A RESOLUTION AFFIRMING THE EXISTENCE OF A LOCAL EMERGENCY

WHEREAS, Chapter 4 of Title III of the Modesto City Charter empowers the Modesto City Council to proclaim the existence of a local emergency when the City of Modesto is affected or likely to be affected by a public calamity, and

WHEREAS, the Modesto City Council was not in session and could not be immediately called into session, and

WHEREAS, the Director of Emergency Services/City Manager found that conditions of extreme peril caused by the persistent record breaking heat wave, with sustained high temperatures over a period of several days had threatened the safety of persons and property within the City of Modesto, in particular, those most vulnerable to extreme heat conditions such as the elderly and medically fragile residents. This public calamity had already caused heat related illness and deaths in the City of Modesto and Stanislaus County, and

WHEREAS, the Office of Emergency Services was advised by the County Public Health Officer that the excessive heat had resulted in a public health emergency, particularly related to the elderly and medically fragile residents throughout the City of Modesto, and

WHEREAS, these conditions warranted and necessitated the proclamation of the existence of a local emergency, and

WHEREAS, during the local emergency, the Director of Emergency Services/City Manager or designees took emergency actions including but not limited to:
opening and assisting in the operation of cooling centers in City facilities, providing free
transportation for heat victims and at-risk citizens to recovery facilities; restoring
suspended water service without customary payment; providing electrical and air
conditioning services and equipment to care facilities experiencing cooling failure;
directing the use of overtime and call-out to respond to heat emergencies; authorizing the
use of temporary cooling equipment where existing cooling equipment failed or was
failing, and expending public funds on unbudgeted emergency response, and

WHEREAS, the Director of Emergency Services/City Manager terminated the
Proclamation of Local Emergency on July 31, 2006.

NOW, THEREFORE, BE IT RESOLVED that a state of local emergency
existed throughout the City of Modesto based upon the effect of extraordinarily high
temperatures on the health of residents of the City of Modesto, especially the elderly and
medically fragile, and

BE IT FURTHER RESOLVED that during the local emergency the powers,
functions, and duties of the emergency organization of the City of Modesto prescribed by
State law, by Modesto City Charter, ordinances and resolutions of the City of Modesto,
and by the City of Modesto’s approved Emergency Plan were implemented as part of the
local emergency response, and

BE IT FURTHER RESOLVED that a local emergency did exist, that the City
Council affirms the Director of Emergency Services/City Manager’s Proclamation of a
Local Emergency, and that the actions taken to address the local emergency were
appropriate and consistent with the Modesto City Charter, ordinances and resolutions of
the City of Modesto, and the City of Modesto’s approved Emergency Plan.
The foregoing resolution was introduced at a Special meeting of the Council of the City of Modesto held on the 1st day of August 2006 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, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Marsh, O'Bryant

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susan Alcala Wood, City Attorney
WHEREAS, a monthly financial analysis has been completed and it has been determined that certain Year-End adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2005-2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2005-2006 budget have been adjusted as shown in Schedule A.

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 August 2006, 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, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susan Alcalá Wood, City Attorney
Finance Department

Improvement District #28 – Capital Projects. In 1998, the City Council authorized the disbursement of surplus funds in Improvement District #28. This project is complete and the bonds are paid in full. This adjustment will set up an expense budget for the final disbursement of surplus funds remaining for this project. There is no General Fund impact.

From: Reserve Acct #1210-800-8000-8003
To: Operating Acct #1210-120-1200-0540
$(27,597) $27,597

Village One #2. In January 2006, the City Council approved the bond financing for Village One #2 projects. This budget adjustment sets up the budgets to properly record the bond proceeds and costs of issuance. There is no General Fund impact.

To: Bond Financing Revenue Acct #2692-020-0251-8301 $4,465,357
To: Operating Acct #2692-020-0251-0454 (Cost of Issuance) $825,563
Operating Acct #2692-020-0251-0455 (Discount-Original Issue) $5,218
Operating Acct #2692-020-0251-0452 (Interest Expense) $695,562
Operating Acct #2692-800-8000-8251 (Debt Service Reserve) $2,739,014
Operating Acct #2692-020-0251-0454 (Contingency Reserve) $200,000

Parks, Recreation & Neighborhoods Department

Fund 7800 – Building Services. The Building Services Fund is currently in a deficit. The Finance Committee agreed that this deficit would be cleared through allocation of costs to various funds that are serviced by the Building Services Division. This will be completed as part of the Fiscal Year 2005-06 closing process. This budget adjustment will transfer $15,571 from the Building Services Reserve to their operating accounts to clear the negative appropriations as shown below:

From: Contingency Reserve Acct #7800-800-8000-8003 $(15,571)
To: Operating Acct #7800-350-3512-0140 $6,700
Operating Acct #7800-350-3513-0110 $2,800
Operating Acct #7800-350-3514-0110 $6,071
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-463

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF BIO-SOLIDS REMOVAL, TRANSPORT AND LAND APPLICATION SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WATER QUALITY CONTROL DIVISION, TO JIM BRISCO ENTERPRISES, INC., MERCED, CA, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $257,818

WHEREAS, the Public Works Department, Wastewater Treatment Plant

(WWTP) located at 1221 Sutter Avenue, Modesto, removes de-watered bio-solids from drying beds located at the site, and

WHEREAS, bio-solids are byproducts of the wastewater treatment process, and

WHEREAS, the accumulated bio-solids are the result of the designed solids removal process from the WWTP, and

WHEREAS, removal of the dried bio-solids provides renewed drying bed space for this revolving process, and

WHEREAS, when dried, the bio-solids are removed from the drying beds and transported to the Secondary Treatment Plant where they are screened, rototilled, hydrated and applied to the City's Ranch fields as a soil amendment. Some bio-solids may also be composted at the City's Compost Facility, and

WHEREAS, on August 9, 2005, Council approved Resolution No. 2005-400 authorizing the Purchasing Supervisor to issue formal Request for Bids (RFB) for the removal and transportation of wastewater bio-solids for the Public Works Department, Water Quality Control Division, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, and
WHEREAS, on March 24, 2006, the Purchasing Division issued Request for Bid No. 0506-21 for the furnishing of bio-solids removal, transport and land application services to twenty-seven (27) prospective bidders, fifteen (15) of which were local companies, posted the bid on the City’s web site, and formally advertised as required by law, and

WHEREAS, on April 25, 2006, RFB’s were formally opened in the City Clerk’s office. Of the twenty-seven (27) prospective bidders, one (1) company chose to respond, and

WHEREAS, City staff contacted a few of the prospective bidders to find out why they chose not to respond; a common answer was that they were too busy to take on more business, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the furnishing of Bio-Solids Removal, Transport and Land Application Services for the Public Works Department, Water Quality Control Division, to Jim Brisco Enterprises, Inc., Merced, CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $257,818, and

WHEREAS, the Modesto Municipal Code, MMC 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the furnishing of bio-solids removal, transport and land application services for the Public Works Department, Water Quality Control Division, conforms to code, and
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the furnishing of Bio-Solids Removal, Transport and Land Application Services for the Public Works Department, Water Quality Control Division, to Jim Brisco Enterprises, Inc., Merced, CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $257,818.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase agreement for the furnishing of Bio-Solids Removal, Transport and Land Application Services for the Public Works Department, Water Quality Control Division, to Jim Brisco Enterprises, Inc., Merced, CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $257,818.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of August 2006, 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

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-464

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACTS FOR THE FURNISHING OF PUMP STATION REJUVENATION SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, TO AMERINE SYSTEMS, INC., OAKDALE, CA AS THE “PRIMARY” CONTRACTOR, HOWK SYSTEMS, MODESTO, CA AS THE “SECONDARY” CONTRACTOR AND DON PEDRO PUMP, HUGHSON, CA AS THE “THIRD” CONTRACTOR, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $328,737

WHEREAS, the City of Modesto owns and operates 113 water well sites, which have a producing capacity of 109.97 million gallons per day (MGD) of water, and

WHEREAS, this water system services approximately 76,000 customer locations, for a total of 280,000 people, and

WHEREAS, when a pump station begins to deteriorate it starts to lose its pumping efficiency. Lower pumping efficiency usually equates to a drop in water pressure prompting low-pressure alarms and a reduction in fire suppression capabilities, and

WHEREAS, ineffective fire suppression capabilities can pose a potential threat to life and property, thus any drop in water pressure due to pump deterioration could potentially have catastrophic consequences, and

WHEREAS, the Public Works Department, Water Division, maintains these water well sites keeping the integrity of the pump stations at a high level in order to better service the City’s customers, and
WHEREAS, by obtaining annual pricing for pump station rejuvenation services
the City eliminates the need to bid this type of service every time there is a required
pump repair, and

WHEREAS, needed repairs can be made in a few days instead of two (2) or more
weeks. This is extremely important in the summer months, and

WHEREAS, funding for pump station rejuvenation services comes from the
Water Enterprise Fund, which derives its funding from user fees, and

WHEREAS, in order to ensure continued services to the City, contracts have been
awarded to more than one (1) contractor to provide for backup in case the primary
contractor is unable to meet the City’s needs, and

WHEREAS, a secondary or third position contractor may be awarded a specific
job only if the primary contractor is unable to perform the service, or if the primary
contractor is unable to complete the specific job within the time frame required by the
City, and finally, if the primary contractor is unable to maintain acceptable quality
standards required by the City, and

WHEREAS, on May 3, 2005, Council approved Resolution No. 2005-230
authorizing the Purchasing Supervisor to issue formal Request for Bids (RFB) for the
furnishing of pump station rejuvenation services for the Public Works Department, Water
Division, for a two (2) year agreement, with three (3) one-year extension options at the
sole discretion of the City, and

WHEREAS, on March 6, 2006, the Purchasing Division issued Request for Bid
No. 0506-02 for the furnishing of pump station rejuvenation services to seventeen (17)
prospective bidders, six (6) of which were local companies, posted the bid on the City’s web site, and formally advertised as required by law, and

WHEREAS, on April 4, 2006, RFB’s were formally opened in the City Clerk’s office. Of the seventeen (17) prospective bidders, three (3) companies chose to respond, and

WHEREAS, based on providing responsive and responsible bids, City staff recommends the award of bid and contracts for the furnishing of Pump Station Rejuvenation Services for the Public Works Department, Water Division, to Amerine Systems, Inc., Oakdale, CA as the “primary” contractor, Howk Systems, Modesto, CA as the “secondary” contractor and Don Pedro Pump, Hughson, CA as the “third” contractor, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $328,737, and

WHEREAS, the Modesto Municipal Code, MMC 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contracts for the furnishing of pump station rejuvenation services for the Public Works Department, Water Division, conforms to code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contracts for the furnishing of Pump Station Rejuvenation Services for the Public Works Department, Water Division, to Amerine Systems, Inc., Oakdale, CA as the “primary” contractor, Howk Systems, Modesto, CA as the “secondary” contractor and Don Pedro Pump, Hughson, CA as the “third” contractor,
for a two (2) year agreement, with three (3) one-year extension options at the sole
discretion of the City, for a total estimated annual cost of $328,737.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized
to issue a purchase agreement for the furnishing of Pump Station Rejuvenation Services
for the Public Works Department, Water Division, to Amerine Systems, Inc., Oakdale,
CA as the “primary” contractor, Howk Systems, Modesto, CA as the “secondary”
contractor and Don Pedro Pump, Hughson, CA as the “third” contractor, for a two (2)
year agreement, with three (3) one-year extension options at the sole discretion of the
City, for a total estimated annual cost of $328,737.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 2nd day of August 2006, 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

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-465

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO SOLICIT BIDS FOR NEW VEHICLES AND HEAVY EQUIPMENT THROUGHOUT FY 06/07 THROUGH VARIOUS COMPETITIVE PROCESSES AND IN A CUMULATIVE AMOUNT NOT TO EXCEED THE BUDGETED AMOUNT OF $2,098,500 AND AUTHORIZING THE PURCHASING MANAGER TO PURCHASE SEVENTEEN (17) USED VEHICLES AT WHOLESALE AUCTION OR THROUGH OTHER COMPETITIVE PROCESSES FOR AN ESTIMATED BUDGETED AMOUNT OF $306,000

WHEREAS, the City has an ongoing need to purchase vehicles and heavy equipment throughout the year, and

WHEREAS, the expenditures for vehicles and heavy equipment have been approved by Council through the budget process, and

WHEREAS, the vehicles and heavy equipment are purchased by means of formal and informal bid processes, auction, negotiation, and by accessing the terms in State and other public agencies' competitively bid contracts, and

WHEREAS, in past years Council has authorized the Purchasing Manager to solicit bids and go to auction for said vehicles and heavy equipment for the entire fiscal year without having to go before Council for authorization to issue bids, and

WHEREAS, each vehicle and/or heavy equipment staff report that first goes to Council for bid authorization and then after the bid process goes back to Council for authorization to award takes approximately 120-180 days to complete and on average accounts for approximately fifteen (15) hours of staff time to process, and

WHEREAS, by authorizing the Purchasing Manager to purchase budgeted vehicles and heavy equipment for the entire fiscal year without returning to Council for subsequent approval for the solicitation of bids, the following benefits are realized:
• Reduces staff time when preparing for and conducting the bidding process,
• Avoids the possibility of missing manufacturer cut-off ordering dates,
• Improves delivery time of new vehicles allowing them to be put into service sooner,
• Improves reaction time as "good deals" become available, and

WHEREAS, by authorizing the Purchasing Manager or his designee to solicit bids and attend auctions to purchase vehicles and equipment for the entire fiscal year without having to go before Council for bid/purchasing approval the City will save substantial staff and processing time, and

WHEREAS, the request for authorization to award bid and contract for new vehicles and equipment will still come before Council and conform to Modesto Municipal Code (MMC) 8-3.203(a), and

WHEREAS, the Purchasing Division will continue to work at increasing local vendor inclusion in the bidding process, and

WHEREAS, upon Council approval the Purchasing Manager will solicit bids for new vehicles and heavy equipment throughout FY 06/07 through various competitive processes and in a cumulative amount not to exceed the budgeted amount of $2,098,500, and

WHEREAS, upon Council approval the Purchasing Manager, or his designee, will purchase seventeen (17) used vehicles at auction or through various competitive processes for an estimated total budgeted amount of $306,000,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Manager is hereby authorized to solicit bids for new vehicles and equipment throughout FY 06/07 through various competitive processes and in a cumulative amount not to exceed the budgeted amount of $2,098,500, returning to Council for authorization to award said new vehicles and equipment.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to purchase seventeen (17) used vehicles for an estimated budgeted amount of $306,000 at auction or through various competitive processes without returning to Council for authorization to award said used vehicles.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of August 2006, 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

APPROVED AS TO FORM:

BY: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-466

A RESOLUTION ALLOCATING A NEW MANAGER OF BUDGET AND
FINANCIAL ANALYSIS TO THE FINANCE DEPARTMENT BEGINNING
WITH THE 2006-2007 FISCAL YEAR

WHEREAS, during the 2004-2005 fiscal year, the Manager of Budget and
Financial Analysis position was cut from the Finance Department’s position allocation as
a cost saving measure; and

WHEREAS, the responsibility for the development of the annual city budget has
been placed in the City Manager’s Office for the last two years; and

WHEREAS, the City Council now wishes to restore the Manager of Budget and
Financial Analysis to the Finance Department in order to return responsibility for budget
preparation and oversight to that department;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby authorizes the Personnel Department to include the Manager of Budget and
Financial Analysis to the Finance Department’s position allocation.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 2nd day of August 2006, 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

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-467

A RESOLUTION AUTHORIZING AN EXTENSION TO A MUNICIPAL MASTER LEASE ("AS AMENDED") WITH DELL MARKETING L.P., FOR INFORMATION TECHNOLOGY HARDWARE PRODUCTS AND SERVICES FOR A PERIOD OF 48-MONTHS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE EQUIPMENT SCHEDULE NO. 2228457 DATED JULY 7, 2006 TO MUNICIPAL MASTER LEASE AGREEMENT

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 2003 the City entered into a Municipal Master Lease with Dell Marketing for Information Technology (IT) Hardware Products and Services, and

WHEREAS, the City leased Dell computers as part of the Municipal Master Lease for a period of 36 months, and

WHEREAS, the terms of the lease agreement expire in September 2006, requiring an extension of the agreement, and

WHEREAS, IT views this program as a cost effective measure for the City, emphasizing reduction of the Total Cost of Ownership (TCO) for the City’s technology equipment and helping streamline the City’s technology refresh program that affects all departments, 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 City is desirous of extending the lease agreement for a period of 48 months in the amount of $154,665.88 per year, using the existing Municipal Master Lease ("as Amended") with Dell Marketing for Information Technology Hardware Products and Services, and

WHEREAS, this item was presented to the Finance Committee meeting on July 24, 2006 and

WHEREAS the Finance Committee recommended this item be forwarded to Council for consideration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves extending the lease agreement utilizing the Municipal Master Lease ("as amended") with Dell Marketing L.P. for Information Technology hardware products and services for a period of 48 months (4 years) at a cost of $154,665.88 per year.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Equipment Schedule No. 2228457 dated July 7, 2006.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2\textsuperscript{nd} day of August 2006, by Councilmember O’Bryant, 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, Marsh, O’Bryant, Olsen, Mayor Ridenour

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: Keating

**ATTEST:** \underline{Jean Morris}  
JEAN MORRIS, City Clerk

**APPROVED AS TO FORM:**

By: \underline{SUSANA ALCALA WOOD}, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-468

A RESOLUTION AUTHORIZING THE DIRECTOR OF THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT TO NEGOTIATE AND APPROVE ANY INCREASES OR DECREASES IN THE GROVER LANDSCAPE SERVICES, INC. CONTRACT UP TO AN ADDITIONAL $50,000 FOR CONTRACT YEAR 1, ENDING MARCH 20, 2007

WHEREAS, on March 7, 2006, by Resolution No. 2006-134, the City Council authorized a landscape maintenance agreement, effective March 21, 2006, between Grover Landscape Services, Inc. and the City, and

WHEREAS, Resolution No. 2006-134 also provided the Director of the Parks, Recreation and Neighborhoods Department the authority to approve increases or decreases up to $50,000 annually in the Grover Landscape Services, Inc. contract, and

WHEREAS, recent, unanticipated, one-time park additions have caused the director to reach the maximum allowable approval limit of $50,000, and

WHEREAS, it is anticipated that there will be a need for additional increases or decreases in the Grover Landscape Services, Inc. contract during the contract year, and

WHEREAS, there is a need to increase the department director’s ability to negotiate contract increases and decreases by an additional $50,000 for the current contract year ending March 20, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the Director of the Parks, Recreation and Neighborhoods Department to negotiate and approve any increases or decreases in the Grover Landscape Services, Inc. contract up to an additional $50,000 for Contract Year 1, ending March 20, 2007.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of August 2006, by Councilmember Olsen, 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, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

APPROVED AS TO FORM:

Attest: Jean Morris
JEAN MORRIS, City Clerk

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-469  

A RESOLUTION APPROVING THE SUBMISSION OF A NOTICE OF INTEREST FOR $1.5 MILLION FROM THE STATE OF CALIFORNIA OFFICE OF EMERGENCY SERVICES (OES) HAZARD MITIGATION GRANT FOR THE TUOLUMNE RIVER REGIONAL PARK GATEWAY PROJECT, SPECIFICALLY FOR THE FLOOD MITIGATION PORTION OF THE PROJECT

WHEREAS, the State of California Office of Emergency Services has made funding available through its Hazard Mitigation Grant Program, and

WHEREAS, the procedures established by the Office of Emergency Services Hazard Mitigation Grant Program require an applicant’s governing body to certify by resolution the approval of the application before submission of said Notice of Interest to the State, and

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

WHEREAS, the Tuolumne River Regional Park Joint Powers Authority agreement assigns management rights and responsibilities to the City of Modesto, and

WHEREAS, staff feels that development of the Gateway portion of the Tuolumne River Regional Park, as it relates to flood mitigation on Dry Creek, to be an excellent “fit” for this specific funding program and desires to submit a Notice of Interest for said Hazard Mitigation Grant Program,

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

1. Approves the submission of a Notice of Interest for $1.5 million in funds from the State of California Office of Emergency Service through the
Hazard Mitigation Grant Program for development of the Gateway portion of the Tuolumne River Regional Park as it relates to flood mitigation;

2. Certifies that the applicant has or will have sufficient funds to operate and maintain the Project; and

3. Certifies that the City of Modesto staff has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and

4. Authorizes the City Manager, or his designee, to act 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 following acceptance and approval by the City Council.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of August 2006, 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
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-470

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 1. CLASSIFICATION AMENDED. The Position Classification Plan
of the City of Modesto is hereby amended to revise the job specification for the
classification of Operations Supervisor. The job specification for this classification is
being amended to update the essential functions to more accurately reflect the current job
duties. The job specification for the classification of Operations Supervisor, 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. EFFECTIVE DATE. This resolution shall become effective on and
after August 2, 2006.
The foregoing resolution was introduced in a special meeting of the Council of the City of Modesto held on the 2nd day of August 2006, 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

APPROVED AS TO FORM:

By:

SUSANA ALCALA WOOD, City Attorney
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

To supervise, coordinate, schedule and participate in the physical operations, maintenance and repair of the Modesto Centre Plaza (MCP) and John Thurman Field (JTF) facilities; to administer service contracts including janitorial, landscaping, heating and air conditioning; to supervise full-time and temporary employees on building maintenance and set-up crews; to accept responsibility for events set-up, production, and teardown.

SUPERVISION RECEIVED AND EXERCISED

Receives general direction from the Assistant Parks and Recreation Director - Events Supervisor.

Exercises direct supervision over subordinate technical, maintenance, temporary and contracted staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS

Essential and other important responsibilities may include, but are not limited to, the following:

Essential Functions:

Administer service contracts and supervise personnel in the efficient maintenance of the Modesto Centre Plaza and John Thurman Field buildings, grounds and related structures.

Assign work to employees; oversee work procedures and inspect work in progress and upon completion; communicate with clients to clarify needs and to make recommendations for event setup.

Supervise; Direct, schedule and participate with full-time and temporary employees in the set-up, function, and teardown of equipment for events; plan details for the set up of tables, chairs, stages, and other similar equipment for activities such as meetings, conventions, and exhibitions based upon specified general arrangements.

Exhibit "A"
Essential Functions: (Continued)

Work cooperatively with clients to provide seamless customer service.

Communicate with vendors and evaluate new products; coordinate with purchasing on bidding process and other division purchases.

Assist in developing and administering work unit and or division budget.

Responsible for event production needs, including in-house equipment and outside rentals.

Evaluate operations and activities of assigned responsibilities; recommend improvements and modifications; prepare various reports on operations and activities.

Instructs and trains assigned personnel in the performance of their tasks and duties:
Participate in the selection of staff; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures.

Inspect total facility to locate and determine the extent of repair or maintenance work to be performed.

Supervise and estimate labor and material costs for work to be performed; write specifications; arrange for estimates and bid proposals; inspect work performed by contractors; inspect and maintain sound and lighting equipment.

Supervise and coordinate contract services for landscape and custodial work.

Insure the proper use and care of tools, materials, and safety equipment; insure that work performed by assigned staff is in conformance with work standards; conduct safety information meetings; assure adherence to safety, cleanliness, fire prevention rules and standards including evacuation plans.

Serves as chairperson on the safety committee.

Monitors security camera systems and addresses other safety and security issues.

Acts as systems administrator for the facility management system.

Exhibit "A"
Essential Functions: (Continued)

Keeps Maintain a variety of records, operational manual, evacuation manual and account for materials, keys, equipment, and supplies used.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Event set-up, production, and teardown requirements.

Standard event set-up patterns.

Principles of maintaining plazas, buildings, conference facilities and related structures.

Principles of supervision, training, work coordination and planning, scheduling and performance evaluation.

Safe principles and work practices and related State and Federal laws and regulations.

Word processing, spreadsheet applications, internet usage, and specialized scheduling and facility management software necessary for job performance.

English composition and report writing.

Ability to:

Work with Modesto Centre Plaza users as principal production contact; project service and hospitality while applying and enforcing complex rules, regulations and practices.

Assign, supervise and plan the work of personnel assigned to MCP.

Provide training to assigned MCP personnel.

Supervise, train and evaluate assigned staff.

Exhibit "A"
Ability to:  (Continued)

Evaluate maintenance policies and objectives.

Make Prepare estimates of cost and time for all aspects of maintenance, repair, and construction work.

Ability to:  (Continued)

Prepare rough sketches of maintenance and repair jobs.

Diagnose malfunctions and determine effective courses of action for correcting them:

Identify and implement effective courses of action to completed assigned work; use lead by example methodology.

Operate a forklift skillfully.

Perform heavy manual labor, meaning lifting, carrying fifty (50) to one hundred (100) pounds of weight. Perform medium lifting up to fifty lbs. of weight.

Adapt to changing safety requirements; think and act quickly in emergency situations.

Adapt available tools, supplies, and equipment to particular community convention center maintenance problems.

Develop, implement, and enforce fire and safety regulations and procedures.

Communicate effectively orally and in writing.

Keep records and prepare routine and special reports.

Understand and carry out oral and written instructions.

Establish and maintain cooperative work relationships with those contacted during the course of work.
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:

Experience:

A combination of three years experience involving the management of facility maintenance, with experience in event production, and/or theatrical sound and lighting, and/or banquet, and meeting convention services. A portion of the experience must include lead or supervisory responsibility.

Training:

Equivalent to a Bachelors degree in facility management, recreation, business administration, or a related field.

License or Certificate

Possession of an appropriate California Drivers License is required within one month of appointment.

WORKING CONDITIONS

Environmental Conditions:

Office and field environment; travel from site to site. Hot and cold temperatures; inclement weather.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking or standing for prolonged periods of time; lifting up to 50 lbs. and operating motorized equipment and vehicles.

Exhibit "A"
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-471

A RESOLUTION APPROVING THE AGREEMENTS BETWEEN THE CITY OF MODESTO AND PACIFICARE, KAISER PERMANENTE, AMERICAN SPECIALTY HEALTH PLANS (chiropractic coverage) AND PACIFICARE BEHAVIORAL HEALTH; CONTINUING DENTAL AND VISION COVERAGE THROUGH THE CITY'S SELF-INSURED PROGRAM AND AUTHORIZING THE RISK MANAGER TO SERVE AS THE COORDINATOR FOR THE VARIOUS PLANS AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY AGREEMENTS

WHEREAS, the City of Modesto provides its employees with employee and dependent health insurance coverage, and

WHEREAS, the Employee Benefits Committee (EBC) has met and reviewed and evaluated coverage for Fiscal Year 2006/2007, and

WHEREAS, the rates charged by health insurance carriers will increase by 16.8% for Kaiser and 17.5% for PacifiCare, and

WHEREAS, mental health rates will increase by 13%, and

WHEREAS, the City's self-insured vision rates, the City's self-insured dental rates and the chiropractic rates will remain the same, and

WHEREAS, the EBC voted to continue to offer both PacifiCare and Kaiser, and

WHEREAS, PacifiCare continues to offer Preferred Provider Option (PPO) to all employees, and a new HMO Low Option along with the standard HMO option and,

WHEREAS, the EBC recommended maintaining the health plan design, and the drug co-pays at current rates,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves execution of agreements with PacifiCare, Kaiser Permanente, American Specialty Health Plans, and PacifiCare Behavioral Health.
BE IT FURTHER RESOLVED that the Council hereby approves the continuation of dental and vision coverage through the City's self-insured program as recommended by the Employee Benefits Committee.

BE IT FURTHER RESOLVED that the Risk Manager is hereby authorized to serve as the coordinator for the various plans.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary agreements relating to employee and dependent health care as set forth herein.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of August 2006 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

APPROVED AS TO FORM:

By:

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-472

A RESOLUTION AUTHORIZING THE RISK MANAGER TO BIND EXCESS WORKERS’ COMPENSATION INSURANCE

WHEREAS, the City of Modesto has participated in the workers’ compensation excess insurance pool, California Public Employers Insurance Authority (CPEIA), since July 1, 2002, and

WHEREAS, the City’s excess workers’ compensation insurance renews on July 1, 2006, and

WHEREAS, staff has received the invoice that reflects a rate reduction due to the workers’ compensation reforms, and

WHEREAS, the insurance pool anticipates savings which has reduced program rates, and

WHEREAS, upon authorization from Council, staff will bind Insurance coverage through the City’s broker at $750,000 self-insured retention, and

WHEREAS, the anticipated cost of said insurance coverage is $179,624,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Risk Manager is hereby authorized to bind excess workers’ compensation insurance coverage in the amount of $179,624 as presented by the City’s Broker of Record.
The foregoing resolution was introduced at a special meeting of the
Council of the City of Modesto held on the 2\textsuperscript{nd} day of August 2006, 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:

\begin{center}
\begin{tabular}{ll}
AYES: & Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour \\
NOES: & Councilmembers: None \\
ABSENT: & Councilmembers: Keating \\
\end{tabular}
\end{center}

\textbf{ATTEST:} \underline{Jean Morris}, City Clerk

\textbf{APPROVED AS TO FORM}

By: \underline{SUSANA ALCALA WOOD}, City Attorney
A RESOLUTION AUTHORIZING THE RISK MANAGER TO BIND PROPERTY INSURANCE FOR THE CITY OF MODESTO OWNED AND/OR OPERATED PROPERTIES

WHEREAS, Driver Alliant Insurance Services has developed a joint-purchasing group of clients called PEPiP (Public Entity Property Insurance Program) which includes over 5000 public entities in 7 different states, and

WHEREAS, PEPiP’s loss experience, coverage form and pricing have been among the most competitive in the industry, and

WHEREAS, renewal of said insurance is due on July 1, 2006, and

WHEREAS, staff has received the invoice that provides for a rate increase of approximately 9% for property and boiler & machinery coverage due to a decrease in the market, and

WHEREAS, based upon authorization from Council, staff will bind the insurance coverage through PEPiP, at the cost of $277,942,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Risk Manager is hereby authorized to bind property and boiler & machinery insurance coverage in the amount of $277,942 as presented by the City’s Broker of Record pursuant to Council direction.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of August 2006 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

APPROVED AS TO FORM

By: Susana Alcala Wood, City Attorney
A RESOLUTION ACCEPTING THE PEN-LINK ANALYSIS SOFTWARE FOR THE TECHNOLOGY TRANSFER PROGRAM FROM THE UNITED STATES ARMY, ELECTRONIC PROVING GROUND SPONSORED BY THE OFFICE OF NATIONAL DRUG CONTROL POLICY/COUNTERDRUG TECHNOLOGY ASSESSMENT CENTER (ONDCP/CTAC) FOR 10 PEN-LINK SOFTWARE LICENSES AND MANDATORY TRAINING, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS

WHEREAS, the City of Modesto Police Department desires to acquire Pen-Link Analysis Software, and

WHEREAS, the United States Army, Electronic Proving Ground sponsored by the Office of National Drug Control Policy/Counterdrug Technology Assessment Center (ONDCP/CTAC) has a Technology Transfer Program that offers Pen-Link Software licenses and training, and

WHEREAS, said program accepted our application and will provide the Police Department with 10 Pen-Link Software licenses, and

WHEREAS, attendance at a mandatory training session is required prior to receipt of the equipment, and

WHEREAS, the program provides travel and lodging for two people per agency, and

WHEREAS, the Pen-Link Analysis Software will provide the Police Department with the latest drug and methamphetamine analysis software available,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Pen-Link Analysis Software for the Technology Transfer Program from the United States Army, Electronic Proving Ground sponsored by the
Office of National Drug Control Policy/Counterdrug Technology Assessment Center (ONDCP/CTAC) for 10 Pen-Link Software Licenses and mandatory training.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto, held on the 2nd day of August 2006, 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

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney

ATTEST:  

JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-475

A RESOLUTION APPROVING AN AGREEMENT WITH RONNING ARMS,
INC. FOR THE USE OF ITS INDOOR SHOOTING RANGE, AND
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE
THE AGREEMENT

WHEREAS, Ronning Arms, Inc. has an indoor shooting range, and
WHEREAS, the Modesto Police Officer has the need for such a facility for range
practice so sworn police personnel can practice on duty as time allows and remain within
the City limits to be available for emergency calls, and
WHEREAS, it also provides a location for firearms qualifications and basic
training when the Modesto Range Training facility is unavailable for use by Police
personnel, and
WHEREAS, the City of Modesto Police Department will compensate Ronning
Arms, Inc. $8.50 for fifty (50) rounds of 9 millimeter ammunition, $11.50 for fifty rounds
of .45 caliber ammunition and $1.00 per practice target, and
WHEREAS, Ronning Arms, Inc. will allow all sworn police personnel to expend
50 rounds per month with the exception of SWAT Team Officers, who are authorized to
expend 100 rounds, and
WHEREAS, the terms of this Agreement shall commence on April 1, 2006 and
shall expire on April 1, 2009, and
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto,
that it hereby approves the agreement with Ronning Arms, Inc. for the use of its indoor
shooting range.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of August 2006, 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
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-476

A RESOLUTION APPROVING THE EXPANSION OF THE MODESTO AREA DIAL-A-RIDE (MADAR) SERVICE AREA TO INCLUDE: (1) AREAS NORTH OF PELANDALE AND SYLVAN AVENUES IN THE NORTHWEST AND NORTHEAST PARTS OF MODESTO THAT ARE GENERALLY WITHIN ¾ MILE OF MODESTO AREA EXPRESS FIXED-ROUTE BUS SERVICE; (2) AREAS WITHIN ¾ MILE OF MAX ROUTES THAT SERVE THE CITY OF MODESTO AMTRAK STATION ON HELD AVENUE AS WELL AS THE COMMUNITY OF EMPIRE; AND, (3) A NEW SUBDIVISION IN NORTH SALIDA OFF OF PIRRONE AND HAMMETT ROADS THAT CAN BEST BE SERVED BY MODESTO AREA DIAL-A-RIDE

WHEREAS, Modesto Area Dial-A-Ride (MADAR) provides federally mandated paratransit service within the Modesto urbanized area, and

WHEREAS, on July 22, 2006, Modesto Area Express (MAX) initiated changes to several routes that extended service to the new Kaiser Hospital complex on Dale Road, and Enochs High School on Sylvan Avenue, and

WHEREAS, the Americans with Disabilities Act (ADA) requires paratransit service provided by MADAR to complement local fixed-route transit service, and

WHEREAS, in order to serve areas not previously served, a change to the Modesto Area Dial-A-Ride service area is needed, and

WHEREAS, the Economic Development Committee approved the proposed MADAR service-hour expansion at the July 10, 2006, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the following neighborhoods be added to the Modesto Area Dial-A-Ride service area as indicated by the service area map attached hereto as Exhibit “A”:
1. Areas north of Pelandale and Sylvan Avenues in the northwest and northeast parts of Modesto that are generally within ¼ mile of Modesto Area Express fixed-route bus service.

2. Areas within ¼ mile of MAX routes that serve the City of Modesto Amtrak Station on Held Avenue as well as the community of Empire.

3. A new subdivision in north Salida off of Pirrone and Hammett roads that can best be served by Modesto Area Dial-A-Ride.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto on the 2nd day of August 2006, 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

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-477

A RESOLUTION APPROVING ONE (1) AGREEMENT FOR THE ACQUISITION OF A PORTION OF A PARCEL ALONG MID LATERAL NO. 4, SOUTH OF ELM AVENUE AND WEST OF ROSEMERE AVENUE OWNED BY ALAN MANGINI (APN: 007-038-015), INCLUDING AN ACCESS UTILITY EASEMENT TO THE CITY OF MODESTO FOR THE WATER DOWNSTREAM IMPROVEMENTS: TIER TWO WEST TANK PROJECT AND MAKING CERTAIN FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 51292 RELATING TO THE WILLIAMSON ACT CONTRACT AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT

WHEREAS, the City Council of the City of Modesto previously resolved to proceed with the expansion of City’s water distribution system. As part of the expansion, aboveground water storage tanks must be constructed in each quadrant of the City to support increased water flow. A minimum of five (5) acres of land is necessary to accommodate each tank and appurtenances for operation, along with an access utility easement, and

WHEREAS, staff identified a parcel owned by Alan Mangini (APM 007-038-015) of sufficient size and optimum location for the water tank project and said property was appraised to determine fair market value, and

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with Alan Mangini to purchase a portion of his real property (hereafter the “subject property”) for the Water Downstream Improvements: Tier Two West Tank Project, including an access utility easement, and

WHEREAS, the subject property is under the Williamson Act Contract but was appraised without consideration for the Williamson Act Contract and City offered the landowner the appraised value, and
WHEREAS, in December 1982 and January 1983, respectively, the City and LAFCO protested the execution of the Williamson Act Contract (Council Res: No. 82-928; LAFCO Res: No. 83-04) for said property and made the following finding: “The Williamson Act Contracts are inconsistent with the publicly desirable future use and control of the land.” which action designates that, when annexed in future, the Williamson Act would automatically terminate, and

WHEREAS, staff has reviewed the subject property as it relates to the Williamson Act (Government Code Section 51200 et seq.) and recommends making certain findings pursuant to Government Code Section 51292 relating to the Williamson Act Contract ("preserve") and to other relevant codes as follows:

a. The water tank site location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve

b. There is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvements,

c. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury, and

WHEREAS, four (4) other properties were identified as potential sites for the project. Staff evaluated each alternate site and concluded that none of the alternate sites is reasonably feasible to locate, construct and operate the water tank. Eminent domain would be required to acquire any of the alternate sites as none of the owners is willing to sell. The acquisition of any of the alternate sites would likely result in significant private disruption and injury. Acquisition of the subject property for the water tank project is most compatible with the greatest public good and least private injury, and
WHEREAS, the subject property needs to be acquired for this Water Tank project, and

WHEREAS, an agreement is needed for the acquisition of the subject property, and

WHEREAS, a Phase I environmental review has been completed on this proposed property acquisition which indicates no known contamination and no Phase II review is required, and

WHEREAS, on July 12, 2005, the Council adopted Resolution No. 2005-378 certifying the Subsequent Environmental Impact Report ("SEIR") (SCH No. 2004022013), and

WHEREAS, it has been determined that, pursuant to Sections 15168 (c) and 15182 of the California Environmental Quality Act Guidelines ("CEQA"), this project is within the scope of the SEIR for the Modesto Regional Water Treatment Plant Phase Two Expansion and the City of Modesto Downstream Improvements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the following findings are hereby made:

a. The water tank site location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve.

b. There is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvements.

c. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
BE IT FURTHER RESOLVED that the Council hereby approves one (1) Agreement between City of Modesto and Alan Mangini (APN: 007-038-015) to purchase the necessary real property for the Water Downstream Improvements: Tier Two West Tank Project in the amount of $230,000.

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 special meeting of the Council of the City of Modesto held on the 2nd day of August 2006, 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
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney