election on February 5, 2008.

SECTION 3. That pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of Stanislaus County is hereby requested to consent and agree to the consolidation of a special municipal election with the Presidential Primary Election on Tuesday, February 5, 2008.

SECTION 4. That the County Election Department is authorized to canvass the returns of the special municipal election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. That the Board of Supervisors is requested to issue instructions to the County Election
Department to take any and all steps necessary for the holding of the consolidated election.

SECTION 5. That the City of Modesto recognizes that an additional cost will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any such cost.

SECTION 6. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election Department of the County of Stanislaus.

SECTION 7. That, if approved, the proposed charter amendments would take effect on the date set forth in Section 34459 of the California Government Code.

SECTION 8. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

(Approved as to form)

By Susana Alcala Wood, City Attorney

(Seal)
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-602

A RESOLUTION APPOINTING SPECIAL COUNSEL AND DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE BALLOT MEASURE ENTITLED “THE ACCOUNTABILITY IN CITY HALL MEASURE OF 2008” TO SPECIAL COUNSEL FOR THE PURPOSE OF PREPARING AN IMPARTIAL ANALYSIS OF SAID MEASURE AND DIRECTING SPECIAL COUNSEL TO MAKE ANY RECOMMENDATIONS FOR AMENDMENTS TO THE BALLOT MEASURE; AND SETTING A SPECIAL MEETING

WHEREAS, the Modesto City Council has directed the City Clerk to submit to the voters at the next Presidential Primary Election to be held on February 5, 2008, a measure seeking approval of a ballot measure entitled “The Accountability in City Hall Measure of 2008”, and

WHEREAS, Elections Code Section 9280 authorizes the City Council to direct that the measure be transmitted to the Office of the City Attorney for the purpose of preparing an impartial analysis unless the organization of the Office of the City Attorney is affected, and

WHEREAS, one of the Charter sections to be amended as part of this measure affects the organization of the Office of the City Attorney, as well as all Charter Offices and City Departments by mandating that Deputy Directors, Assistant City Attorneys and Deputy City Attorneys be moved from the classified service to the unclassified service. There are also two additional amendments that may peripherally affect the organization of the Office of the City Attorney and the Office of the City Clerk. Specifically, revised Section 903 which would prohibit combining of Charter Offices and proposed new Section 725 which would mandate preparation of Statements of Policy, and

WHEREAS, the Council has determined that out of an abundance of caution, and to avoid any potential appearance of impropriety, to direct that the ballot measure be transmitted to Special Counsel for the preparation of the impartial analysis. Special Counsel is hereby
determined to be Richard Rudnansky of the firm of Meyers Nave, who previously served as the City’s Interim City Attorney,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk of the City of Modesto is hereby directed pursuant to California Elections Code Section 9280 to transmit a copy of said measure to Special Counsel, who is hereby directed to prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure; and to review the existing ballot measure and return to the City Council at a special meeting called on October 30, 2007 at 2:00 p.m. to present any recommendations on amendments to the ballot measure for Council consideration and action.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-603

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE SPORTSMEN ESTATES SUBDIVISION, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, WJC Development, LLC., is the subdivider of the SPORTSMEN ESTATES SUBDIVISION ("SUBDIVISION"), and

WHEREAS, WJC Development, LLC., has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $396,728.00 and $198,364.00, respectively, and

WHEREAS, WJC Development, LLC., has filed a warranty bond in the amount of $39,672.80 to guarantee public improvements in the SUBDIVISION, and

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

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

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

1. The public improvements in the SUBDIVISION 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 subdivision bond for faithful performance in the amount of $396,728.00 upon recordation of the Notice of Completion.
3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $198,364.00 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 SUBDIVISION improvements in the amount of $39,672.80 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-604

A RESOLUTION APPROVING AN EXTENSION TO AN AGREEMENT BETWEEN THE CITY OF MODESTO AND BANK OF THE WEST FOR BANKING SERVICES INCLUDING PAYABLES, PAYROLL, CASHIERING AND INVESTMENTS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE EXTENSION TO SAID AGREEMENT

WHEREAS, by Resolution No. 94-734, the City of Modesto and Bank of the West entered into an agreement for banking services, and

WHEREAS, the current banking services agreement with Bank of the West expired on August 1, 2007, and

WHEREAS, City’s purchasing policy and standard business practices call for the City to maintain an in-force agreement for banking services, and

WHEREAS, additional time is needed for the City of Modesto to evaluate banking service proposals through a formal bid process.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the banking extension agreement with Bank of the West

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the extension to the Agreement
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By Susana Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-605

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 23rd day of October 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk
(seal)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-606

A RESOLUTION APPROVING A SIXTY (60) DAY EXTENSION TO A 6-MONTH PROVISIONAL APPOINTMENT FOR LAURA MESA, EXHIBITS COORDINATOR

WHEREAS, on February 13, 2007, by Resolution No. 2007-121, the City Council approved General Fund supplemental budget requests for Fiscal Year 2006-07, and

WHEREAS, one of these budget requests was to move the Exhibits Coordinator position from part-time to a permanent position with benefits, and

WHEREAS, Laura Mesa was provisionally appointed as Exhibits Coordinator on May 1, 2007, and

WHEREAS, hiring for the permanent Exhibits Coordinator position has been delayed, and

WHEREAS, the Parks, Recreation and Neighborhoods Department desires to extend the provisional appointment of Laura Mesa to this position until the recruitment is completed, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a sixty (60) day extension to the six-month provisional appointment of Laura Mesa to the position of Exhibits Coordinator is hereby approved.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-607

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

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

SECTION I. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classification:

Solid Waste Enforcement Officer

The job specification for this classification is being created as a result of a completed classification study to identify the assignment in the Solid Waste Division of the Parks, Recreation, and Neighborhoods Department. The job specification for the classification of Solid Waste Enforcement Officer, as shown on the attached Exhibit “A,” which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.
SECTION 2. CLASSIFICATION DELETED. The classification plan of the City of Modesto is hereby amended to delete the classification of Code Enforcement Officer I/II, as said classification is no longer being used.

SECTION 3. EFFECTIVE DATE. This resolution shall become effective on and after October 23, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: \underline{Jean Morris}, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: \underline{SUSANA ALCALA WOOD}, City Attorney
Solid Waste Enforcement Officer

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

Under general direction, plans, organizes, and implements the City’s Solid Waste Enforcement Programs; develops and submits grants applications, and administers grant-funded collection and abatement programs; implements public education programs; investigates and enforces applicable ordinances, regulations, and codes related to solid waste and hazardous materials.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Solid Waste Manager, Recycling Program Coordinator, or the Integrated Waste Specialist as assigned.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS Essential and other important responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

Receive, investigate, and respond to complaints of violations of local and state laws, ordinances, or codes related to solid waste and recycling regulations; maintain accurate records regarding enforcement actions to substantiate violations.

Prepare cost estimates, requisition supplies and materials, and purchase program related equipment.

Conduct business workshops; and otherwise promote the safe handling and disposal of Solid Waste.

Issue Administrative Citations for violations of state and local solid waste and environmental protection codes.

Based on the severity of the violation(s) prepare and present cases during administrative hearings or criminal proceedings, as required.

Prepare a variety of written reports, memos, and correspondence related to enforcement activities.

Exhibit “A”
Essential Functions: (Continued)

Assist in developing and monitoring of the division budget.

Patrol in a City vehicle to investigate and mitigate alleged complaints of violations.

May provide lead direction and training to administrative support staff and other hourly field staff.

Analyze, evaluate, and interpret state and local codes regarding Solid Waste; explain and educate members of the public on enforcement procedures related to solid waste.

Represent the City in public meetings, at City Council meetings, and in neighborhood forums.

Assist in the development of the Solid Waste Division budget.

Write and submit applications for grant funding to various state and federal agencies as funds become available; administer grant budgets.

Prepare a variety of reports including grant related reports to the California Integrated Waste Management Board (CIWMB) or other granting agency as required by the grant agreement; act as City’s liaison with the granting agency.

Perform other duties as assigned.

When assigned to the Used Oil Recycling Program:

Essential Functions:

Maintain existing and recruit new certified oil collection centers.

Manage the used oil collection center located at the City-County Airport.

Manage the residential curbside oil collection program performed under the Service Agreements with the City’s residential collection companies.

Develop and Implement comprehensive, multi-media advertising programs for the promotion of used oil recycling.
Essential Functions: (Continued)

Develop and implement comprehensive public education programs on used oil recycling and the purchase of re-refined oil; make presentations to community groups and schools, provide information at community events; conduct business workshops.

Coordinate pollution prevention programs with the Environmental Compliance Division.

When assigned to the Waste Tire Program:

Essential Functions:

Monitor and inspect tire dealerships and tire haulers for compliance with state regulations regarding waste tire transportation/disposal.

Maintain evidence (Chain of Custody) for cases involving violations of state codes.

Act as the Agent of the CIWMB in enforcing the states regulations.

Provide training in tire enforcement procedures for other Tire Enforcement Program staff as assigned by the CIWMB.

Develop and implement tire handling, transportation, and recycling information programs for businesses.

Coordinate tire enforcement program with Stanislaus County to address tire issues in unincorporated areas within the City Sphere of Influence and in County pockets.

Marginal Functions:

May assist in the researching and rewriting of ordinances as necessary.

Perform other duties as assigned.

QUALIFICATIONS

Knowledge of:

Procedures and work methods required to perform the full range of assigned duties safely and efficiently.
Knowledge of: (Continued)

Written and oral communication techniques and methodologies, including graphic presentations and applicable computer skills.

Principles, practices, methods and techniques of evidence collection and preservation and writing incident reports.

General principles and practices of program planning and implementation.

Principles and practices of budget preparation; expense monitoring and tracking; procurement of materials and supplies.

Basic personal computer operations.

Safe and efficient work practices related to solid waste and recycling code enforcement activities.

Procedures and techniques for working with the public in a tactful but firm manner.

Ability to:

Become knowledgeable about environmental issues and concerns related to solid, hazardous, and recoverable waste collection and disposal.

Maintain a Budget.

Interpret architectural drawings or blueprints.

Coordinate and integrate solid waste and environmental code enforcement programs with other agencies.

Collect and analyze data and costs to draw logical conclusions and make appropriate recommendations.

Identify operational and administrative problems and implement problem resolving changes.

Seek out other applicable Grant programs on behalf of the City.

Write detailed reports and perform research related to enforcement activities.

Use sound judgment in decision making.
Ability to: (Continued)

Prepare written and oral reports; speak to community groups, news media, and the general public.

Communicate clearly and concisely both orally and in writing; write defensible reports.

Enforce various codes, ordinances, laws and regulations.

Establish and maintain cooperative working relationships with coworkers, subordinates and supervisors, other departments, outside agencies and the public including the ability to resolve conflicts.

Maintain detailed reports and research code enforcement activities.

Work effectively and efficiently under stressful situations and with minimum supervision.

Carry out conflict resolution skills.

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

**Training**

One year of related experience involving the application of municipal codes in an enforcement, inspection and/or public education capacity. Experience related to environmental management, environmental planning, or environmental enforcement field, including public contact is highly desirable.

**Education**

Completion of the twelfth grade supplemented by college level coursework in public administration, business administration, criminal justice, environmental science, biological science, or physical science, or other related field. Equivalent to an Associate of Arts Degree from and accredited college in any of the above or other related field is desirable.

Exhibit “A”
License or Certificate

Possession of a valid class C California Driver's License by date of appointment with a satisfactory driving record is required.

Possession of a POST approved Penal Code 832 Certificate is required by the end of probationary period.

WORKING CONDITIONS

Environmental Conditions:

Work is performed in a typical temperature controlled office environment subject to typical office noise and environment; also field environment requiring travel from site-to-site. Positions may require occasional overtime or weekend work and travel is rare.

Physical and Mental Requirements

Mobility: frequent use of keyboard; sitting for long periods of time; occasional bending or squatting. Lifting: frequently up to 25 pounds; occasionally up to 40 pounds. Vision: constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. Dexterity: frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. Hearing/Talking: frequent hearing and talking, in person and on the phone. Emotional/Psychological: frequent decision-making and concentration; frequent public and/or coworker contact; occasional working alone. Environmental: frequent exposure to noise.
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-608

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2006-319.

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2006-319, which approved the Class Range Table for General Non-Sworn Classes,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2006-319. Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective August 8, 2007," attached to Resolution No. 2006-319, is hereby amended as shown on the amended Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes effective October 23, 2007," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" establishes the salary range for Solid Waste Enforcement Officer at range 121 ($3,475-$4,224 per month) and deletes Code Enforcement Officer I from salary range 115 and Code Enforcement Officer II from salary range 119.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after October 23, 2007.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on 23rd day of October, 2007, by Councilmember Dunbar, who
moved its adoption, which motion being duly seconded by Councilmember Hawn, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,

                    Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
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</thead>
<tbody>
<tr>
<td>101</td>
<td>Custodian I</td>
</tr>
<tr>
<td>103</td>
<td>Administrative Office Assistant I</td>
</tr>
<tr>
<td>104</td>
<td></td>
</tr>
<tr>
<td>105</td>
<td></td>
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<tr>
<td>106</td>
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</tbody>
</table>
| 107   | Administrative Office Assistant II  
Custodian II  
Exhibits Coordinator |
| 108   | |
| 109   | Customer Services Account Clerk I |
| 110   | Security Officer  
Maintenance Worker I |
| 111   | Account Clerk  
Administrative Office Assistant III  
Customer Services Account Clerk II |
| 112   | |
| 113   | Administrative Technician  
Computer Operator  
Drafting and Graphics Technician |
| 114   | Electrical Technician I  
Equipment Service Technician  
Maintenance Worker II  
Production Technician  
Storeskeeper |

Exhibit “A”
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
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</table>
| 115   | Accounting Technician  
       | Administrative Services Technician I  
       | Customer Services Account Clerk III  
       | Senior Administrative Office Assistant |
| 116   | Equipment Operator  
       | Motor Sweeper Operator  
       | Traffic Operations Technician  
       | Used Oil Coordinator  
       | Wastewater Collection System Operator  
       | Water Distribution Operator I |
| 117   | Electrical Technician II |
| 118   | Customer Services Accounting Technician  
       | Fleet Procurement Specialist  
       | Parking Lot Maintenance Crewleader  
       | Parks Crewleader  
       | Recreation Coordinator  
       | Senior Storeskeeper  
       | Tree Trimmer  
       | Water Distribution Operator II |
| 119   | Administrative Services Technician II  
       | Assistant Buyer  
       | Building Maintenance Mechanic  
       | Civil Engineering Technician I  
       | Code Enforcement Officer-Neighborhood Preservation I  
       | Maintenance Mechanic – Parks  
       | Maintenance Mechanic – Pumps  
       | Public Information Technician |
| 120   | Accountant I  
       | Assistant Electrician  
       | Laboratory Analyst I  
       | Senior Equipment Operator  
       | Traffic Painter Crewleader  
       | Wastewater Treatment Plant Operator I  
       | Water Resource Specialist I  
       | Welder/Fabricator |

Exhibit “A”
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<tr>
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<tbody>
<tr>
<td>121</td>
<td><strong>Solid Waste Enforcement Officer</strong></td>
</tr>
<tr>
<td>122</td>
<td>Equipment Mechanic</td>
</tr>
<tr>
<td></td>
<td>Fire Equipment Mechanic</td>
</tr>
<tr>
<td></td>
<td>Tree Trimmer Crewleader</td>
</tr>
<tr>
<td>123</td>
<td>Airport Maintenance Crewleader</td>
</tr>
<tr>
<td></td>
<td>Civil Engineering Technician II</td>
</tr>
<tr>
<td></td>
<td>Code Enforcement Officer-Neighborhood Preservation II</td>
</tr>
<tr>
<td></td>
<td>Maintenance Mechanic Crewleader – Parks</td>
</tr>
<tr>
<td>124</td>
<td>Community Development Program Specialist I</td>
</tr>
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<td></td>
<td>Cross Connection Specialist</td>
</tr>
<tr>
<td></td>
<td>Environmental Compliance Inspector I</td>
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<tr>
<td></td>
<td>Heavy Equipment Mechanic</td>
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<tr>
<td></td>
<td>Laboratory Analyst II</td>
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<tr>
<td></td>
<td>Operation and Maintenance Crewleader</td>
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<td></td>
<td>Planning Assistant</td>
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<td></td>
<td>Plant Mechanic</td>
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<td>Wastewater Treatment Plant Operator II</td>
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<td></td>
<td>Water Conservation Specialist</td>
</tr>
<tr>
<td></td>
<td>Water Distribution Operator III</td>
</tr>
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<td></td>
<td>Water Production Operator I</td>
</tr>
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<td></td>
<td>Water Resource Specialist II</td>
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<td>Water Services Equipment Operator I</td>
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<td>126</td>
<td>Equipment Mechanic Crewleader</td>
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<td>Housing Financial Specialist</td>
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<td>Housing Rehabilitation Specialist I</td>
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<td>Wastewater Treatment Plant Operator III</td>
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<td>Civil Engineering Assistant</td>
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<td>Senior Fire Equipment Mechanic</td>
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<td>Building Inspector I</td>
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<td>Community Development Program Specialist II</td>
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<td>Electrician</td>
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<td></td>
<td>Environmental Compliance Inspector II</td>
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<td>Heavy Equipment Mechanic Crewleader</td>
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<td></td>
<td>Instrument Repair Technician</td>
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<tr>
<td></td>
<td>Water Production Operator II</td>
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<tr>
<td></td>
<td>Water Services Equipment Operator II</td>
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Exhibit "A"
<table>
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<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>129</td>
<td></td>
</tr>
</tbody>
</table>
| 130   | Construction Inspector  
         | Housing Rehabilitation Specialist II  
         | Laboratory Analyst III  
         | Project Coordinator  
         | Senior Wastewater Treatment Plant Operator |
| 131   | Senior Civil Engineering Assistant |
| 132   | Building Inspector II  
         | Environmental Review Specialist  
         | Senior Environmental Compliance Inspector  
         | Water Division Crewleader |
| 133   |       |
| 134   | Plan Review Engineer  
         | Senior Construction Inspector |
| 136   | Senior Building Inspector |
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-609


WHEREAS, in June 2007, the City of Modesto Police Department applied for the 2007 COPS Methamphetamine Initiative Grant, and

WHEREAS, on September 14, 2007, the City of Modesto received notification from the U.S. Department of Justice, Office of Community Oriented Policing Services that the City of Modesto Police Department had been awarded the 2007 COPS Methamphetamine Initiative Grant, and

WHEREAS, the City of Modesto Police Department wants the Council of the City of Modesto to accept the 2007 COPS Methamphetamine Initiative Grant in the amount of $450,000 from the U.S. Department of Justice, Office of Community Oriented Policing Services, and

WHEREAS, said Grant will fund methamphetamine enforcement and education with no fiscal impact to the City of Modesto, and

WHEREAS, the term of the 2007 COPS Methamphetamine Initiative Grant Program is September 1, 2007 through August 31, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the 2007 COPS Methamphetamine Initiative Grant in the amount of $450,000 from the U.S. Department of Justice, Office of Community Oriented Policing Services.
BE IT FURTHER RESOLVED that the Police Chief is hereby authorized to execute the necessary program documents, including any extensions, amendments, or subsequent contracts with the U.S. Department of Justice, Office of Community Oriented Policing Services.

BE IT FURTHER RESOLVED that the grant funds received shall not be used to supplant expenditures controlled by this body.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
A RESOLUTION AMENDING THE FISCAL YEAR 2007/08 OPERATING BUDGET FOR THE STANISLAUS DRUG ENFORCEMENT AGENCY (SDEA), ESTIMATING REVENUE OF $450,000 FROM THE 2007 COPS METHAMPHETAMINE INITIATIVE GRANT

WHEREAS, the Police Department has been awarded a grant in the sum of $450,000 from the U.S. Department of Justice, Office of Community Oriented Policing Services, and

WHEREAS, said $450,000 Grant will fund methamphetamine enforcement and education with no fiscal impact to the City of Modesto, and

WHEREAS, the $450,000 Grant funding will be allocated to the 2007/08 operating budget for the Stanislaus Drug Enforcement Agency, and

WHEREAS, the term of the 2007 COPS Methamphetamine Initiative Grant Program is September 1, 2007 through August 31, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the FY 2007/2008 Operating Budget for the Stanislaus Drug Enforcement Agency (SDEA) is hereby amended as indicated below to initiate said Program:

<table>
<thead>
<tr>
<th>Expense:</th>
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<tbody>
<tr>
<td>To:</td>
<td>8850-190-2970-5000</td>
<td>$134,000</td>
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<tr>
<td>To:</td>
<td>8850-190-2970-0235</td>
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<tr>
<td>To:</td>
<td>8850-190-2970-0260</td>
<td>$  34,000</td>
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<tr>
<td>Total</td>
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<td>$450,000</td>
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<table>
<thead>
<tr>
<th>Revenue:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>To:</td>
<td>8850-190-2970-3508</td>
<td>$450,000</td>
</tr>
</tbody>
</table>
BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: 
JEAN MORRIS, City Clerk
(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2007-611

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE BIDS THROUGH VARIOUS COMPETITIVE PROCESSES FOR NEW SUPPLIES, EQUIPMENT AND TECHNOLOGY AS LISTED IN THE 2007 COPS METHAMPHETAMINE INITIATIVE GRANT DETAILED PROGRAM BUDGET

WHEREAS, the Modesto Police Department has been awarded the 2007 COPS Methamphetamine Initiative Grant in the amount of $450,000 from the U.S. Department of Justice, Office of Community Oriented Policing Services for methamphetamine enforcement and education, and

WHEREAS, the grant allows the procurement of updated and new equipment and supplies needed to assist in the Grant Program, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases which meet or exceed $50,000.00 for material, equipment or contractual services to be formally bid, and

WHEREAS, the issuance of a formal Request for Bid for the purchase of new supplies, equipment and technology for the Modesto Police Department on behalf of the Stanislaus Drug Enforcement Agency, of which it is a participating member, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in account 8850-190-2970-0356 for the purchase of new supplies, equipment and technology,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue bids through various
competitive processes for new supplies, equipment and technology as listed in the 2007 COPS Methamphetamine Initiative Grant detailed program budget.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-612

A RESOLUTION AUTHORIZING THE ACQUISITION OF COMPUTER EQUIPMENT FOR THE STANISLAUS DRUG ENFORCEMENT AGENCY (SDEA) FROM DELL MARKETING L.P. BY ACCESSING THE TERMS OF THE COMPETITIVELY BID WESTERN STATES CONTRACTING ALLIANCE (WSCA) CONTRACT IN AN AMOUNT NOT TO EXCEED $115,000

WHEREAS, in 1998 the City established a Technology and Equipment Replacement Fund (TERF) for the purpose of replacing obsolete technology equipment, and

WHEREAS, in 1999 the City went through a formal bid process to establish a computer standard throughout the City, and

WHEREAS, Dell Marketing was the lowest responsive and responsible bidder to the formal bid process, and

WHEREAS, in March 2003 the City entered into a Municipal Master Lease Agreement with Dell Marketing L.P. for Information Technology (IT) Hardware Products and Services, and

WHEREAS, in August 2006 the City approved a new Schedule “A” Agreement to the Municipal Master Lease with Dell Marketing L.P. extending the term of the Lease for 48 months, and

WHEREAS, Dell Marketing has been providing personal computers to the City for the past seven years, and

WHEREAS, during that time the City has received Dell contractual pricing by taking advantage of the Western States Contracting Alliance (WSCA) pricing, and

WHEREAS, WSCA is a coalition of fifteen western states which was formed as a means by which participating states could join together to receive cost effective pricing on personal computers based on economies of scale, and
Whereas, the Modesto Police Department would like to acquire computer equipment on behalf of the Stanislaus Drug Enforcement Agency, of which it is a participating member, from Dell Marketing utilizing the contractual pricing of the WSCA, and

WHEREAS, the funding for said computer equipment will come from the 2007 COPS Mehtamphetamine Initiative Grant, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the acquisition of computer equipment for the Stanislaus Drug Enforcement Agency (SDEA) from Dell Marketing L.P. by accessing the terms of the competitively bid Western States Contracting Alliance (WSCA) contract in an amount not to exceed $115,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-613

A RESOLUTION ACCEPTING THE 2007 ANTI-DRUG ABUSE
ENFORCEMENT PROGRAM GRANT FROM THE GOVERNOR’S OFFICE OF
EMERGENCY SERVICES (OES), IN THE AMOUNT OF $391,316, FOR THE
STANISLAUS ANTI-DRUG TASK FORCE TO COMBAT MAJOR DRUG
TRAFFICKING AND MANUFACTURING, AND AUTHORIZING THE CITY
MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM
DOCUMENTS.

WHEREAS, in April 2007 the Modesto Police Department applied for funding
from the Governor’s Office of Emergency Services (OES) for the Stanislaus Anti-Drug
Task Force, and

WHEREAS, the Stanislaus Anti-Drug Task Force is part of the Stanislaus Drug
Enforcement Agency (SDEA), and

WHEREAS, this program will integrate federal, state, and local law enforcement
agencies, prosecutors, and probation officers for the purpose of enhancing interagency
coordination and intelligence and facilitating multi-jurisdictional investigations to combat
major drug trafficking and manufacturing, and

WHEREAS, SDEA has been a recipient of a Byrne grant award from the Office
of Emergency Services (OES) for the past 17 years, and

WHEREAS, said grant is used to add additional personnel and needed equipment
to the countywide Joint Powers Agreement unit, and

WHEREAS, the term of this Agreement is July 1, 2006, through June 30, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby accepts the 2007 Anti-Drug Abuse Enforcement Program grant from the
Governor's Office of Emergency Services (OES), in the amount of $391,316, for the Stanislaus Anti-Drug Task Force to combat major drug trafficking and manufacturing.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-614

A RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES FOR PROFESSIONAL ENGINEERING SERVICES TO DEVELOP AN UPDATED ENGINEER’S REPORT FOR A WATER RATE AND CONNECTION FEE UPDATE STUDY, IN THE NOT-TO EXCEED AMOUNT OF $381,938, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on September 14, 2004, the City Council adopted Resolution No. 2004-471, which accepted the original September 4, 2004, Engineer’s Report entitled “Water Utility Cost of Service Rate Study”, and

WHEREAS, on November 23, 2004, the City Council adopted Resolution No. 2004-627, which rescinded all previous water fee resolutions, established a single-rate base, updated the City’s monthly utility rates, and established the criteria to re-evaluate the utility rates every two years, and

WHEREAS, on May 24, 2005, the City Council adopted Resolution No. 2005-282, which updated the City’s capacity charges (connection fees) for new development, and Resolution No. 2005-281, which established the criteria to re-evaluate the capacity charges every three years, and

WHEREAS, due to City staff’s work on the recently adopted wastewater utility rate and capacity charge updates, updating the water utility rates and capacity charges has been delayed, and

WHEREAS, an up-to-date Engineer’s Report is the essential supporting document needed to conduct a new utility rate and capacity charge study, and

WHEREAS, an updated Engineer’s Report will present the proposed improvements needed to provide and maintain reliable water service to existing and
future customers (over both a 5-year and 20-year horizon), their associated cost estimates, and their allocations (existing rate payers vs. future users) under two scenarios, and

WHEREAS, the key items to developing an updated Engineer’s Report will be updating the water system’s hydraulic model and evaluating the feasibility of the City’s continued participation in the Turlock Irrigation District’s (TID) Regional Surface Water Supply Project (RSWSP), and

WHEREAS, based on TID’s RSWSP schedule, City will need to decide if it will continue its participation in the construction of the RSWSP on or about November 1, 2008, and

WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, West Yost Associates (WYA), of Pleasanton, CA, was selected as the most qualified firm to perform the work for this particular project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with West Yost Associates for professional engineering services to develop an updated Engineer’s Report for a Water Rate and Connection Fee Update Study in the not-to-exceed amount of $381,938.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Hawn, 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, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: O’Bryant

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney