A RESOLUTION APPROVING AN AGREEMENT WITH MODESTO CITY SCHOOLS IN THE AMOUNT OF $48,300 FOR THE PROVISION OF ONE HALF-TIME POLICE OFFICER TO SERVE AS A MEMBER OF THE MODESTO OUTREACH AND INTERVENTION TEAM, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Modesto City School District has proposed a “Modesto Outreach and Intervention Team”, and

WHEREAS, the Modesto Police Officer will assist with the Wake-Up and Diversion programs which has previously been handled as a collateral/overtime assignment, and

WHEREAS, these juveniles will be tracked and assisted by a Probation Officer, a Modesto Police Officer and a school official, and

WHEREAS, the Modesto Police Officer will handle scheduled in-office visits, home visits and facilitation of resources for juveniles and their parents, to offer them direction and any needed assistance, and

WHEREAS, Modesto City School District will pay for one half-time Police Officer, salary, benefits and incentives, and will reimburse the City of Modesto for said costs estimated at $48,300, and

WHEREAS, the Modesto Outreach and Intervention Team program is scheduled to begin on July 1, 2006, and will terminate on June 30, 2007, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approves the agreement with Modesto City Schools in the amount of $48,300.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June 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, 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

06/27/06/Police/R Reid/Item 23
A RESOLUTION APPROVING AN AGREEMENT WITH MODESTO CITY SCHOOLS IN THE AMOUNT OF $68,932 FOR THE PROVISION OF TWO FULL-TIME MODESTO POLICE OFFICERS TO PROVIDE PREVENTION, INTERVENTION, AND ENFORCEMENT SERVICES TO STUDENTS, FAMILIES AND STAFF AT FRANKLIN ELEMENTARY SCHOOL AND LA LOMA JUNIOR HIGH SCHOOLS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Modesto City Schools requires two Modesto Police Officers to provide prevention, intervention, and enforcement services to students, families, and staff at Franklin Elementary School and La Loma Junior High Schools, and

WHEREAS, the Modesto Police Department can provide specially trained, uniformed police officers to provide intervention programs and youth court programs and take any enforcement action at the district school sites, if warranted, and

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

WHEREAS, the term of this agreement is July 1, 2006, to June 30, 2007, and

WHEREAS, the City shall be compensated $68,932 for the services of two Modesto Police Officers,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between the City of Modesto and Modesto City Schools in the amount of $68,932 for the provision of two Modesto Police Officers at Franklin Elementary School and La Loma Junior High School.

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 27th day of June 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, 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. 2006-403

A RESOLUTION AMENDING THE FISCAL YEAR 2006/07 OPERATING BUDGET ESTIMATING REVENUE OF $68,983 FOR TWO SCHOOL RESOURCE OFFICERS

WHEREAS, Modesto City Schools requires two Modesto Police Officers to provide prevention, intervention, and enforcement services to students, families, and staff at Franklin Elementary School and La Loma Junior High Schools, and

WHEREAS, the Modesto Police Department can provide specially trained, uniformed police officers to provide intervention programs and youth court programs and take any enforcement action at the district school sites, if warranted, and

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

WHEREAS, the term of this agreement is July 1, 2006, to June 30, 2007, and

WHEREAS, the City shall be compensated $68,932 for the services of two Modesto Police Officers,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2006/07 Operating Budget is hereby amended as follows:

Revenue
To: 0100-190-1921-3727 $68,932.00 School Police Reimbursement

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 27th day of June 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, 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 Alcalá Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-404

A RESOLUTION APPROVING AN AGREEMENT WITH STANISLAUS COUNTY OFFICE OF EDUCATION IN THE AMOUNT OF $44,678 FOR THE PROVISION OF ONE MODESTO POLICE OFFICER AT PETERSEN ALTERNATIVE CENTER FOR EDUCATION (P.A.C.E.) CAMPUS AND TRAINING, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Stanislaus County Office of Education requires one Modesto Police Officer to provide direct law enforcement services, exercise and training and act as a School Police Officer at Petersen Alternative Center for Education (P.A.C.E.) campus, and

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

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

WHEREAS, the term of this agreement is August 23, 2006 to June 30, 2007, and

WHEREAS, the City shall be compensated by the Stanislaus Office of Education in the amount of $44,678 for the services of this Modesto Police Officer, and

WHEREAS, the City will match the amount of $44,678 in partnership with the Stanislaus County Office of Education,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between the City of Modesto and the Stanislaus County Office of Education in the amount of $44,678 for the provision of one Modesto Police Officer at Petersen Alternative Center for Education (P.A.C.E.).
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 27th day of June 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, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-405

A RESOLUTION ACCEPTING THE WORK BY TEICHERT CONSTRUCTION FOR THE PROJECT TITLED “RUMBLE ROAD SIDEWALKS” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $133,941.50

WHEREAS, a report has been filed by the Public Works Director that the project titled “Rumble Road Sidewalks” has been completed by Teichert Construction, in accordance with the contract agreement dated April 26, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council that the “Rumble Road Sidewalks” project is hereby accepted as complete from said contractor, Teichert Construction, that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $133,941.50, as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June 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, 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. 2006-406

A RESOLUTION APPROVING A FIRST AMENDMENT TO LICENSE AGREEMENT WITH ORCHARD SUPPLY HARDWARE (OSH) FOR THE LEASE OF FIFTY (50) PARKING SPACES TO SERVE MAX BART EXPRESS PASSENGERS AT THE OSH STORE LOCATED ON SISK ROAD AT A COST OF $900 PER QUARTER YEAR ($3,600 PER YEAR) TO BE FUNDED WITH LOCAL TRANSPORTATION FUND (LTF) MONEY, COMMENCING RETROACTIVE TO OCTOBER 1, 2005, AND EXPIRING SEPTEMBER 30, 2008, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT TO LICENSE AGREEMENT

WHEREAS, the City of Modesto’s Modesto Area Express (MAX) transit system operates an express commuter bus service between Modesto and the Dublin/Pleasanton BART station, and

WHEREAS, customers of that service need a place where they can park and then board the bus, and

WHEREAS, the City began using the parking lot at Orchard Supply Hardware (OSH) on Sisk Road beginning July 1, 2003, and

WHEREAS, the owners of OSH, are willing to lease fifty (50) spaces in the OSH Sisk Road parking lot at a cost of $900 per quarter commencing retroactive to October 1, 2005 and expiring on September 30, 2008, and

WHEREAS, the California Department of Transportation (Caltrans) has agreed to continue to provide liability insurance for the Park and Ride lot, and

WHEREAS, by an agenda report to the City Council dated May 26, 2006, from the Public Works Director, City staff recommended to the Council that it approve the First Amendment To License Agreement with OSH,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the First Amendment To License Agreement with OSH for the lease of 50 parking spaces for park and ride purposes at a cost of $900 per quarter year, commencing October 1, 2005 and expiring September 30, 2008.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June 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, 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 FIRST AMENDMENT TO LICENSE AGREEMENT WITH ORCHARD SUPPLY HARDWARE (OSH) FOR THE LEASE OF FIFTY (50) PARKING SPACES TO SERVE MAX BART EXPRESS PASSENGERS AT THE OSH STORE LOCATED ON SISK ROAD AT A COST OF $900 PER QUARTER YEAR ($3,600 PER YEAR) TO BE FUNDED WITH LOCAL TRANSPORTATION FUND (LTF) MONEY, COMMENCING RETROACTIVE TO OCTOBER 1, 2005, AND EXPIRING SEPTEMBER 30, 2008, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT TO LICENSE AGREEMENT

WHEREAS, the City of Modesto’s Modesto Area Express (MAX) transit system operates an express commuter bus service between Modesto and the Dublin/Pleasanton BART station, and

WHEREAS, customers of that service need a place where they can park and then board the bus, and

WHEREAS, the City began using the parking lot at Orchard Supply Hardware (OSH) on Sisk Road beginning July 1, 2003, and

WHEREAS, the owners of OSH, are willing to lease fifty (50) spaces in the OSH Sisk Road parking lot at a cost of $900 per quarter commencing retroactive to October 1, 2005 and expiring on September 30, 2008, and

WHEREAS, the California Department of Transportation (Caltrans) has agreed to continue to provide liability insurance for the Park and Ride lot, and

WHEREAS, by an agenda report to the City Council dated May 26, 2006, from the Public Works Director, City staff recommended to the Council that it approve the First Amendment To License Agreement with OSH,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the First Amendment To License Agreement with OSH for the lease of 50 parking spaces for park and ride purposes at a cost of $900 per quarter year, commencing October 1, 2005 and expiring September 30, 2008.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June 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, 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. 2006-408

A RESOLUTION APPROVING THE PLANS & SPECIFICATIONS, ACCEPTING THE BID AND APPROVING A $240,515.20 CONTRACT WITH PLAYGROUND PLUS, FOR THE PROJECT TITLED, “PLAY EQUIPMENT UPGRADES FOR MODESTO PLAYGROUNDS GROUP 2,” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, City staff has recommended approval of the plans and specifications for the “Play Equipment Upgrades for Modesto Playgrounds - Group 2” project, and

WHEREAS, the bid received for “Play Equipment Upgrades for Modesto Playgrounds – Group 2” project was opened at 11:00 a.m. on May 16, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $240,515.20 received from Playground Plus, be accepted as the lowest responsible bid and the contract be awarded to Playground Plus,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Playground Plus, in the amount of $240,515.20, and hereby awards Playground Plus, the contract titled “Play Equipment Upgrades for Modesto Playgrounds – Group 2”.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June 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, 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. 2006-409

A RESOLUTION AMENDING THE FISCAL YEAR 2005-06 CAPITAL IMPROVEMENT PLAN TO: A) CLOSE OUT MULTI-YEAR ORGANIZATIONS 0400-310-3163 (ROOSEVELT NEIGHBORHOOD PARK), 0400-310-3132 (SHERWOOD PARK PLAY EQUIPMENT REPLACEMENT), 0400-310-3133 (CHRYSLER PARK PLAY EQUIPMENT REPLACEMENT), 0400-310-3134 (WHITMORE PARK PLAY EQUIPMENT REPLACEMENT), 0400-310-3136 (SYLVAN PARK PLAY EQUIPMENT REPLACEMENT); B) INCREASE BUDGETED REVENUES BY $15,053 AND APPROPRIATE $15,053 IN EXPENDITURES TO PROJECT 0400-310-3137-6040, CATHERINE EVERETT PLAY EQUIPMENT REPLACEMENT; C) INCREASE BUDGETED REVENUES BY $35,000 FROM THE PER CAPITA GRANT PROGRAM UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS AND COASTAL PROTECTION ACT OF 2002 AND APPROPRIATE SAID REVENUE TO PROJECT 2300-310-N442-6040, PLAY EQUIPMENT UPGRADES; D) REALLOCATE $15,053 IN REVENUE FROM THE PER CAPITA GRANT PROGRAM UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS AND COASTAL PROTECTION ACT OF 2002 FROM PROJECT 0400-310-3137, CATHERINE EVERETT PLAY EQUIPMENT REPLACEMENT TO 2300-310-N442-6040, PLAY EQUIPMENT UPGRADES; AND E) REALLOCATE $24,724 IN REVENUE FROM PARKS INFRASTRUCTURE ACCOUNT 1400-310-M185-6050 TO PROJECT 2300-310-N442-6040, PLAY EQUIPMENT UPGRADES.

WHEREAS, various multi-year organizations have been established for the purpose of funding play equipment replacement at various neighborhood parks, and

WHEREAS, by Resolution No. 2002-140, the City Council authorized staff to apply for $1,708,000 in grant funds for the Per Capita grant program under the Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Act of 2000 (Proposition 12), and

WHEREAS, $500,000 in Proposition 12 Per Capita funding was allocated to various multi-year organizations for playground equipment replacement, and
WHEREAS, several of these projects have been completed and have unexpended funds which may be re-allocated to other playground equipment replacement projects, and

WHEREAS, $1,578 is available from multi-year organization 0400-310-3163, Roosevelt Neighborhood Park Play Equipment Replacement, and

WHEREAS, $2,689 is available from multi-year organization 0400-310-3132, Sherwood Neighborhood Park Play Equipment Replacement, and

WHEREAS, $5,136 is available from multi-year organization 0400-310-3133, Chrysler Neighborhood Park Play Equipment Replacement, and

WHEREAS, $702 is available from multi-year organization 0400-310-3134, Whitmore Neighborhood Park Play Equipment Replacement, and

WHEREAS, $4,948 is available from multi-year organization 0400-310-3136, Sylvan Neighborhood Park Play Equipment Replacement, and

WHEREAS, by Resolution No. 2005 -361, the City Council authorized staff to apply for $873,000 in grant funds for the Per Capita grant program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Bond Act of 2002 (Proposition 40), and

WHEREAS, staff recommended that $500,000 of the Proposition 40 Per Capita funding be directed to replacement of playground equipment in neighborhood parks, and

WHEREAS, $465,000 of the Proposition 40 Per Capita funding has been allocated to replacement of playground equipment in neighborhood parks, and

WHEREAS, the balance of $35,000 needs to be allocated, and
WHEREAS, $15,053 in Proposition 40 Per Capita Funds needs to be reallocated from multi-year organization 0400-310-3137, Catherine Everett Play Equipment Replacement to Project 2300-310-N442-6040, Play Equipment Upgrades to accurately reflect Per Capita funding allocations, and

WHEREAS, $24,724 in the Parks Infrastructure CIP account 1400-310-M185-6050 and is available to be transferred to Project 2300-310-N442-6040, Play Equipment Upgrades to complete the funding needed to award the construction contract,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2005-06 Capital Improvement Program is hereby amended to:

1. Close out multi-year organizations 0400-310-3163 (Roosevelt Neighborhood Park), 0400-310-3132 (Sherwood Park Play Equipment Replacement), 0400-310-3133 (Chrysler Park Play Equipment Replacement), 0400-310-3134 (Whitmore Park Play Equipment Replacement), 0400-310-3136 (Sylvan Park Play Equipment Replacement), increase budgeted revenues by $15,053 and appropriate $15,053 in expenditures to project 0400-310-3137-6040, Catherine Everett Play Equipment Replacement;

2. Increase budgeted revenues by $35,000 from the Per Capita grant program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002 and appropriate said revenue to project 2300-310-N442-6040, Play Equipment Upgrades; and

3. Reallocate $15,053 in revenue from the Per Capita grant program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal
Protection Act of 2002 from project 0400-310-3137, Catherine Everett Play Equipment Replacement to 2300-310-N442-6040, Play Equipment Upgrades; and

4. Reallocate $24,724 from the CIP project 1400-310-M185-6050, Parks Infrastructure to project 2300-310-N442-6040, Play Equipment Upgrades.

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 27th day of June, 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, 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
WHEREAS, with the adoption of Ordinance No. 3068-C.S. in November of 1997, the City no longer sets rates for the collection of garbage in Modesto, and instead performs a comprehensive review of cost information submitted by the contract garbage haulers, and

WHEREAS, the City sets a maximum rate that the haulers may charge for the various types of services provided under the contracts based on cost data provided by the lowest cost hauler, and

WHEREAS, Section f (2) of the City’s Service Agreements with its solid waste collectors requires that when the City makes adjustments to the collection services provided under the Agreements, any additional costs should be covered by adjustments to the maximum rates, and

WHEREAS, in addition, maximum rates for solid waste collection services are reviewed annually as requested by the City’s garbage collection companies, and

WHEREAS, the City has conducted an analysis using the audited financial statements provided by the garbage haulers, supplemental data provided by the garbage haulers, and fuel price information and forecast prices developed by the United States Department of Energy, and

WHEREAS, new maximum rates have been calculated, and a recommendation for a new maximum rate schedule has been developed, and
WHEREAS, the Economic Development Committee met on June 12, 2006, and supported the recommendation to approve adjustments to the maximum rate schedule for City solid waste collection services, and

WHEREAS, a report dated June 13, 2006, from the Parks, Recreation and Neighborhoods Department, a copy of which is on file in the office of the City Clerk, sets forth said recommendations, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on June 27, 2006, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, and

WHEREAS, a duly noticed public hearing was held at said time and place, at which time evidence, both oral and documentary, was received and considered, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the existing schedules of rates and charges for garbage service in the City of Modesto should be revised as recommended,

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

1. That it hereby approves the Maximum Charges for Garbage Service as attached hereto, marked Exhibit “I” and incorporated herein by reference. Said Maximum Charges for Garbage Service includes twice-a-year bulky item pickup for residential customers and all other residential services as stipulated in the Service Agreements and shall become effective on July 1, 2006, and shall remain in effect until revised by Council.
BE IT FURTHER RESOLVED that any person who has prepaid garbage service charges for residential garbage service shall be entitled to receive garbage service for the balance of said prepaid period at the prepaid rates.

BE IT FURTHER RESOLVED that Resolution No. 2006-060 is hereby rescinded, effective July 1, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June, 2006, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: 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
MAXIMUM CHARGES FOR GARBAGE SERVICE

STANDARD CONTAINERS
Maximum Monthly Rates
(Once a Week Pickup Service)

Standard container service shall include the following:
• One 96-gallon container for garbage/recyclables
• One 96-gallon container for green waste
• Blue bag recycling
• Countertop container for kitchen scraps
• Drop-off of old TV and computer tubes
• Two bulky item collections per year by appointment

Standard container service customers may opt for smaller containers; however, maximum rates apply. Containers must be placed in a location set forth in Section 5-5.11 of the Municipal Code.

1. **Standard container service** –
   a. The maximum rate for new sign ups for service or changes in service that occur after July 1, 1996, shall be **$19.60 per month** regardless of size of container. **A fuel component of $0.85 per month is included in the maximum rate for the quarter beginning July 1, 2006 and ending September 30, 2006.** The fuel component may be adjusted quarterly.
   b. The maximum rate for each additional garbage container shall be **$14.62 per month.**

2. **60-gallon container service (grandfathered customers)** –
   a. The maximum rate for customers with 60-gallon containers who subscribed to service at an address prior to July 1, 1996 and who have not changed their service address shall be **$16.55 per month.** **A fuel component of $0.85 per month is included in the maximum rate for the quarter beginning July 1, 2006 and ending September 30, 2006.** The fuel component may be adjusted quarterly.
   b. The maximum rate for each additional garbage container shall be **$14.62 per month.**

3. **Fuel Component adjustments** - The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October 1/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy, Energy Information Agency.
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<td>$54.71</td>
<td>$98.89</td>
<td>$143.09</td>
<td>$187.28</td>
<td>$231.46</td>
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<td>5 CY</td>
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<td>$408.23</td>
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<td>$805.96</td>
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</table>

* A detachable container rental rate of $10.00 per month is included in the above schedule.

1. **Weekly rental/Detachable Containers** - Shall not exceed the rate for 1 pickup per week for each size container.

2. **Fuel Component** - A fuel component of $0.17 per cubic yard is included in the maximum rate for the quarter beginning July 1, 2006, and ending September 30, 2006. The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy.
DROP BOX CONTAINERS

1. Pick up charge - $202.10 per pick up
2. Rental
   - $0.85 per day up to 7 day maximum rental
   - $3.00 per day for boxes kept 7 or more days without servicing
   - $10 per day for boxes kept 21 or more days without servicing

3. Disposal charge - Actual charge to be paid by customer
Garbage company will provide up to 40 CY Drop Box containers for above stated charges subject only to load limit of transfer vehicle.

COMPACTORS

Front Loader Type:

<table>
<thead>
<tr>
<th>Compactor Size</th>
<th>NUMBER OF COLLECTIONS PER WEEK</th>
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<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td>3 CY</td>
<td>152.12</td>
</tr>
<tr>
<td>4 CY</td>
<td>201.72</td>
</tr>
</tbody>
</table>

Roll-Off Type:
1. 6 CY to 40 CY $202.10 per pickup
2. Medical waste compactors $265.00 per pickup
3. Washing compactor $30.00
4. Disposal Charge: Actual charge to be paid by customer

EXTRA PICKUPS

1. Standard containers or equivalent $3.50 plus $1.38/container
2. Detachable containers $12.00 plus $2.75/cubic yard

SPECIAL SERVICE CONDITIONS

In situations where none of the above maximum rates reasonably apply, the cost of service is to be negotiated between the garbage company and the customer.

DETACHABLE CONTAINER ONLY REPLACEMENT AND CLEANING SERVICE

<p>| | | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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<th></th>
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</thead>
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<tr>
<td>1 CY</td>
<td>1½ CY</td>
<td>2 CY</td>
<td>3 CY</td>
<td>4 CY</td>
<td>5 CY</td>
</tr>
<tr>
<td>$10.12</td>
<td>$11.00</td>
<td>$12.10</td>
<td>$15.40</td>
<td>$20.24</td>
<td>$25.08</td>
</tr>
</tbody>
</table>

NOTATIONS

1. The above maximum rates include a $0.25 per month per household recycling fee, a $0.05 per cubic yard commercial recycling fee, and a $0.25 per ton industrial recycling fee, payable to the City by the garbage company.
2. Pursuant to Section 11-6.16(c)(2) of the Modesto Municipal Code, the garbage company may require a deposit equivalent to two (2) months service charge from customers prior to beginning service.

6/14/06
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-411

A RESOLUTION APPROVING AN AGREEMENT FOR THE DISPOSITION OF THAT CERTAIN REAL PROPERTY IDENTIFIED AS ASSESSORS PARCEL NUMBER 106-006-002 (17th & G STREETS – "TOWER PARK") AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO THE DISPOSITION OF SAID PROPERTY

WHEREAS, the City of Modesto currently owns one (1) parcel of land ("Parcel") which is more particularly described as Assessor's Parcel Number 106-006-002 and is depicted in "Exhibit A" which is attached hereto and made a part hereof by this reference, and

WHEREAS, on May 10, 2005 said Parcel was declared surplus to the City's needs and Council directed staff to dispose of said Parcel in accordance with applicable laws, and

WHEREAS, all required documents were completed for the publication of said Parcel to qualified buyers in accordance with Section 54220, et seq. of the Government Code of the State of California, and

WHEREAS, in response to said publication, the Modesto Redevelopment Agency expressed interest in acquiring said Parcel for purposes of developing an affordable housing project, and

WHEREAS, at the direction of the City, City staff has completed their negotiations with Agency staff which negotiations included a review of the fair market appraisal provided by the City as well as a review of land market values in proximity to said Parcel, and
WHEREAS, City and Agency staffs have mutually agreed and are recommending that the City sell said Parcel to the Agency for the fair market value of Seven hundred, seventy thousand dollars and no cents ($770,000), and

WHEREAS, the City did conduct a public hearing on June 27, 2006 to receive input on said disposition,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the disposition of the real property located at 17th Street & G Streets in Modesto, California (APN: 106-006-002) to the Modesto Redevelopment Agency in the amount of $770,000 is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or designee, is hereby authorized and directed to take all appropriate actions and execute all documents related to said property disposition.

The foregoing resolution was introduced at a special meeting of the City Council of the City of Modesto held on the 27th day of June 2006, by Councilmember Marsh, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-412

A RESOLUTION APPROVING A MITIGATED NEGATIVE DECLARATION
(SCH No: 2006052134) FOR THE 17TH & G STREET PARK (TOWER PARK)
DISPOSITION FOR AFFORDABLE HOUSING PROJECT

WHEREAS, on August 15, 1995, the City Council of the City of Modesto
certified the Final Master Environmental Impact Report ("Master EIR") (SCH No.
92052017) for the Modesto Urban Area General Plan, and

WHEREAS, on May 10, 2005, the City Council declared the City-owned parcel
located at 17th & G Streets in the City of Modesto (Assessors Parcel No. 106-006-002) as
surplus to the City’s needs and directed staff to offer the parcel for sale in accordance
with the Government Code (hereinafter referred to as “Project”), and

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

WHEREAS, the City’s Community & Economic Development Department
prepared an Initial Study leading to a Mitigated Negative Declaration (SCH No.
2006052134) which reviewed the proposed subsequent Project to the City’s General Plan
Master EIR and said Initial Study determined that the property disposition alone would
have no direct effects, but that the subsequent development of affordable housing
proposed by the Modesto Redevelopment Agency would have new impacts, which
impacts could be reduced to less-than-significant levels by new or additional mitigation measures, and

WHEREAS, the Initial Study/Mitigated Negative Declaration was released for public review pursuant to CEQA Section 21092 in order to avoid or mitigate the identified effects to a point where clearly no significant effect on the environment will occur, and

WHEREAS, Government Code Section 21175.5 permits the adoption of Mitigated Negative Declarations, and

WHEREAS, the City’s Community & Economic Development Department by Environmental Assessment Initial Study EA No. 2006-15, determined that a Mitigated Negative Declaration should be adopted for the proposed project under the General Plan Master Environmental Impact Report (SCH No. 92052017), and

WHEREAS, the Draft Mitigated Negative Declaration (SCH No. 2006052134) was released for public review and comment for the required 30-day period ending on June 19, 2006, and

WHEREAS, the Final Mitigated Negative Declaration (SCH No. 2006052134), incorporates all comments received during the circulation period and response to comments, including the Mitigation Monitoring and Reporting Program, and

WHEREAS, no new unavoidable significant effect was identified and mitigation measures or project revisions were required to be added in order to reduce potential effects to less than significance as a result of public comments on the Draft Mitigated Negative Declaration,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it has reviewed and considered the Initial Study/Mitigated Negative Declaration prepared for the proposed Project as defined in this resolution, including the Mitigation Monitoring and Reporting Program, a copy of which is on file with the City Clerk and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. An Initial Study/Mitigated Negative Declaration prepared for the proposed project pursuant to CEQA Section 21157.1, has identified additional significant environmental effects that were not analyzed in the General Plan Master EIR. These additional significant effects are potential impacts to the sale of City park land.

2. No additional mitigation measures, beyond those included in the MEIR, were determined to be required before the Mitigated Negative Declaration and Initial Study were released for public review.

3. There is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment (CEQA Section 21064.5(2)).

4. Based on the above referenced Initial Study and based on the Project as defined in this resolution, no significant effect on the environment will occur and staff finds that a Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program
should be adopted pursuant to CEQA Section 21157.5 et seq. for the proposed projects.

5. The Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program will therefore be certified.

6. Finding 1 above provides the substantial evidence to support the certification and adoption of the Initial Study/Mitigated Negative Declaration and City Council finds that the document reflects the independent judgment of the lead agency.

7. As required by CEQA Section 21081.6 et seq., a Mitigation Monitoring and Reporting Program will be adopted by incorporating the mitigation measures into the project plan (Section 21081.6 (b)).

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning the project. The City of Modesto shall promptly notify the applicant of any claim, action or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Department Director is hereby authorized and
directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on the 27th day of June 2006, by Councilmember Marsh, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-413

A RESOLUTION APPOINTING A WATER BOND FINANCING TEAM CONSISTING OF JONES HALL, BOND COUNSEL; STRADLING YOCCA CARLSON & RAUTH, DISCLOSURE COUNSEL; PUBLIC FINANCIAL MANAGEMENT INC., FINANCIAL ADVISOR; BANC OF AMERICA SECURITIES LLC, UNDERWRITER, AND CITY STAFF WITH RESPECT TO THE PROPOSED ISSUANCE OF CERTAIN WATER REVENUE BONDS FOR FUTURE CONSIDERATION OF COUNCIL, AND AUTHORIZING SAID WATER BOND FINANCING TEAM TO PROCEED WITH ACTIONS NECESSARY FOR BOND DOCUMENT DEVELOPMENT

WHEREAS, pursuant to the City of Modesto Water Revenue Bond Law, constituting Chapter 6 of Title VIII of the Modesto Municipal Code (the “Bond Law”), the City of Modesto, California (the “City”) is authorized to issue revenue bonds to provide funds to finance the costs of the acquisition, construction and equipping of improvements to the water system of the City (the “Enterprise”) or for the purpose of refunding bonds issued for such purposes, and

WHEREAS, staff has identified the need to restructure water debt, issue water revenue bonds and prepare for the Modesto Irrigation District to issue bonds which will be considered as parity debt for the City of Modesto, and

WHEREAS, the City desires to appoint certain professionals to assist the City in connection with such proposed issuance, and to authorize such professionals and City staff to take all actions necessary, including the preparation of documents to effect such issuance, for future consideration by this City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby appoints Jones Hall, San Francisco, California, as Bond Counsel (“Bond Counsel”); Stradling Yocca Carlson & Rauth, A Professional Corporation of Newport
Beach, California, as the Disclosure Counsel to the City in connection with the issuance of water revenue bonds of the City; Public Financial Management Inc., San Francisco, California, as Financial Advisor ("Financial Advisor"), and Banc of America Securities LLC as the Underwriter.

BE IT FURTHER RESOLVED that City staff is hereby authorized and directed to proceed with any and all actions deemed necessary or advisable, including directing the finance professionals appointed pursuant to this Resolution, to begin preparation of documents in connection with the proposed issuance of the City’s water revenue bonds, for future consideration by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June, 2006, by Councilmember Dunbar, 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, 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
A RESOLUTION APPROVING AN AGREEMENT FOR BOND COUNSEL SERVICES WITH JONES HALL FOR THE 2006-2007 WATER REVENUE BONDS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT

WHEREAS, Public Works and Finance representatives developed a list of needs for new utility studies, and

WHEREAS, the objectives of the rate/fee studies are to ensure that the City's water infrastructure is developed and have a strategy for identifying and financing capital needs, and

WHEREAS, City staff desires the assistance of Jones Hall regard to the 2006-2007 Water Bond Financing,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves an Agreement For Legal Services with Jones Hall for bond counsel services for the 2006-2007 Water Bond Financing,

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 27th day of June 2006, by Councilmember Dunbar, 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, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By, SUSANA ALCALA WOOD, City Attorney

ATTEST: JHAN MORRIS, City Clerk
A RESOLUTION APPROVING A DISCLOSURE COUNSEL AGREEMENT WITH STRADLING YOCCA CARLSON & RAUTH FOR LEGAL SERVICES FOR THE 2006-2007 WATER REVENUE BONDS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT.

WHEREAS, Public Works and Finance representatives developed a list of needs for new utility studies, and

WHEREAS, the objectives of the rate/fee studies are to ensure that the City's water infrastructure is developed and have a strategy for identifying and financing capital needs, and

WHEREAS, City staff desires the assistance of Stradling Yocca Carlson & Rauth in regard to the 2006-2007 Water Bond Financing,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves a Disclosure Counsel Agreement for legal services with Stradling Yocca Carlson & Rauth for the 2006-2007 Water Bond Financing,

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 27th of June 2006, by Councilmember Dunbar, 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, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: J\(\text{e}n\) \text{M}or\(\text{r}\)is, City Clerk

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-416

A RESOLUTION ADOPTING PIERCE MANUFACTURING’S APPARATUS AS
THE STANDARD APPARATUS FOR THE MODESTO FIRE DEPARTMENT

WHEREAS, the Modesto Fire Department uses sixteen engine companies and
three truck companies in its current fire/life safety delivery system, and

WHEREAS, front line apparatus consists of twelve engine companies and three
truck companies, and

WHEREAS four reserve engines are utilized when front line apparatus are out-of-
service for repairs and/or when additional apparatus is needed to maintain our system
delivery, and

WHEREAS, in 1989 the Modesto Fire Department established an apparatus
committee consisting of our Senior Fire Mechanic and representation from all
suppression ranks, and

WHEREAS, their charge was to develop apparatus specifications and to review
the capabilities of fire apparatus manufacturing facilities, and

WHEREAS, Pierce Manufacturing was the successful manufacturer during this
process, and

WHEREAS, the City has since purchased twelve engines and three trucks from
Pierce Manufacturing, and

WHEREAS, product quality, reliability, and technical support realized from
Pierce Manufacturing over the past twelve years have contributed to maintaining our
operational costs and system reliability, and
WHEREAS, Pierce Manufacturing apparatus is sold in Northern California exclusively through Golden State Fire Apparatus, a business located and operated in the City of Modesto, and

WHEREAS, the Safety and Communities Committee approved this request on May 22, 2006 for recommendation to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts Pierce Manufacturing’s apparatus as the standard apparatus for the Modesto Fire Department.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, 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
RESOLUTION NO. 2006-417

A RESOLUTION APPROVING A SEVEN (7) YEAR PURCHASE AGREEMENT WITH PIERCE MANUFACTURING FOR FIRE APPARATUS

WHEREAS, the Modesto Fire Department uses sixteen engine companies and three truck companies in its current fire/life safety delivery system, and

WHEREAS, front line apparatus consists of twelve engine companies and three truck companies, and

WHEREAS four reserve engines are utilized when front line apparatus are out-of-service for repairs and/or when additional apparatus is needed to maintain our system delivery, and

WHEREAS, in 1989 the Modesto Fire Department established an apparatus committee consisting of our Senior Fire Mechanic and representation from all suppression ranks, and

WHEREAS, their charge was to develop apparatus specifications and to review the capabilities of fire apparatus manufacturing facilities, and

WHEREAS, Pierce Manufacturing was the successful manufacturer during this process, and

WHEREAS, the City has since purchased twelve engines and three trucks from Pierce Manufacturing, and

WHEREAS, product quality, reliability, and technical support realized from Pierce Manufacturing over the past twelve years have contributed to maintaining our operational costs and system reliability, and
WHEREAS, Pierce Manufacturing apparatus is sold in Northern California exclusively through Golden State Fire Apparatus, a business located and operated in the City of Modesto, and

WHEREAS, City staff will negotiate with Pierce Manufacturing an acceptable price increase based on the Consumer Price Index, and

WHEREAS, the agreement would contain an annual increase based upon either CPI or four (4) percent, whichever is less, and

WHEREAS, said agreement will be reviewed annually to ensure the City obtains the best pricing from Pierce Manufacturing, and

WHEREAS, the Safety and Communities Committee approved this request on May 22, 2006 for recommendation to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the establishment of a seven (7) year purchase agreement with Pierce Manufacturing for fire apparatus.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June, 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, 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. 2006-418

A RESOLUTION REJECTING THE SOLE BID FOR SIX (6) NEW, CURRENT YEAR/MODEL UTILITY TRUCKS, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A NEW REQUEST FOR BID FOR SIX (6) NEW, CURRENT YEAR/MODEL UTILITY TRUCKS FOR AN ESTIMATED TOTAL COST OF $332,000

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of six (6), new, current year/model utility trucks, and

WHEREAS, the vehicles requested consist of and will be used as follows:

- One (1), one (1) ton, DRW utility truck-This truck is to replace a current utility truck in the Traffic ENGINEERING Department. The old truck is being replaced because it has reached the end of its service life, and was on the scheduled replacement list approved by Council.

- One (1), crew cab & chassis F550 truck with utility body- This truck is to replace a current pickup in the Streets Department. The old truck is being replaced because it has reached the end of its service life, and was on the scheduled replacement list approved by Council.

- Two (2), Stencil trucks-These trucks are to replace two (2) current Stencil trucks in the Traffic Engineering Department. The old trucks are being replaced because they have reached the end of their service life, and were on the scheduled replacement list approved by Council.

- One (1), ¾ ton, regular cab, 2WD pickup- This truck is to replace a current pickup in the Streets Department. The old pickup is being replaced because it has reached the end of its service life, and was on the scheduled replacement list approved by Council.

- One (1), ¾ ton, crew cab, dumping flatbed/lifftgate pickup- This truck is to replace a current crew cab pickup with dump at John Therman Ball Field. The old pickup is being replaced because it has reached the end of its service life, and was on, and was on the scheduled replacement list approved by Council.

, and

WHEREAS, Resolution No. 2005-381 authorized the Purchasing Supervisor to solicit bids for new vehicles and heavy equipment throughout FY 05/06 through various
competitive processes, with the Purchasing Division coming back to Council for award and authorization, and

WHEREAS, the Purchasing Division solicited formal bids for six (6) new, current year/model utility trucks on Request for Bid (RFB) 0506-29, with a bid opening date of May 16, 2006, and

WHEREAS, twenty-eight (28) vendors were solicited of which five (5) were local vendors, and

WHEREAS, out of twenty-eight (28) vendors solicited, one (1) chose to respond to the RFB, and

WHEREAS, only one bid was received for one (1) crew cab & chassis F550 truck with utility body, with the bid amount exceeding the budgeted amount of $70,000, and

WHEREAS, the City can achieve the best value for dollars spent by rebidding the six (6) vehicles, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203, requires all purchases, which meet or exceed $50,000 for material, equipment, or contractual services to be formally bid, and

WHEREAS, the code also states that purchases whose total maximum cost to the City exceeds $50,000 shall receive preliminary approval of Council (MCC 8-3.203(a)), and

WHEREAS, the six (6) new, current year/model utility trucks received said approval with Resolution No. 2005-381, and

WHEREAS, this Request for Bid (RFB) process conforms to City Code, and
WHEREAS, funds are available in the following accounts: 7210-480-5814-5295 (Fleet Equipment, Replacement), 7210-480-5814-5291 (Fleet Equipment, Replacement), 7210-480-5814-5294 (Fleet Equipment, Replacement), 7210-480-5814-5311 (Fleet Equipment, Replacement), and 7210-480-5814-5290 (Fleet Equipment, Replacement), and 7210-480-5814-5292 (Fleet Equipment, Replacement) in the estimated amount of $332,000 for six (6) new, current year/model utility trucks, and

WHEREAS, the Purchasing Division and Public Works-Fleet Services Division staff evaluated bids,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rejects the sole bid received for one (1) crew cab & chassis F550 truck with utility body, and authorizes the Purchasing Manager to issue a new Request for Bid for six (6) new, current year/model utility trucks for the estimated total cost of $332,000.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a new Request for Bid (0506-29-1) for six (6) new, current year/model utility trucks as set forth herein.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of July 2006, 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, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-419

A RESOLUTION AUTHORIZING THE PERSONNEL DIRECTOR TO PREPARE AND RELEASE A REQUEST FOR PROPOSALS FOR A PROFESSIONAL SERVICES CONTRACT TO CONDUCT A COMPREHENSIVE CLASSIFICATION STUDY OF SELECT POSITIONS FOR THE CITY OF MODESTO

WHEREAS, the City's Classification Plan is long overdue for a comprehensive review, and

WHEREAS, the City Council has entered into agreements with the Modesto City Employees' Association (MCEA) and the Modesto Confidential and Management Association (MCMA), to conduct a comprehensive study of all positions that had not been reviewed within the 18 month period prior to the implementation of this comprehensive review, and

WHEREAS, the review will also exclude positions subject to review by the Clerical Review Committee, and

WHEREAS, this review will include non-sworn management classifications in the unrepresented group, and

WHEREAS, a comprehensive review is beyond the workload capacity of Personnel Department staff, and

WHEREAS, existing policy requires Council approval of all Requests for Proposals in excess of $50,000. This study is anticipated to exceed $50,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Personnel Director is hereby authorized to prepare and release a Request for Proposals as follows:
SECTION I. The City Clerk is hereby authorized to call for public competitive sealed proposals for a Comprehensive Classification Study for the City of Modesto to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed proposals in the time, form, and manner provided by law.

SECTION 2. After the sealed proposals are opened, they shall be tabulated and analyzed and a report submitted to Council.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of July 2006, 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, 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 STANDARD AGREEMENT FOR CONSULTANT SERVICES WITH BEeson, TAYER AND BODINE FOR NEGOTIATIONS TRAINING AND FACILITATION SERVICES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City desires to obtain the services of the firm of Beeson, Tayer and Bodine to provide negotiations training and facilitation relating to the Interest Based Negotiations model, and

WHEREAS, the firm of Beeson, Tayer and Bodine is specially trained, experienced and competent to perform such services, 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 the firm of Beeson, Tayer and Bodine with respect to training and negotiations facilitation.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement.
The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 5th day of July 2006, 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, 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
JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-421

A RESOLUTION AMENDING THE FISCAL YEAR 06-07 OPERATING BUDGET TO APPROPRIATE $26,000 FROM 0100-800-8000-8003 GENERAL FUND RESERVE TO 0100-030-0301-0235 PROFESSIONAL SERVICES TO PROVIDE FUNDING FOR INTEREST-BASED NEGOTIATIONS TRAINING AND NEGOTIATIONS FACILITATION WITH MODESTO CITY FIRE FIGHTERS ASSOCIATION

WHEREAS, the City Council desires to provide training for designated management and employee association representatives in interest-based bargaining principles and techniques and provide negotiations facilitation services, and

WHEREAS, the FY 06-07 costs associated with this training and negotiations facilitation with the Modesto City Fire Fighters Association are estimated at $26,000, and

WHEREAS, this expenditure has not yet been budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2006-07 Operating Budget is hereby amended to transfer $26,000 from the General Fund Reserve, 0100-800-8000-8003, to Personnel Department, Professional Services, 0100-030-0301-0235.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of July 2006, 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, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

Attest: Jean Morris

JEAN MORRIS, City Clerk

By: Susana Alcala Wood, City Attorney

WHEREAS, City staff has recommended approval of the plans and specifications for the “Reconstruction of The Sylvan Avenue and Roselle Avenue Intersection” project, and

WHEREAS, the bid received for “Reconstruction of the Sylvan Avenue and Roselle Avenue Intersection” project was opened at 11:00 a.m. on June 6, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $2,819,992.25 received from Teichert Construction, be accepted as the lowest responsible bid and the contract be awarded to Teichert Construction, and

WHEREAS, the City Council has received and considered the Written Checklist, Environmental Assessment No. EA/PW No. 2005-17, that concludes that the project entitled “Reconstruction of the Sylvan Avenue and Roselle Avenue Intersection,” is within the scope of the previously certified Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR and the Addendum to the EIR (SCH No.
90020181), and that, pursuant to Sections 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Teichert Construction, in the amount of $2,819,992.25, and hereby awards Teichert Construction, the contract titled “Reconstruction of the Sylvan Avenue and Roselle Avenue Intersection.”

BE IT FURTHER RESOLVED that the District Administrator, or his designee, is hereby authorized to execute the contract.

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

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

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

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

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

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

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

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

   d. mitigation measures or alternatives which are considerably
      different from those analyzed in the Program EIR would
      substantially reduce one or more significant effects on the
      environment, but the Project proponents decline to adopt
      the mitigation measure or alternative.
The City Council has received and considered the Written Checklist, Environmental Assessment EA/PW No. 2005-17, which provides the substantial evidence to support findings 1-4 above.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of July 2006, 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

APPROVED AS TO FORM:

By

SUSANA ÁLCALA WOOD, City Attorney

ATTEST: Jean Morris, City Clerk

JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-423

A RESOLUTION AMENDING THE FY 06-07 OPERATING AND CAPITAL IMPROVEMENT PROGRAM BUDGET TO DECREASE THE WATER CONTINGENCY ACCOUNT NUMBER 6100-800-8000-8003 BY $175,354 TO INCREASE A NEW CIP FOR SYLVAN/ROSELLE ROUNDABOUT WATER IMPROVEMENTS-SECONDARY CONSTRUCTION ACCOUNT NUMBER 6180-480-W798-6040 BY $159,413 AND CONSTRUCTION ADMINISTRATION ACCOUNT NUMBER 6180-480-W798-6060 BY $15,941

WHEREAS, the Village One Facilities Master Plan was updated in May 2003 and contains a prioritization list that contains all of the infrastructure projects that remain to be built in Village One, and

WHEREAS, the Sylvan/Roselle intersection improvement project was listed as a Priority 1 project, and

WHEREAS, the Sylvan/Roselle intersection improvement project includes the extension of waterlines that are part of the ultimate distribution and transmission grid identified by West Yost & Associates in the Hydraulic Model and the Tivoli Capacity Study, and

WHEREAS, this budget amendment is to provide funding for this project to include the following water line extensions and necessary valves: 1) Extension of 700 feet of 12" water line from the Sylvan/Roselle intersection up Roselle Avenue to the project limits, 2) Extension of 717 feet of 12" water line from the Sylvan/Roselle intersection west along Sylvan to the project limits, and 3) Extension of 421 feet of 16" water line from the Sylvan/Roselle intersection up Roselle Avenue, and

WHEREAS, the primary purpose for installing this waterline at this time is to avoid cutting new pavement at a later date, and
WHEREAS, these water improvements including valves and connections total $175,354 for construction and construction management, and

WHEREAS, funds were not included in the Village One #2 Community Facilities District to pay for these water improvements, and

WHEREAS, the water improvement portion of Teichert Construction's contract (and associated construction management costs) will be funded under the new secondary CIP Account 6180-480-W798-Sylvan/Roselle Roundabout Water Improvements - Secondary by a transfer of funds to decrease the Water Contingency Account 6100-800-8000-8003 by $175,354, and

WHEREAS, these costs will be ultimately paid by connection charges and development fees,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a reduction of $175,354 from the Water Contingency (6100-800-8000-8003), and an increase of $159,413 to the new CIP for Sylvan/Roselle Roundabout Water Improvements – Secondary Construction Account (6180-480-W798-6040) and $15,941 to Construction Administration Account (6180-480-W798-6060).

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the steps necessary to amend the Capital Improvement Program Budget.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of July 2006, 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

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney

ATTEST:  

JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-424

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH MARK THOMAS & COMPANY, INC., FOR DESIGN AND RIGHT-OF-WAY SUPPORT SERVICES IN THE AMOUNT OF $26,213.00, CONTRACT TOTAL OF $204,900.00, FOR ADDITIONAL WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT AND FOR REIMBURSABLE EXPENSES FOR THE PROJECT TITLED “PELANDALE AVENUE AT SISK ROAD AND STATE ROUTE 99 NORTHBOUND ON RAMP”, AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on September 7, 2004, the City Council by Resolution No. 2004-451 adopted the 2004/2005 Capital Improvement Program, and

WHEREAS, the 2004/2005 Capital Improvement Program included an intersection improvement project titled, “CIP H424: Pelandale Avenue - Sisk Road to SR99 Northbound On-Ramp”, and

WHEREAS, the intersection improvements at Pelandale Avenue at Sisk Road to SR99 Northbound On-Ramp are scheduled to commence in fiscal year 2006, and

WHEREAS, the project scope of work proposes extending the outside lane on Pelandale Avenue at the Costco frontage to Sisk Road and adding merging and weaving capacity for traffic entering the northbound SR99 on-ramp from Pelandale Avenue and Sisk Road, and

WHEREAS, extending the outside lane requires adjustment of existing MID irrigation lines; and adding the merging lane at the SR99 on-ramp requires additional right-of-way support services as determined by the City Attorney for right-of-way acquisition along the Pelandale, and
WHEREAS, the City has evaluated the cost and time benefit of phasing the MID irrigation line adjustment and the additional right-of-way support services in this combined amendment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement with Mark Thomas & Company, Inc., for additional work to CIP H424: Pelandale Avenue - Sisk Road to SR99 Northbound On-Ramp in the amount of $26,213 (Twenty-Six Thousand Two Hundred Thirteen Dollars) for providing complete plans, specifications, and cost estimates for extending the MID 30 inch irrigation line at Pelandale Avenue and Sisk Road, and providing additional Right-of-Way support services for the impacted parcels as requested by the City Attorney.

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 special meeting of the Council of the City of Modesto held on the 5th day of July 2006, 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, 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 APPROVING AND ADOPTING THE WATER SUPPLY ASSESSMENT (WSA) PREPARED FOR THE PROPOSED TIVOLI PROJECT (PROJECT), LOCATED IN THE NORTHEAST AREA OF THE CITY SPHERE OF INFLUENCE, WITHIN THE ROSELLE – CLARIBEL COMPREHENSIVE PLANNING DISTRICT (CPD) BORDERED BY SYLVAN AVENUE ON THE SOUTH, OAKDALE ROAD ON THE WEST AND ROSELLE AVENUE ON THE EAST. THE WSA HAS DETERMINED THAT AN ASSURED LONG-RANGE WATER SUPPLY FOR THE PROJECT CAN BE MADE ON THE CONDITION THAT TWO NEW WELLS IN THE VICINITY OF THE PROJECT ARE CONSTRUCTED TO ACCESS THE GROUNDWATER SUPPLY IN ADDITION TO THE PHASE 2 MODESTO IRRIGATION DISTRICT (MID) PROJECT AND CONJUNCTIVE USE WATER MANAGEMENT MEASURES AS IDENTIFIED IN THE WSA

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 project, and requires the governing legislative body to approve and adopt such assessments, and

WHEREAS the proposed Tivoli Project (Project) is 480 acres of land, located in the northeast area of the City Sphere of Influence within the Roselle – Clarabelle Comprehensive Planning District (CPD) bordered by Sylvan Avenue on the south Oakdale Road on the west and Roselle Avenue on the east, proposed to be developed with mixed use of low, medium, medium high density residential dwelling units, neighborhood and regional commercial uses, mixed use commercial, professional office, elementary school site and park open space, and

WHEREAS, Public Works staff completed a WSA for the Project, and
WHEREAS, a determination was made that an assured water supply for the Project is available on the condition that two new wells be developed in the vicinity of the Project prior to its completion in addition to the implementation of the Phase 2 Modesto Irrigation District (MID) project and conjunctive use water management measures as outlined in the WSA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Water Supply Assessment dated July 2006 for the proposed Tivoli Specific Plan 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 Tivoli Specific Plan, and that the WSA for the proposed Tivoli Specific Plan provides substantial evidence to support this determination.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of July 2006, 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, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-426

A RESOLUTION ACCEPTING THE WASTEWATER/SEWER NEAR TERM CAPACITY FUNDING REPORT AND DIRECTING STAFF TO RETURN WITH A PLAN TO COMPLETE THE FINANCING FOR THE PHASE 1 AND PHASE 1A CAPITAL COSTS

WHEREAS, the City Council has reviewed the Wastewater/Sewer Near Term Capacity Funding Report; and

WHEREAS, the Wastewater/Sewer Near Term Capacity Funding Report recommends a plan for financing those costs that are necessary to meet the near term capacity needs of the wastewater system; and

WHEREAS, the City Council concurs with the recommendations contained in the Wastewater/Sewer Near Term Capacity Funding Report;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Wastewater/Sewer Near Term Capacity Funding Report and directs city staff to return with a plan to complete the financing for the Phase 1 and Phase 1A capital costs.

BE IT FURTHER RESOLVED that this resolution shall become effective immediately upon adoption.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of July 2006, by Councilmember Dunbar, 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, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-427

A RESOLUTION APPROVING THE STANISLAUS COUNTY 30-YEAR COUNTYWIDE TRANSPORTATION FINANCIAL EXPENDITURE PLAN (EXPENDITURE PLAN) AND AUTHORIZING THE IMPOSITION OF A ONE HALF OF ONE PERCENT TAX ON RETAIL TRANSACTIONS TO FUND PROGRAMS AND PROJECTS DESCRIBED IN THE EXPENDITURE PLAN

WHEREAS, the Stanislaus Council of Governments is designated the Stanislaus County Local Transportation Authority (Authority), pursuant to the provisions of Public Utilities Code Section 1, Division 19 commencing with Section 180000, and

WHEREAS, pursuant to the provisions of the Public Utilities Code, a retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of a county may be imposed by the Authority if the tax ordinance is adopted by a two-thirds vote of the Authority and imposition of the tax is subsequently approved by a two-thirds vote of the electors voting on the measure at an election called for that purpose by the Board of Supervisors, at the request of the Authority, and a county transportation expenditure plan is adopted, and

WHEREAS, pursuant to the provisions of Public Utilities Code the Expenditure Plan which supports the tax ordinance must be approved by the Board of Supervisors and the city councils representing both a majority of the cities in the county and a majority of the population residing in the incorporated areas of the county, and

WHEREAS, the Stanislaus County 30-Year Countywide Transportation Financial Expenditure Plan (Expenditure Plan) was prepared by the Stanislaus Council of Governments in concert with community leaders, elected officials, management and
technical staff from member cities and the County and interested members of the general public, and

WHEREAS, the Expenditure Plan is aimed at remedying the existing and future deficiency in transportation funding in Stanislaus County while promoting reduced traffic congestion and improved air quality, and

WHEREAS, the Expenditure Plan calls for pavement management, street repairs, safety and operational improvements on local streets and roads, projects to reduce congestion on streets and highways, commuter rail transit and paratransit for seniors and disabled persons, and

WHEREAS, revenue to fund the Expenditure Plan will come from the passage of the one half percent (1/2 %) sales tax and will be limited to a 30-year period.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Stanislaus County 30-year Expenditure Plan.

BE IT FURTHER RESOLVED that the Council hereby authorizes the imposition of a one-half of one percent tax on retail transactions to fund programs and projects described in the Stanislaus County 30-year Expenditure Plan, a copy of which is on file in the Office of the City Clerk.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of July 2006, by Councilmember Dunbar, 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, Marsh, O’Bryant, Olsen, Mayor Ridenour

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

ATTEST: JANE MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-428

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF MARY ARIAS FROM THE PLANNING COMMISSION

WHEREAS, MARY ARIAS was appointed a member of the Planning Commission on November 9, 2004, and

WHEREAS, MARY ARIAS has tendered her resignation from the aforementioned committee, and

WHEREAS, MARY ARIAS 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 MARY ARIAS from the Planning Commission hereby is accepted with regret.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-429

A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE STANDARD CONSULTANT AGREEMENT BETWEEN THE CITY OF MODESTO AND GEORGE OSNER, AICP, FOR ON-CALL PLANNING AND ENVIRONMENTAL SUPPORT SERVICES FOR THE COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT AND PUBLIC WORKS DEPARTMENT, IN AN AMOUNT NOT TO EXCEED $90,000 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, on November 14, 2005, the City of Modesto entered into a Standard Agreement for consultant services with George Osner, AICP, Planning Consultant, to provide planning services for the Community & Economic Development Department, in an amount not to exceed $49,000, and

WHEREAS, the term of the current agreement continues through acceptance of payment for all services authorized by the City, in an amount not to exceed $49,999, and services rendered as of June 21, 2006 total $49,999, and

WHEREAS, Mr. Osner, AICP, is currently providing planning services to the Community & Economic Development Department, including interpreting and applying environmental quality laws, and regulations to ensure City projects are in compliance with State and Federal laws, assisting in preparing request for proposals, preparing amendments to the Zoning Code for review and consideration, preparing ordinances for review and consideration, developing recommendations and preparing planning reports on various development proposals and applications and special studies, preparing appropriate planning, statistical, financial and narrative reports with technical studies, preparing planning applications, brochures and handout material associated with the development review process, and

WHEREAS, Amendment No. 1 to the Standard Consultant Agreement with George Osner, AICP, Planning Consultant, expands the services to include planning services to the Community & Economic Development, Planning Division and to the Public Works Department, Capital Improvement Services Division, and

WHEREAS, the Community & Economic Development Department, Planning Division and the Public Works Department, Capital Improvement Services Division
perform a number of tasks requiring planning, environmental and processing support services that, because of workload levels, and/or staff experience, are beyond the ability of the City’s planning and engineering staff to accomplish in a timely manner, and

WHEREAS, the Community & Economic Development Department, Planning Division, and the Public Works Department, Capital Improvement Services Division has utilized the services of specialized consulting firms to perform targeted planning services, and

WHEREAS, George Osner, AICP, is familiar with the City’s standards, policies, municipal code and operating procedures, having provided prior services in conjunction with the City’s overall urban and environmental planning efforts, and has demonstrated satisfactory services to the City on past and current projects, and

WHEREAS, staff has selected Mr. Osner, AICP, to provide on-call planning and environmental support services because of his extensive experience in the planning field and on similar projects, and

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

WHEREAS, funding for the services to the Community and Economic Development Department is allocated in the FY 06/07 CEDD budget in the amount of $50,000, located in the 0235 Professional Services Object of organization 1430, and

WHEREAS, costs for on-call environmental planning support services for the Public Works Department, Capital Improvement Services (CIS) Division, will not exceed $40,000.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 1 to the Agreement between the City of Modesto and George Osner, AICP, Planning Consultant, for on-call planning and environmental support services for the Community & Economic Development Department, Planning Division and Public Works Department, Capital Improvement Services Division in an amount not to exceed $90,000, a copy of which is on file in the City Clerk’s office.

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 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

**AYES:** Councilmembers: Dunbar, 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:

SUSAN ALCALA WOOD, City Attorney
A RESOLUTION APPROVING AN AGREEMENT FOR MARCIA HERRMANN DESIGN TO COMPLETE THE MARKETING PLAN THE CITY OF MODESTO ECONOMIC DEVELOPMENT STRATEGY AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID CONTRACT.

WHEREAS, the economic development (ED) program for the City includes the creation of a marketing plan including the certain concepts, design and research, and

WHEREAS, staff has determined that Marcia Herrmann Design can provide the required services to complete said marketing design services, and

WHEREAS, staff recommends the approval of a Service Contract with Marcia Herrmann Design for said design services,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto does hereby approve the Agreement which is attached hereto as “Exhibit A” and made a part hereof by this reference for the Marcia Herrmann Design to complete the marketing plan for the City of Modesto economic development strategy in an amount not to exceed $36,000

BE IT FURTHER RESOLVED that the Council does hereby authorize and direct its City Manager, or his designee, to execute said Agreement for the development of said marketing plan.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July, 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, Olsen, Mayor Ridenour

NOES: Councilmembers: Keating, O’Bryant

ABSENT: Councilmembers: None

ATTEST Jean Morris, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
STANDARD AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT, made and entered into in the City of Modesto, State of California, this ___ day of _______________, 2006 by and between the CITY OF MODESTO, a municipal subdivision of the State of California, hereinafter referred to as "CITY", and Marcia Herrmann Design, __________, hereinafter referred to as "CONSULTANT".

This Agreement is made with regard to the following recitals:

A. The CITY intends to create a comprehensive marketing plan that is intended to compliment and supplement the marketing efforts of The Stanislaus County Alliance by focusing on the following four targeted areas: (1) Modesto Area Commercial Brokers, (2) Local Business which are experiencing strong growth, with an emphasis on the Financial and Medical sectors, (3) Local Branches of Regional or National Companies which are experiencing strong growth. (Satellites) and, (4) Agribusiness companies with emphasis on technology.

B. The CITY has determined that it needs assistance with the preparation of said marketing plan.

C. CONSULTANT represents that it is qualified, willing and able to provide the design and marketing assistance referenced above.

D. CONSULTANT acknowledges that it will coordinate its work with the CITY’s Business Development Division team members including the CITY’s management staff, as needed.

NOW, THEREFORE, in consideration of this agreement, and the mutual promises, covenants, and stipulations hereinafter contained, the parties agree as follows:

1. SCOPE OF SERVICES.
CONSULTANT shall undertake and complete the preparation of the scope of work as set forth and described in the documents attached hereto and referred to as Exhibit "A" or "project". The CONSULTANT shall perform the services as described in Exhibit "A" in a manner compatible with the standards of its profession, and shall produce a fully complete project that is acceptable to CITY.

2. TERM OF AGREEMENT.

This Agreement is effective as of the date first above written and will continue in effect until CITY's acceptance of and payment for all services authorized by CITY and performed by CONSULTANT, unless terminated earlier in accordance with the provisions of the termination clause in this Agreement.

CITY hereby gives CONSULTANT notice to proceed with the preparation of the project in the manner described in Exhibit "A", as of the effective date of this agreement. CONSULTANT shall diligently proceed with the preparation of the project and agrees to complete said preparation within the time period set forth in Exhibit "A", as measured from the date this Agreement is signed by the City Manager.

3. COMPENSATION.

CONSULTANT agrees to work on a time and materials basis for a sum not to exceed $36,000, as remuneration for performing the services called for in Exhibit "A", which is attached hereto and incorporated herein by this reference, and for performance by CONSULTANT of all of its duties and obligations under this Agreement. Monthly billing of time and materials shall be based upon the current schedule of hourly rates set forth in Exhibit “A”.

4. OBLIGATIONS OF CONSULTANT.
Throughout the term of this Agreement, CONSULTANT shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. CONSULTANT warrants that it has all of the necessary professional capabilities and experience, as well as all tools, instrumentalities, facilities and other resources necessary to provide the CITY with the services contemplated by this Agreement. CONSULTANT further warrants that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.

5. **PERFORMANCE BY KEY EMPLOYEE.**

CONSULTANT has represented to CITY that Marcia Herrmann will be the person primarily responsible for the performance of the services referred to in this Agreement. CITY has entered into this Agreement in reliance on that representation by CONSULTANT.

6. **OWNERSHIP OF DOCUMENTS/TITLE TO DATA.**

Ownership of Documents

All reports, drawings, designs, graphics, working papers and other incidental work or materials furnished hereunder shall become and remain the property of the CITY, and may be used by CITY as it may require without any additional cost to CITY. No reports shall be used by the CONSULTANT for purposes other than this contract without the express prior written consent of CITY. Any reuse of such materials by CITY for any project other than the project which is the subject of this agreement shall be at CITY’s sole risk.
Title to Data

If, as a part of the agreement, CONSULTANT is required to produce data such as, but not limited to, drawings, plans, specifications, calculations, models, flow diagrams, visual aids and other related materials, the originals of all such data generated under this agreement will be delivered to CITY upon the completion or termination of services under the contract.

All materials, documents, data or information obtained from the CITY data files or any CITY medium furnished to CONSULTANT in the performance of this Agreement will at all times remain the property of the CITY. Such data or information may not be used or copied for direct or indirect use by CONSULTANT after termination of this Agreement without written consent of the CITY.

7. NEWS AND INFORMATION RELEASE.

CONSULTANT agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from CITY through the City Manager.

8. INTEREST OF CONTRACTOR.

CONSULTANT warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONSULTANT warrants that, in performance of this Agreement, CONSULTANT shall not employ any person having any such interest. CONSULTANT agrees to file a Statement of Economic Interests with the City Clerk at the start and end of this contract if so required at the option of CITY.
9. AMENDMENTS.

Both parties to this Agreement understand that it may become desirable or necessary during the execution of this Agreement, for CITY or CONSULTANT to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with CITY and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work.

Until a change order is so executed, CITY will not be responsible to pay any charges CONSULTANT may incur in performing such additional services, and CONSULTANT shall not be required to perform any such additional services.

10. INDEPENDENT CONTRACTOR.

All acts of CONSULTANT, its agents, officers, and employees and all others acting on behalf of CONSULTANT relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers, or employees of CITY. CONSULTANT, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of CITY. CONSULTANT has no authority or responsibility to exercise any rights or power vested in the CITY. No agent, officer, or employee of the CITY is to be considered an employee of CONSULTANT. It is understood by both CONSULTANT and CITY that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

CONSULTANT, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent contractors and not as employees of CITY.
CONSULTANT shall determine the method, details and means of performing the work and services to be provided by CONSULTANT under this Agreement. CONSULTANT shall be responsible to CITY only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to CITY's control with respect to the physical action or activities of the CONSULTANT in fulfillment of this Agreement. CONSULTANT has control over the manner and means of performing the services under this Agreement. CONSULTANT is permitted to provide services to others during the same period service is provided to CITY under this Agreement. If necessary, CONSULTANT has the responsibility for employing other persons or firms to assist CONSULTANT in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by CONSULTANT, such persons shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the CONSULTANT.

It is understood and agreed that as an independent contractor and not an employee of CITY neither the CONSULTANT or CONSULTANT's assigned personnel shall have any entitlement as a CITY employee, right to act on behalf of the CITY in any capacity whatsoever as an agent, or to bind the CITY to any obligation whatsoever.

It is further understood and agreed that CONSULTANT must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of CONSULTANT's personnel.
As an independent contractor, CONSULTANT hereby indemnifies and holds CITY harmless from any and all claims that may be made against CITY based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

11. ASSIGNMENT.

Neither this Agreement nor any portion thereof shall be subcontracted or assigned without the express prior written consent of the CITY in each and every instance.

12. PATENT/COPYRIGHT MATERIALS.

Unless otherwise expressly provided in the contract, CONSULTANT shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the performance of this Agreement. CONSULTANT shall furnish a warranty of such right to use to CITY at the request of CITY.

13. NOTICES.

Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail if delivery is by postage paid registered or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time.

FOR CONSULTANT: Marcia Herrmann

FOR CITY: City of Modesto
Attention: Linda Boston
1010 Tenth Street, Suite 3300
14. **INSURANCE REQUIREMENTS.**

The CONSULTANT shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in the State of California and shall provide evidence of such insurance to the CITY as may be required by the Risk Manager of the CITY. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Risk Manager of the CITY by registered mail, postage pre-paid, for all of the following stated insurance policies.

(a) **Worker's Compensation** - in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of $500,000.

(b) **General Liability** insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and $100,000 for property damage or $1,000,000 combined single limit. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent CONSULTANTS and subcontractors; products and completed operations; and professional liability.

(c) **Automobile Liability** insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and $100,000 for property damage or $1,000,000 combined single limit. This insurance shall cover any automobile for bodily injury and property damage.
(d) Professional Liability insurance with a minimum limit of $1,000,000 per claim and policy aggregate.

If at any time any of said policies shall be unsatisfactory to the CITY, as to form or substance, or if a company issuing such policy shall be unsatisfactory to the CITY, the CONSULTANT shall promptly obtain a new policy, submit the same to the Risk Manager for approval and submit a certificate thereof as hereinabove provided. Upon failure of the CONSULTANT to furnish, deliver or maintain such insurance and certificates as above provided, this Agreement, at the election of the CITY, may be forthwith declared suspended, or terminated. Failure of the CONSULTANT to obtain and/or maintain any required insurance shall not relieve the CONSULTANT from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the CONSULTANT concerning indemnification. The CITY, its agents, officers, employees, and volunteers shall be named as an additional insured on all insurance policies required herein, except Workers' Compensation and Professional Liability. The Workers' Compensation insurer shall agree to waive all rights of subrogation against the CITY, its agents, officers, employees, and volunteers for losses arising from work performed by CONSULTANT for the CITY. The CONSULTANT's insurance policy(ies) shall include a provision that the coverage is primary as respects the CITY; shall include no special limitations to coverage provided to additional insured; and, shall be placed with insurer(s) with acceptable Best's rating of A:VII or with approval of the Risk Manager.

The CONSULTANT must deliver certificates evidencing existence of the insurance called for in the contract specifications to the City Clerk at the time the contract is signed. CONSULTANT shall provide CITY with separate endorsements evidencing proof of the CITY's additional insured status as to both the general liability and
automobile liability insurance policies. In addition, CONSULTANT shall provide CITY with a Workers Compensation subrogation waiver by way of a separate endorsement. All endorsements referenced above must include the applicable policy number.

For any claims related to this project, the CONSULTANT’S insurance coverage shall be primary insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the CONSULTANT’S insurance and shall not contribute with it.

15. TERMINATION OF AGREEMENT.

Termination on Occurrence of Stated Events

This Agreement shall terminate automatically on the date on which any of the following events occur: (1) bankruptcy or insolvency of CONSULTANT, (2) legal dissolution of CONSULTANT, or (3) death of key principal(s) of CONSULTANT.

Termination by CITY for Default of CONSULTANT

Should CONSULTANT default in the performance of this Agreement or materially breach any of its provisions, at its option CITY may terminate this Agreement by giving written notification to CONSULTANT. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to perform required services or duties, willful destruction of CITY’s property by CONSULTANT, dishonesty or theft.

Termination by CONSULTANT for Default of CITY

Should CITY default in the performance of this Agreement or materially breach any of its provisions, at its option CONSULTANT may terminate this Agreement by giving written notice to CITY. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to cooperate reasonably with
CONSULTANT, willful destruction of CONSULTANT's property by CITY, dishonesty or theft.

Termination by CITY for Lack of Budgeted Funds

The CITY may terminate this Agreement effective July 1 of any given year upon the CITY's determination to not appropriate sufficient funds for this Agreement for the ensuing fiscal year. In such event CITY shall give CONSULTANT not less than 30 days written notice.

Termination for Failure to Make Agreed-Upon Payments

Should CITY fail to pay CONSULTANT all or any part of the payments set forth in this Agreement on the date due, at its option CONSULTANT may terminate this Agreement if the failure is not remedied within thirty (30) days after CONSULTANT notifies CITY in writing of such failure to pay. The termination date shall be the effective date of the notice.

Termination by CITY for Change of CONSULTANT's Tax Status

If CITY determines that CONSULTANT does not meet the requirements of federal and state tax laws for independent contractor status, CITY may terminate this Agreement by giving written notice to CONSULTANT. The termination date shall be the effective date of the notice.

Voluntary Termination

Termination of this contract is in the unilateral discretion of either party upon ten (10) calendar days notice to the other.

In the Event of Termination

If this Agreement is terminated pursuant to this Paragraph, CONSULTANT shall cease all its work on the project as of the termination date and shall see to it that its employees, subcontractors and agents are notified of such termination and cease their work. If CITY so requests, and at CITY's cost, CONSULTANT shall provide sufficient oral or written status reports to make CITY reasonably aware of the status of
CONSULTANT's work on the project. Further, if CITY so requests, and at CITY’s cost, CONSULTANT shall deliver to CITY any work products whether in draft or final form which have been produced to date.

If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, CITY will pay CONSULTANT an amount based on the percentage of work completed on the termination date, this percentage shall be determined by CITY in its sole discretion. If the Agreement is terminated pursuant to the subparagraph entitled Termination by CITY for Default of CONSULTANT, CONSULTANT understands and agrees that CITY may, in CITY’s sole discretion, refuse to pay CONSULTANT for that portion of CONSULTANT’s services which were performed by CONSULTANT on the project prior to the termination date and which remain unacceptable and/or not useful to CITY as of the termination date.

16. INDEMNITY.

CONSULTANT shall defend, indemnify, and hold harmless CITY, its agents, officers, and employees from and against all claims, damages, losses, judgment, liabilities, expenses, and other costs including litigation costs and attorney’s fees from every cause, including but not limited to injury to person or property or wrongful death arising directly or indirectly out of any wrongful or negligent act or omission of CONSULTANT, its agents, officers and employees, accept if the act or omission arises from the sole negligence or other liability of CITY, or its agents, officers, and employees or volunteers relating to or during the performance of its obligations under this agreement.

CONSULTANT’s obligation to defend, indemnify, and hold the CITY, its agents, officers, and employees harmless under the provisions of this paragraph is not
limited to or restricted by any requirement in this Agreement for CONSULTANT to
procure and maintain a policy of insurance.

17. **ENTIRE AGREEMENT.**

This Agreement and its exhibits contain the entire understanding
between CONSULTANT and CITY. Additional or new terms contained in this
Agreement which vary from CONSULTANT’s proposal are controlling and are deemed
accepted by CONSULTANT by shipment of any article or other commencement of
performance hereunder. All previous proposals, offers and communications relative to
this Agreement, whether oral or written, are hereby superseded except to the extent that
they have been incorporated into this Agreement. No future waiver of or exception to
any of the terms, conditions, and provisions of this Agreement shall be considered valid
unless specifically agreed to in writing by all the parties.

18. **PARTIAL INVALIDITY.**

If any provision in this Agreement is held by a court of competent
jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall
nevertheless continue in full force without being impaired or invalidated in any way.

19. **WAIVER.**

The waiver by any party to this Agreement of a breach of any
provision hereof shall be in writing and shall not operate or be construed as a waiver of
any other or subsequent breach hereof unless specifically stated in writing.

20. **AUDIT.**

The CITY’s duly authorized representative shall have access at all
reasonable times to all reports, contract records, contract documents, contract files, and
personnel necessary to audit and verify CONSULTANT’s charges to CITY under this
Agreement.
CONSULTANT agrees to retain reports, records, documents, and files related to charges under this Agreement for a period of four (4) years following the date of final payment for CONSULTANT services. CITY's representative shall have the right to reproduce any of the aforesaid documents.

21. **GOVERNING LAW.**

This Agreement shall be governed according to the laws of the State of California.

22. **HEADINGS NOT CONTROLLING.**

Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

23. **COMPLIANCE WITH LAWS.**

CONSULTANT shall insure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and county safety and health regulations and laws. CONSULTANT shall fully comply with all applicable federal, state, and local laws, ordinances, regulations and permits. CONSULTANT will have a City of Modesto business license.
IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. _____, adopted by the Council of the City of Modesto on the ___ day of __________, 2006, and has caused this agreement to be duly executed.

CITY OF MODESTO

GEORGE W. BRITTON, City Manager

CONSULTANT*

Marcia Herrmann Design

CONSULTANT Federal ID #

ATTEST:

By: JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD
City Attorney

* Corporations - signature of two (2) officers required or one (1) officer plus corporate seal. Partnership - signature of a partner required Sole Proprietorship - signature of proprietor required
EXHIBIT “A”

SCOPE OF WORK and SCHEDULE OF FEES

The information below describes the cost for concepts, design and research to develop a brand campaign for the City of Modesto Economic Development Department. Marcia Herrmann Design will update the visual presence of the City of Modesto’s Economic Development Department. The current company portfolio reflects a series of different visual treatments that were created at various points in time to fulfill different business objectives. As a result the materials lack visual cohesiveness and clarity. After reviewing the past, present, and future objectives and gleaning a healthy understanding of the process that the City of Modesto Economic Development division offers businesses the brand strategy has been defined as follows. The design marketing materials will target males between 35-50 along with the following industries:

- Modesto Area Commercial Brokers
- Local Business which are experiencing strong growth, with an emphasis on the Financial and Medical sectors
- Local Branches of Regional or National Companies which are experiencing strong growth. (Satellites)
- Agribusiness companies with emphasis on technology.

The design marketing materials listed below will keep the identified target market in mind at all times. These demographics involve individuals who have limited time. They are looking for quick information that answer questions like - What does Modesto have to offer? Might Modesto fit with my clients needs? Can Modesto be a good fit for our business? Should we stay in Modesto or relocate? The visuals need to be strong not necessarily clever. The audience needs to get the message instantly and the information needs to be consistent with the promises building brand trust along the way. The concepts will be reflective of the final promise and tag line and become the mantra of the City of Modesto Economic Development division.

Marketing Materials will be divided into two phases with two proposals:
Phase 1: Finalizing the promise and tag lines, Corporate Identity design, Direct Mailer Postcards and Modesto Economic Development Brochure.
Phase 2: Website analysis and art direction, advertising campaign design and media placement. Phase 2 proposal will be sent once the concepts have been approved from Phase 1.

Finalizing Promise and Tag lines
$125 per hour not to exceed 15 hours $1,875
Time Frame - finalized by mid June once proposal accepted

Corporate Identity / Logo development:
The items to be included in the corporate identity package are the development of the corporate logo which is the entry point for any new brand development. The corporate logo facilitates brand consistency on all future collateral materials. Once the logo is selected it will be applied to the following business papers:
Letterhead, #10 business envelopes, window envelopes, mailing labels, 4-8 employee business cards, digital logo and digital fax form. Please let us know if we have forgotten any other business papers that will be needed.

Design Cost for Corporate Identity
Design of logo $3,500
Design and layout of all stationery items $1,800
Pre press costs for making all items print ready
$700
Time Frame - 4-6 weeks project to begin once proposal accepted
Not to exceed $6,000

2) Direct Mailer Postcards

The direct mail pieces are designed and printed in advance to convey new information to target markets in a timely manner. The postcards can be customized on the back with additional messages or information before being sent out. They are stored at the printer and are not trimmed out until they are ready to be sent to the mailing house. This allows for quick response and flexibility to your departments marketing needs. Based on the various concepts and topics listed below 8-12 cards will be designed. These postcard concepts can effectively be used as advertisements in magazines, newsletters and or billboards. When applied to advertising additional expense would be required based on size variations and production specifications rather than concept development.

The mailers will concepts will include:
A) Logo introduction - (1 card)
B) Promise introductions (1 card)
C) Recipe for success (case studies of local successful businesses) (2-4 cards)
D) Shepherding - (2 cards)
E) Testimonials (2 - 4 cards)
F) Stanislaus County Facts and Figures (1 card)
G) Department Profile
   1) planning
   2) permits and fees
   (making these areas user friendly - 2 cards)

Total cost for 8 - 12 postcards
Time frame 6-8 weeks once logo and promise have been completed
Not to exceed $13,000
3) The City of Modesto Economic Development Information Brochure
This brochure will provide quick information about what the City of Modesto Economic Development Department offers businesses. The brochure will provide facts and figures about Modesto, answer common questions, supply tips on how to get started. It should also describe the process the business will experience and how The Modesto City Economic Development division can make their interaction with the city rewarding. These will be used as handouts or can be sent with letters in #10 business envelopes.

Time Frame 6-8 weeks - brochure design begins once direct mailer design concepts have been approved.
Not to exceed $4,000

Additional expenses:
All vendor costs or out of pocket expenses required for production of camera ready art include i.e. color mock-ups, extensive photoshop work, file preparation, purchase of royalty free photography and illustration and copy writing.
Not to exceed $8,000

The items listed above will not exceed the total of $32,875 without sales tax

Does the city pay sales tax? (CA tax $2,424.53 = $35,299.53)

This does not include printing, specialty illustrations and professional photography. Phase 2 will be sent once the concepts have been approved from Phase 1.

Terms of engagement: 1/2 up front required to begin projects. $17,649.77
Remaining balance will be submitted with issued P.O. number once the above projects have been completed.

MHD reserves the right to modify the proposal should delays occur beyond MHD control or the time frame has been exceeded or a new target direction is requested. Should the brief need to be modified after job has begun change orders will be submitted to the client to keep costs and accountability established by both parties.

Contract will be sent once proposal has been accepted. Once deposit and signed contract are received work will commence.
A RESOLUTION AMENDING THE FISCAL YEAR 2005-2006 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 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 11th day of July 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Dunbar, 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: Susan Alcala Wood, City Attorney
SCHEDULE A

Finance Department

Capital Improvement Support Fund - Finance staff supports a variety of capital projects and some of these costs are credited to the Capital Improvement Support account. Projects worked on for the Public Works Engineering Divisions get reimbursed from CalTrans for administrative and financial charges related to capital projects. This action recognizes revenue received for this work. The budget adjustments are shown below:

<table>
<thead>
<tr>
<th>From:</th>
<th>To (Expense):</th>
<th>To (Revenue):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acct #0300-120-1240-0255</td>
<td>Acct #0300-410-4112-0255</td>
<td>Acct #0300-420-4212-0255</td>
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<tr>
<td>Acct #0300-410-4112-0255</td>
<td>Acct #0300-410-4112-4909</td>
<td>Acct #0300-420-4212-4909</td>
</tr>
<tr>
<td>$(51,250)</td>
<td>$ 25,625</td>
<td>$ 25,625</td>
</tr>
<tr>
<td>$ 25,625</td>
<td>$ 25,625</td>
<td>$ 25,625</td>
</tr>
</tbody>
</table>

Copier Fund #7100 – The Engineering/Solid Waste divisions are in need of a new copier. Fund #7100 has enough available cash in their reserve account to purchase the replacement copier. Funds in the amount of $25,000 will be moved to the Operating Account as shown below:

<table>
<thead>
<tr>
<th>From:</th>
<th>To:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acct #7100-800-8000-8003</td>
<td>Acct #7100-120-1252-5500</td>
</tr>
<tr>
<td>$(25,000)</td>
<td>$ 25,000</td>
</tr>
</tbody>
</table>

Public Works Department

Local Transportation Fund (LTF) – When the City receives LTF monies from the State; it is deposited into the LTF Reserve Account. This budget adjustment moves funds in the amount of $2,477,274 to the Special Gas Tax Fund to pay for a variety of streets projects as shown below:

<table>
<thead>
<tr>
<th>From:</th>
<th>To:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acct #0510-800-8000-8003</td>
<td>Acct #0700-800-8000-8003</td>
</tr>
<tr>
<td>$(2,477,274)</td>
<td>$ 2,477,274</td>
</tr>
</tbody>
</table>

Community and Economic Development Department

Creation of Multi-Year Operating Organization for a Developer funded Project:
The City of Modesto Financial Policies, adopted by the City Council on June 6, 2006, require City Council approval for the creation of any multi-year budget organization. We are therefore requesting approval of organization 0800-140-1455, Vintage Faire Mall Expansion Project, for the purpose of processing all planning related documents in connection with this project. The total cost of this project is anticipated to be $100,000 with all funding to be provided by the applicant.
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-432

A RESOLUTION APPROVING A TWO-YEAR LEASE RENEWAL WITH
STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION (STANCO)
FOR THE USE OF A CITY OWNED HOUSE AT 308 LOCUST STREET BY
STANCO’S TRANSITIONAL HOUSING PROGRAM AT THE COST OF $1.00
PER YEAR AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE
LEASE AGREEMENT.

WHEREAS, in 1988, the City received the property at 308 Locust Street during
the foreclosure process on a housing rehabilitation loan, and

WHEREAS, this house was then used for temporary relocations for households
being required to move while their units were being rehabilitated under the Housing
Maintenance Program, and

WHEREAS, in 1997, the City began leasing the home to Stanislaus County
Affordable Housing Corporation (STANCO) at the cost of $1.00 per year; the house was
not needed for relocations at that time and had been vacant, and

WHEREAS, STANCO has expressed interest in renewing the lease which expires
on July 13, 2006, and

WHEREAS, City staff anticipates relatively few temporary relocations from the
Housing Maintenance Program during the next year and the home is not located near the
current mandatory target area of Highway Village, and

WHEREAS, the Citizens Housing and Community Development Committee
(CH&CDC) recommended support of this item at its June 23, 2006, meeting,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves a two-year lease renewal with Stanislaus County Affordable
Housing Corporation (STANCO) for the use of a city-owned house at 308 Locust Street
by STANCO’s transitional housing program at the cost of $1.00 per year.

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

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 11th day of July, 2006, by Councilmember Dunbar, who
moved its adoption, which motion being duly seconded by Councilmember Marsh, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, 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. 2006-433

A RESOLUTION APPROVING AN AMENDMENT TO THE FISCAL YEAR 2005-2006 EMERGENCY SHELTER GRANT (ESG) AGREEMENT WITH THE SALVATION ARMY FOR THEIR WINTER EMERGENCY SHELTER AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN AND EXECUTE THE AMENDED AGREEMENT AND RELATED DOCUMENTS.

WHEREAS, on April 26, 2005, by Resolution No. 2005-202, the City Council approved the allocation of the public service grant funding for Fiscal year 2005-2006, and

WHEREAS, on April 26, 2005, the City Council authorized staff to conduct a second round of review for proposals for CDBG Homeless Services for $22,199 and Emergency Shelter Grant (ESG) funds for $81,380, and

WHEREAS, during the second round, staff recommended allocating the ESG funds to two (2) non-profit organizations for three (3) projects, and

WHEREAS, the Salvation Army was allocated funds for rent for its Winter Emergency Shelter in the amount of $51,784, and,

WHEREAS, on January 1, 2006, the Salvation Army requested an amendment to the ESG Winter Shelter Agreement to reallocate $24,000 from the winter shelter’s rent to staff costs due to the fact that the organization now owns the winter shelter building and no longer pays rent, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) recommended amending this agreement at its June 23, 2006, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the Fiscal Year 2005-2006 Emergency Shelter Grant (ESG) Agreement with the Salvation Army for their Winter Emergency Shelter to reallocate $24,000 from the winter shelter’s rent to staff costs.
BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager or his authorized designee is hereby authorized to sign and execute the amended agreement and related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, 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. 2006-434

A RESOLUTION APPROVING AN AMENDMENT TO THE FISCAL
YEAR 2005-2006 EMERGENCY SHELTER GRANT (ESG)
AGREEMENT WITH COMMUNITY HOUSING AND SHELTER
SERVICES (CHSS) FOR CASE MANAGEMENT AND AUTHORIZING
THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN AND EXECUTE
THE AMENDED AGREEMENT AND RELATED DOCUMENTS.

WHEREAS, on April 26, 2005, the City Council authorized staff to conduct a second
round of review for proposals for CDBG Homeless Services for $22,199 and Emergency Shelter
Grant (ESG) funds for $81,380, and

WHEREAS, during the second round, staff recommended allocating the ESG funds to
two (2) non-profit organizations for three (3) projects, and

WHEREAS, Community Housing and Support Services was allocated funds for
Emergency Shelter Case Management in the amount of $16,096, and

WHEREAS, on October 21, 2005, the Community Housing and Shelter Services (CHSS)
requested an amendment to the ESG Case Management Agreement to enable them to utilize
$7,200 of the total monies allocated for motel vouchers, since there was a need for more motel
vouchers for homeless families, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC)
recommended amending this agreement at its June 23, 2006, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it
hereby approves the approving an amendment to the Fiscal Year 2005-2006 Emergency Shelter
Grant (ESG) Agreement with Community Housing and Shelter Services (CHSS) for Case
Management to enable CHSS to utilize $7,200 of the total monies allocated for motel vouchers.
BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager or his authorized designee is hereby authorized to sign and execute the amended agreement and related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, 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. 2006-435

A RESOLUTION APPROVING AN AMENDMENT TO THE FISCAL YEAR 2005-2006 EMERGENCY SHELTER GRANT (ESG) AGREEMENT WITH COMMUNITY HOUSING AND SUPPORT SERVICES (CHSS) FOR LAURA’S HOUSE SEWER REPAIR AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN AND EXECUTE THE AMENDED AGREEMENT AND RELATED DOCUMENTS.

WHEREAS, on April 26, 2005, by Resolution No. 2005-202, the City Council approved the allocation of the public service grant funding for Fiscal year 2005-2006, and

WHEREAS, on April 26, 2005, the City Council authorized staff to conduct a second round of review for proposals for CDBG Homeless Services for $22,199 and Emergency Shelter Grant (ESG) funds for $81,380, and

WHEREAS, during the second round, staff recommended allocating the ESG funds to two non-profit organizations for three projects, and

WHEREAS, Community Housing and Support Services was allocated funds for Sewer Repair at Laura’s House in the amount of $13,500, and

WHEREAS, on May 19, 2006, the Community Housing and Shelter Services (CHSS) requested an amendment to the ESG Laura’s House Sewer Repair Agreement to enable them to utilize $2,530 of the total monies allocated for emergency deck repair, since there was a safety issue regarding the deck, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) recommended amending this agreement at its June 23, 2006, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the Fiscal Year 2005-2006 Emergency Shelter Grant (ESG) Agreement with Community Housing and Support Services (CHSS) for Laura’s House Sewer to...
repair a bathroom on the second floor, instead of repairing a damaged ceiling and garbage disposal at an estimated cost of $2,891.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, 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. 2006-436

A RESOLUTION APPROVING AN AMENDMENT TO THE FISCAL
YEAR 2005-2006 EMERGENCY SHELTER GRANT (ESG)
AGREEMENT WITH THE CENTER FOR HUMAN SERVICES (CHS)
FOR HUTTON HOUSE REPAIRS AND MAINTENANCE AND
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN
AND EXECUTE THE AMENDED AGREEMENT AND RELATED
DOCUMENTS.

WHEREAS, on April 26, 2005, by Resolution No. 2005-202, the City Council approved
the allocation of the public service grant funding for Fiscal year 2005-2006, and

WHEREAS, the Center for Human Services (CHS) received an allocation of Emergency
Shelter Grant (ESG) funds for $8,971 to be utilized for repairs and maintenance of the Hutton
House Youth Shelter, and

WHEREAS, on May 15, 2006, CHS requested to amend the Agreement to repair a
bathroom on the second floor, instead of repairing a damaged ceiling and garbage disposal at an
estimated cost of $2,891, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC)
recommended amending the agreement with the Center for Human Services at its June 23, 2006,
meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it
hereby approves an amendment to the Fiscal Year 2005-2006 Emergency Shelter Grant (ESG)
Agreement with the Center for Human Services (CHS) for Hutton House Repairs and
Maintenance to repair a bathroom on the second floor, instead of repairing a damaged ceiling and
garbage disposal at an estimated cost of $2,891.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City
Manager or his authorized designee is hereby authorized to sign and execute the amended
agreement and related documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, 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. 2006-437

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH THE MODESTO SENIOR HOUSING INVESTORS CHANGING THE TERMS OF THE HOME LOAN FOR SHERWOOD MANOR AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE HOME AMENDMENT TO THE AGREEMENT.

WHEREAS, on February 14, 1994, the City Council, by Resolution No. 94-425, approved the allocation of a loan in the amount of $85,000 in HOME funds to Modesto Senior Housing Investors for the development of a senior housing project known as Sherwood Manor located at 725 Maze Blvd., Modesto, and

WHEREAS, this is a 38 unit elderly affordable housing complex, although only two units are HOME assisted, and

WHEREAS, one of the HOME units must be rented to a household earning no more than fifty percent (50%) of the Area Median Income (AMI), and the other unit must be rented to a household earning no more than sixty percent (60%) of the AMI, and

WHEREAS, the City of Modesto and Modesto Senior Housing Investors executed an agreement with the following terms: the interest compounds annually; the interest was at the applicable Federal Rate in effect on the date of the loan closing, which was 6.01% annually; the loan is amortized for 30 years; and, the City could at its discretion forgive the loan if the property provides affordable units for senior citizens, and

WHEREAS, the Modesto Senior Housing Investors are requesting that the City of Modesto forgive the loan or reduce the compounded interest rate to a simple interest rate retroactive to 1994, and
WHEREAS, staff has calculated the interest accumulated for the past 10 years to be $67,367; the interest plus the principal due in 30 years will be $489,580, and

WHEREAS, if the terms of the loan change to a 3% simple interest, the balloon payment at the end of the 30 years will be $161,500, and

WHEREAS, staff is recommending to reduce the compound interest rate to a simple interest rate, and to change the interest rate to an annual rate of 3%, and

WHEREAS, the intent of the HOME funds is to provide funding for the development of affordable housing; by reducing the rate and charging a simple rate this senior complex will be able to maintain its affordability and to repay the loan, and

WHEREAS, at this point staff is not recommending forgiveness of the loan in order to collect program income for future affordable housing development, and

WHEREAS, the Citizens Housing and Community Development Committee met on June 23, 2006, and supported the recommendation to reduce the compound interest rate to a simple interest rate, and to change the interest rate to an annual rate of 3%,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the amendment to agreement with the Modesto Senior Housing Investors changing the terms of the HOME loans for Sherwood Manor.

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 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, 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. 2006-438

A RESOLUTION APPROVING HOME COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) AGREEMENT WITH HABITAT FOR HUMANITY OF STANISLAUS TO ALLOCATE SET ASIDE FUNDS IN THE AMOUNT OF $196,612 FOR THE PREDEVELOPMENT OF HOPE VILLAGE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE HOME CHDO AGREEMENT.

WHEREAS, the City of Modesto receives annual entitlements from the U.S. Department of Housing and Urban Development (HUD) based on the population size, number of households living below poverty level and number of sub-standard housing units, and

WHEREAS, a percentage of the HOME Investment Partnership Program (HOME) entitlement plus estimated program income may be allocated for the purposes of providing assistance consistent with the functions of HOME funding, and

WHEREAS, Community Housing Development Organization (CHDO) funds can be allocated only to non-profit organizations that have been approved by the City of Modesto as CHDOs, and are active in Modesto and operating in compliance with the HOME regulations, and

WHEREAS, in Fiscal Year 2005-2006, HUD allocated $1,310,745 in HOME entitlement funds and $35,832 in American Dream Down payment Initiative (ADDI) funds to the City of Modesto and staff estimated program income to be $150,000; which brings the total of HOME funds up to $1,496,577, and

WHEREAS, on May 24, 2005, the City Council, by Resolution No. 2005-279, approved the City of Modesto draft 2005-2006 HUD Annual Action Plan, which included
the allocation of $196,612 CHDO set-aside to cover the project costs of affordable housing, and

WHEREAS, ON January 10, 2006, letters were sent to the three eligible CHDOs (Habitat for Humanity Stanislaus, ACLC, Inc. and STANCO) inviting them to submit a Letter of Interest were sent to the CHDOs on January 10, 2006, and

WHEREAS, a review committee consisting of a Councilmember and two members of the Citizens Housing and Community Development (CH&CDC) recommended that CHDO set aside funds in the amount of $196,612 be allocated to ACLC, Inc. for the acquisition and rehabilitation of Cameron Villa to preserve 68 affordable rental units, and

WHEREAS, since that time, ACLC, Inc. has withdrawn its application, and

WHEREAS, the HOME CHDO funding process and recommendation were discussed at CH&CDC meetings on October 28, 2005, and June 23, 2006, and

WHEREAS, at the June 23, 2006, CH&CDC meeting, the committee recommended allocating the CHDO set aside funds in the amount of $196,612 to Habitat for Humanity of Stanislaus for the predevelopment of Hope Village,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a HOME Community Housing Development Organization (CHDO) agreement with Habitat For Humanity Of Stanislaus to allocate set aside funds in the amount of $196,612 for the predevelopment of Hope Village and authorizing the City Manager to execute the HOME CHDO agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, 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. 2006-439

A RESOLUTION APPROVING A HOME COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) AGREEMENT WITH HABITAT FOR HUMANITY OF STANISLAUS TO ALLOCATE OPERATING FUNDS TO IN THE AMOUNT OF $65,537 TO CONTINUE ASSISTING WITH THE OPERATIONAL COSTS OF THE ORGANIZATION TO CONTINUE WITH THE DEVELOPMENT OF HOPE VILLAGE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE HOME CHDO AGREEMENT.

WHEREAS, the City of Modesto receives annual entitlements from the U.S. Department of Housing and Urban Development (HUD) based on the population size, number of households living below poverty level and number of sub-standard housing units, and

WHEREAS, a percentage of the HOME Investment Partnership Program (HOME) entitlement plus estimated program income may be allocated for the purposes of providing assistance consistent with the functions of HOME funding, and

WHEREAS, Community Housing Development Organization (CHDO) funds can be allocated only to non-profit organizations that have been approved by the City of Modesto as CHDOs, and are active in Modesto and operating in compliance with the HOME regulations, and

WHEREAS, in Fiscal Year 2005-2006, HUD allocated $1,310,745 in HOME entitlement funds and $35,832 in American Dream Down payment Initiative (ADDI) funds to the City of Modesto and staff estimated program income to be $150,000; which brings the total of HOME funds up to $1,496,577, and

WHEREAS, on May 24, 2005, the City Council, by Resolution No. 2005-279, approved the City of Modesto draft 2005-2006 HUD Annual Action Plan, which included...
the allocation of $65,537 in CHDO Operating funds to assist with the operational costs of the organization, and

WHEREAS, on January 10, 2006, letters were sent to the three eligible CHDOs (Habitat for Humanity Stanislaus, ACLC, Inc. and STANCO) inviting them to submit a Letter of Interest, and

WHEREAS, a review committee consisting of a Councilmember and two members of the Citizens Housing and Community Development Committee (CH&CDC) recommended that CHDO Operating funds in the amount of $65,537 be allocated to Habitat for Humanity Stanislaus to continue assisting with the operational costs of the organization to continue with the development of Hope Village, and

WHEREAS, the HOME CHDO funding process and recommendation were discussed at CH&CDC meetings on October 28, 2005, and June 23, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a HOME Community Housing Development Organization (CHDO) agreement with Habitat for Humanity of Stanislaus to allocate operating funds to in the amount of $65,537 to continue assisting with the operational costs of the organization to continue with the development of Hope Village.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the HOME CHDO agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: [Signature]
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: [Signature]
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-440

A RESOLUTION AMENDING THE FISCAL YEAR 06-07 BUDGET TO REALLOCATE $196,612 IN FY 05-06 COMMUNITY HOUSING DEVELOPMENT ORGANIZATION SET-ASIDE FROM THE HOME FUND RESERVE, 1170-800-8000-8003, TO 1170-320-3259-0508, AND TO REALLOCATE $65,537 IN FY 05-06 COMMUNITY DEVELOPMENT OPERATING FUNDS FROM THE HOME FUND RESERVE, 1170-800-8000-8003, TO 1170-320-3259-0509.

WHEREAS, the City of Modesto receives annual entitlements from the U.S. Department of Housing and Urban Development (HUD) based on the population size, number of households living below poverty level and number of sub-standard housing units, and

WHEREAS, a percentage of the HOME Investment Partnership Program (HOME) entitlement plus estimated program income may be allocated for the purposes of providing assistance consistent with the functions of HOME funding, and

WHEREAS, Community Housing Development Organization (CHDO) funds can be allocated only to non-profit organizations that have been approved by the City of Modesto as CHDOs, and are active in Modesto and operating in compliance with the HOME regulations, and

WHEREAS, on May 24, 2005, the City Council, by Resolution No. 2005-279, approved the City of Modesto draft 2005-2006 HUD Annual Action Plan, which included the allocation of $196,612 CHDO set-aside to cover the project costs of affordable housing and $65,537 in CHDO Operating funds to assist with the operational costs of the organization, and

WHEREAS, a review committee recommended allocating CHDO set aside funds in the amount of $196,612 to ACLC, Inc. for the acquisition and rehabilitation of
Cameron Villa to preserve 68 affordable rental units and CHDO Operating funds in the amount of $65,537 to Habitat for Humanity Stanislaus to continue assisting with the operational costs of the organization to continue with the development of Hope Village, and

WHEREAS, since that time ACLC, Inc. has withdrawn its application, and

WHEREAS at its June 23, 2006, meeting the Citizens Housing and Community Development Committee recommended allocating CHDO set aside funds in the amount of $196,612 to Habitat for Humanity of Stanislaus for predevelopment of Hope Village,

WHEREAS, these funds were budgeted but not expended in Fiscal Year 2005-06 and therefore need to be reallocated from the HOME Fund reserve,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 06-07 budget to reallocate $196,612 in FY 05-06 Community Housing Development Organization set-aside from the HOME Fund reserve, 1170-800-8000-8003, to 1170-320-3259-0508, and to reallocate $65,537 in FY 05-06 Community Development operating funds from the HOME Fund reserve, 1170-800-8000-8003, to 1170-320-3259-0509.

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 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

Attest: Jean Morris
JEAN MORRIS, City Clerk

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-441

A RESOLUTION APPROVING A STANDARD AGREEMENT FOR
CONSULTANT SERVICES WITH MANAGEMENT PARTNERS,
INCORPORATED, AND AUTHORIZING THE CITY MANAGER, OR HIS
DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City desires to obtain the services of Management Partners, Incorporated
(Management Partners) to provide an organizational assessment, and

WHEREAS, the City desires to enter into a Standard Consultant Agreement with
Management Partners in the total amount of $37,900 which includes professional fees and
expenses, and

WHEREAS, the firm of Management Partners is specially trained, experienced and
competent to conduct an organizational assessment of 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 the firm of Management
Partners, Incorporated in the amount of $37,900 with respect to conducting an organizational
assessment.

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 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, 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
JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-442

A RESOLUTION AMENDING THE FISCAL YEAR 06-07 OPERATING BUDGET TO APPROPRIATE $37,900 FROM 0100-800-8000-8003 GENERAL FUND RESERVE TO 0100-020-0201-0235 PROFESSIONAL SERVICES TO PROVIDE FUNDING FOR ORGANIZATIONAL ASSESSMENT.

WHEREAS, the City Council desires to implement an organizational assessment in preparation for creating a new business plan, and

WHEREAS, the FY 06-07 costs associated with this organizational assessment total $37,900, and

WHEREAS, this expenditure has not yet been budgeted,

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

that the Fiscal Year 2006-07 Operating Budget is hereby amended to transfer $37,900 from the General Fund Reserve, 0100-800-8000-8003, to the City Manager’s Department, Professional Services, 0100-020-0201-0235.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

Attest: Jean Morris, City Clerk

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-443

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH WOOD RODGERS INC. FOR DESIGN SERVICES IN THE AMOUNT OF $51,060.00, CONTRACT TOTAL OF $695,383.00, FOR ADDITIONAL WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT AND FOR REIMBURSABLE EXPENSES FOR THE PROJECT TITLED “PELANDALE AVENUE 6-LANE WIDENING - DALE ROAD TO MCHENRY AVENUE” AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT.

WHEREAS, the widening of Pelandale Avenue to full six-lane expressway status is scheduled to commence fiscal year 2006, and

WHEREAS, the roadway improvements will convert Pelandale Avenue to full Expressway status with three (3) new westbound lanes and two (2) new eastbound lanes from Dale Road to McHenry Avenue, and

WHEREAS, within the project limits of the Pelandale Avenue widening project, the City plans to install an extension of an existing 12 inch water main requiring open cut excavation, and

WHEREAS, the City has evaluated the cost and time benefit of phasing the waterline construction with the Pelandale Avenue roadwork, and

WHEREAS, the construction of the waterline prior to final pavement installation on Pelandale Avenue will avoid future traffic disruption, eliminate the need to remove and restore sections of newly constructed asphalt pavement, and will offer the most effective cost and time alternative for both projects, and

WHEREAS, an amendment to the current consultant design contract for the Pelandale Avenue 6-Lane Widening – Dale Road to McHenry Avenue Project is necessary in order to facilitate design and construction of the waterline, and
WHEREAS, the roadway improvements will convert Pelandale Avenue to full Expressway status with three (3) new westbound lanes and two (2) new eastbound lanes from Dale Road to McHenry Avenue, and

WHEREAS, at the Pelandale/McHenry intersection the City plans to extend the easterly limit of work by 1,800 feet to accommodate required lane transition design east of McHenry Avenue, and

WHEREAS, an amendment to the current consultant design contract for providing the lane transition design east of McHenry Avenue to accommodate the Pelandale 6-Lane Widening Project is necessary in order to facilitate design and construction of the overall project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement between the City of Modesto and Wood Rodgers, Inc. in the amount of $51,060 (Fifty-one Thousand Sixty Dollars) for additional work to complete plans, specifications, and cost estimates for the construction of 3,900 linear feet of 12 inch waterline to be located within the Pelandale Avenue right-of-way, and providing complete plans, specifications, and cost estimates for construction of an eastbound lane transition east of McHenry Avenue and including design plans in the Pelandale Avenue 6-Lane Widening – Dale Road to McHenry Avenue project.

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 11th day of July, 2006, by Councilmember Dunbar, who
moved its adoption, which motion being duly seconded by Councilmember Marsh, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, 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. 2006-444

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH STANTEC CONSULTING, INC., FOR ADDITIONAL WORK REQUESTED BY THE CITY, IN THE AMOUNT OF $8,000, TO COMPLETE THE EVALUATION OF THE STORM DRAIN CROSS CONNECTIONS TO THE SANITARY SEWER SYSTEM AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AMENDMENT

WHEREAS, part of the ongoing work to update the Wastewater Master Plan and complete the Engineer’s Report (needed to update the wastewater utility rates and connection fees), is to determine how best to minimize the amount of storm water runoff entering into the sanitary sewer system, and

WHEREAS, on August 23, 2005, the City entered into an Agreement with Stantec Consulting, Inc., (Stantec) for $25,000, to conduct a study that would determine how best to eliminate as many of the storm drainage cross connections to the sanitary sewer system as possible, and

WHEREAS, the original scope of work included an examination of possible methods to eliminate indirect cross connections associated with the pumping, of standing surface water into the sanitary sewer system within storm drainage “hot zones” (areas that experience frequent flooding), and

WHEREAS, in order for the outcome of this work to be more usable for the ongoing wastewater studies, an amendment to the current consultant contract for the Storm Drain Cross Connections to the Sanitary Sewer System is necessary for the following additional technical analysis to be completed: 1) That the cross connection locations be evaluated for a lower cost initial phase of implementation, and 2) That the study include possible solutions for removing storm drainage cross connections in the downtown area, and

WHEREAS, the additional work identified above is specialized and City staff does not have the time or expertise to conduct this level of analysis to enable this project to be completed in a timely manner, and
WHEREAS, the original Agreement was for $25,000 and the additional work associated with this Amendment is $8,000, which will increase the total Agreement to an amount not-to-exceed $33,000, and

WHEREAS, the current budgeted amount of $8,000 for the Amendment to Agreement is available in the CIP Account “Wastewater Master Plan Update” 6210-430-A208-6010 to cover the cost for these additional services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement between City of Modesto and Stantec Consulting, Inc. in the amount of $8,000 for additional services related to the Evaluation of the Storm Drainage Cross Connections to the Sanitary Sewer System analysis.

BE IT FURTHER RESOLVED that the City Manager, or 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 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, 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. 2006 – 445

A RESOLUTION APPROVING THE ACCEPTANCE OF AN AIRPORT IMPROVEMENT PROGRAM GRANT IN THE AMOUNT OF $285,000 FROM THE FEDERAL AVIATION ADMINISTRATION TO FUND THE IMPLEMENTATION OF AN AIRPORT NOISE PROGRAM AT THE MODESTO CITY-COUNTY AIRPORT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE ACCEPTANCE OF THE GRANT ON BEHALF OF THE CITY.

WHEREAS, Modesto City-County Airport’s noise contours have changed due to newer and quieter aircraft that use the airport, and

WHEREAS, on March 28, 2006, the City Council authorized staff to submit a grant application to the Federal Aviation Administration (FAA), in the amount of $1 million for funding of Airport Capital Improvement Plan projects approved by the FAA, and

WHEREAS, the FAA notified the City that an AIP Grant Offer of $285,000 has been made for funding of airport development or noise program implementation, and,

WHEREAS, this Grant Offer must be accepted on or before July 30, 2006, and

WHEREAS, acceptance of the grant will provide the City with the funds to conduct a Part 150 noise study,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the acceptance of an Airport Improvement Program grant in the amount of $285,000 from the Federal Aviation Administration to fund the implementation of an Airport Noise program at the Modesto City-County Airport.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the acceptance of the grant on behalf of the City of Modesto.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, 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. 2006 – 446

A RESOLUTION ACCEPTING A DEED OF AVIGATION AND HAZARD EASEMENT FROM BEARD LAND IMPROVEMENT COMPANY THAT ALLOWS AIRCRAFT FLIGHT OVER COMMERCIAL PROPERTY ON FINCH ROAD ADJACENT TO THE MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE CITY MANAGER TO SIGN THE ACCEPTANCE OF THIS EASEMENT ON BEHALF OF THE CITY.

WHEREAS, Beard Land Improvement Company intends to sell real property located on Finch Road in the City of Modesto adjacent to Modesto City-County Airport, and

WHEREAS, Modesto City-County Airport is an active airport with commercial and general aviation aircraft arrivals and departures that will be flying over and near the parcel of land that is being sold, and

WHEREAS, Beard Land Improvement Company has provided the City of Modesto with a Deed of Avigation and Hazard Easement (Deed), at no cost, that will assign perpetual, assignable easement in and over the real property named in that document, and

WHEREAS, the Deed gives the Airport certain rights that ensure safe flight over that property, and authorizes access to the property for specific purposes stated in the Deed, and

WHEREAS, the Deed dedicates easement and right-of-way that will allow continued flight operations at Modesto City-County Airport,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Deed of Avigation and Hazard Easement from Beard Land Improvement Company, that allows aircraft flight over commercial property on Finch Road adjacent to the Modesto City-County Airport.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to sign the Deed of Avigation and Hazard Easement on behalf of the City of Modesto.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, 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 CONSULTANT SERVICES AGREEMENT WITH NICHOLS CONSULTING ENGINEERS, CHTD. IN THE AMOUNT OF $27,250.00 FOR PAVEMENT TESTING, EVALUATION, AND ANALYSIS REPORT IN CONNECTION WITH DESIGN OF 9TH STREET, H STREET AND I STREET REHABILITATION, AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, 9th Street from L Street to MID Lateral No. 4, 9th Street from B Street to D Street, H Street from 17th Street to Burney Street, and I Street from 14th Street to Downey Avenue are included in the City’s 05-06 Pavement Maintenance Program for rehabilitation, and

WHEREAS, pavement testing and analysis of the deflection results are needed to determine thickness of required overlays or to determine the need for street reconstruction if overlay of the existing pavement is not feasible, and

WHEREAS, the firm of Nichols Consulting Engineers is deemed the most qualified to provide the requested pavement testing services and have demonstrated satisfactory pavement testing services to the City in the past, and

WHEREAS, as an example, Nichols Consulting Engineers provided pavement testing, evaluation and analysis report in connection with Kansas Avenue-Carpenter Road to Emerald Avenue, and

WHEREAS, Nichols Consulting Engineers is a highly qualified firm recognized for their expertise in pavement testing and analysis, and they have rendered excellent services to the City in the past, and

WHEREAS, as a result, City staff recommends that City Council approve an Agreement with the consulting firm of Nichols Consulting Engineers, Chtd.,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Nichols Consulting Engineers, Chtd., in the amount of $27,250.00 for the pavement testing, evaluation, and analysis report in connection with design of 9th Street, H Street and I Street Rehabilitation.

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 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By
Susana Alcala Wood, City Attorney

7/11/06/PW/Dean Phillips/Item 22 -2- 2006-447
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-448

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PUMP STATION FOR WELL 64 AT MCKINNEY COLONY PARK PROJECT, ACCEPTING THE BID AND APPROVING A $965,618.06 CONTRACT WITH AMERINE SYSTEMS, INC., FOR THE PROJECT TITLED, "PUMP STATION FOR WELL 64 AT MCKINNEY COLONY PARK," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the "Pump Station For Well 64 at McKinney Colony Park" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Pump Station For Well 64 at McKinney Colony Park" were opened at 11:00 a.m. on June 13, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $965,618.06 received from Amerine Systems, Inc., of Oakdale, California be accepted as the lowest responsible bid and the contract be awarded to Amerine Systems, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Amerine Systems, Inc., in the amount $965,618.06, and hereby awards Amerine Systems, Inc., the contract titled "Pump Station For Well 64 at McKinney Colony Park".

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July, 2006, by Councilmember Dunbar, who
moved its adoption, which motion being duly seconded by Councilmember Marsh, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-449

A RESOLUTION REJECTING THE SOLE BID FOR THE PROJECT TITLED “SYLVAN AVENUE PEDESTRIAN OVERCROSSING” AND AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT AT A FUTURE DATE

WHEREAS, the sole bid received for “Sylvan Avenue Pedestrian Overcrossing” was opened at 11:00 a.m. on May 2, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, a sole bid by MCM Construction, Inc., was 112.5% above the engineer’s estimate, and

WHEREAS, the sole bid for the project exceeded the engineer’s estimate by an excessive amount, and

WHEREAS, the plans included a metal canopy over the pedestrian walkway to complement the high school architecture, and

WHEREAS, the sole bid included a bid for the canopy that was approximately 23% of the total bid, and

WHEREAS, staff recommends that the canopy be deleted from the plans and replaced with a Caltrans’ standard fence, and

WHEREAS, during the bid evaluation process staff determined that there was insufficient bid competition. 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 sole bid received for “Sylvan Avenue Pedestrian Overcrossing,” opened in the office of the City Clerk on May 2, 2006, 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 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:  Councilmembers:  Dunbar, 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. 2006 – 450

A RESOLUTION APPROVING THE "POLICY REGARDING THE DETERMINATION OF REASONABLE CERTAINTY FOR THE PROVISION OF WASTEWATER TREATMENT AND DISPOSAL CAPACITY" FOR THE DETERMINATION OF REASONABLE CERTAINTY FOR THE IMPLEMENTATION OF UTILITY IMPROVEMENTS.

WHEREAS, the City of Modesto is in the process of updating its 1995 Wastewater Master Plan (WWMP), and

WHEREAS, the WWMP will be used for overall planning for both the wastewater collection and the wastewater treatment and disposal system, and

WHEREAS, the WWMP will provide staff with tools to identify improvements that are needed to repair existing deficiencies, accommodate future development, and meet anticipated regulatory requirements, and

WHEREAS, permitting, design, and construction of a full scale advance treatment facility is a lengthy process it is essential to consider short-term improvements as an interim step to allow for continued development within the City, and

WHEREAS, on October 4, 2005, by Resolution No. 2005-496, the City Council authorized Carollo Engineers of Walnut Creek, California (Carollo) to develop a Near-term Capacity Study (Study) to analyze interim solutions for treated effluent disposal, and

WHEREAS, this Study concluded that adding Dissolved Air Flotation (DAF) with tertiary treatment for year-round discharge into the San Joaquin River is the most cost effective and compatible alternative to reduce the City's risk of exceeding its regulatory permits, and to meet the City's long-term wastewater treatment and disposal objectives, and

WHEREAS, the Finance Committee considered this item at its March 13, 2006 meeting and recommended approval to the full Council, and
WHEREAS, at its April 4, 2006 meeting, the Council, by Resolution No. 2006-220, adopted the Study’s findings and recommendations, and

WHEREAS, staff developed a proposed policy to address how to proceed with annexations and related actions ahead of the completion of wastewater improvements and facilities for the disposal of tertiary treated effluent, and

WHEREAS, this proposed policy is based on a concept of making a determination of “reasonable certainty”, which would only be applied on a case-by-case basis, and would only be needed during times where wastewater capacity is not available “on paper”, and

WHEREAS, staff presented the proposed policy to the Economic Development Committee (EDC) on June 12, 2006, and

WHEREAS, the EDC provided several comments and suggestions regarding the proposed policy, and

WHEREAS, staff incorporated the comments and suggestions into a draft policy format attached hereto as Exhibit “A”, and

WHEREAS, the Economic Development Committee, at its July 10, 2006 meeting, and recommended approval by full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the “Policy Regarding the Determination of Reasonable Certainty for the Provision of Wastewater Treatment and Disposal Capacity” for the determination of reasonable certainty for the implementation of utility improvements attached hereto as Exhibit “A” and incorporated herein by reference.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, 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
POLICY REGARDING THE DETERMINATION OF REASONABLE CERTAINTY FOR THE PROVISION OF WASTEWATER TREATMENT AND DISPOSAL CAPACITY

PURPOSE: To clarify the provision of wastewater treatment and disposal capacity for the purpose of annexations during the development of interim wastewater facilities and improvements.

BACKGROUND: The City of Modesto is updating its 1995 Wastewater Master Plan (WWMP). The WWMP demonstrates that there is approximately 1.6 million gallon per day discharge capacity deficit for treated effluent. The WWMP has identified wastewater treatment improvements that can be implemented in a short period of time to as an interim step to provide disposal capacity and allow development to proceed within the City of Modesto.

The wastewater disposal capacity deficit makes it difficult to proceed with annexations due to the need to demonstrate the ability to serve areas proposed for annexation. The disposal capacity issue hinders economic development and the development of housing, therefore a policy that defines reasonable certainty for the delivery of wastewater treatment and disposal capacity is essential for continued development. The following policy provides a framework for making a determination of reasonable certainty. It should be noted that this policy only applies to the Near Term Capacity Improvements that are being made as part of the WWMP update and this policy will no longer be needed once the improvements are completed.

POLICY: It is the policy of the City of Modesto that a finding of reasonable certainty can be made for the provision of wastewater treatment and disposal capacity for the purposes of annexation based on the following guidelines:

1) An adopted engineering solution (capital improvement plan) is in place that provides a schedule and anticipated dates of completion for the development and construction of the required facilities and improvements.

2) A financing program, or mechanism to fund the required facilities and improvements is identified and being developed per the schedule for completion.

3) The necessary regulatory approvals (i.e. environmental documentation, permits) to proceed with the required facilities and improvements per the schedule for completion are either obtained or in the process of being obtained.

4) A review of the timing for the need of sewer service for development and the timing for the completion of the required facilities and improvements is completed to ensure that the City’s wastewater disposal capacity remains within an acceptable percentile for river disposal.

IMPLEMENTATION: The City Public Works Department shall apply the guidelines to proposed annexations to determine if there is reasonable certainty regarding the provision of wastewater treatment and disposal capacity for the area being considered for annexation. This determination will be presented to the City Council as a part of the annexation process. This determination will not be required once the Near Term Capacity Improvements are completed. The completion of these improvements will allow for the “sunsetting” of this policy.
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-451

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS IN THE KODIAK VILLAGE III SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AND AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION AND AUTHORIZING TO RELEASE THE SECURITIES UPON EXPIRATION OF THE STATUTORY PERIODS

WHEREAS, PPC TUOLUMNE GROVE 2 LLC, a California Limited Liability Company, is the subdivider of KODIAK VILLAGE III SUBDIVISION ("SUBDIVISION"), and

WHEREAS, PPC TUOLUMNE GROVE 2 LLC, a California Limited Liability Company, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $379,116.97 and $189,558.49, respectively, and

WHEREAS, PPC TUOLUMNE GROVE 2 LLC, a California Limited Liability Company, has filed a warranty bond in the amount of $37,911.70 to guarantee improvements in the KODIAK VILLAGE III SUBDIVISION, and

WHEREAS, the City Engineer, 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 City Engineer has indicated that it would be in order for the City Council to accept the improvements in said subdivision as complete, and authorize the City Clerk to record a Notice of Completion and release the bonds upon expiration of the statutory periods,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The improvements in the KODIAK VILLAGE III SUBDIVISION are hereby accepted and the City Clerk is hereby authorized to record a Notice of Completion for the improvements.

2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $379,116.97 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 $189,558.49 sixty (60) days after the 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 improvements in the amount of $37,911.70 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 11th day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By

SUSANA WOOD, City Attorney

ATTEST: Jean Morris, City Clerk

07/11/2006/PW/B Sandhu/Item 26 3 2006-451
A RESOLUTION GRANTING THE APPEAL OF DAVID O. ROMANO TO A PLANNING COMMISSION DECISION DETERMINING THAT A SUPERMARKET IS NOT CONSISTENT WITH THE REGIONAL COMMERCIAL GENERAL PLAN AND SPECIFIC PLAN DESIGNATIONS FOR THE NORTHPOINTE SHOPPING CENTER LOCATED AT THE NORTHEAST CORNER OF PELANDALE AVENUE AND CHAPMAN ROAD

WHEREAS, on December 16, 1999, by Ordinance No. 3163-C.S. the City Council approved P-D(537) to allow the development of a regional shopping center located on the north side of Pelandale Avenue on either side of Chapman Road, which has subsequently been partially developed as the Northpointe Shopping Center, and

WHEREAS, the Modesto Urban Area General Plan designates the site of the Northpointe Shopping Center site as Regional Commercial “to provide for large-scale commercial areas for the sale of goods and services which meet the needs of the region as well as the community”, and

WHEREAS, the shopping center site is located in the Kiernan Business Park Specific Plan, which also designates the site as Regional Commercial “to accommodate limited retail uses that are generally dependent on a regional rather than a local population for their support”, and

WHEREAS, an application to locate a grocery store in the undeveloped portion of the shopping center located at the northeast corner of Pelandale Avenue and Chapman Road, was filed by Dave Romano on May 9, 2006, and
WHEREAS, the Community and Economic Development Director determined to refer the application to the Planning Commission for a determination as to whether a grocery store would be consistent with the Regional Commercial General Plan and Specific Plan Designations for the site, and

WHEREAS, a hearing was held by the Planning Commission on June 5, 2006, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, the Planning Commission determined by its Resolution No. 2006-45, after much deliberation, that a grocery store use is not consistent with the Regional Commercial General Plan and Specific Plan Designations for the Northpointe Shopping Center site, on the basis that the Commission was concerned that allowing a grocery store use in an area designated as Regional Commercial is contrary to the City Council-adopted definitions in the Modesto Urban Area General Plan and Kiernan Business Park Specific Plan, and

WHEREAS, an appeal to the Planning Commission’s determination was filed with the Office of the City Clerk by David O. Romano, on June 9, 2006, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council at its regular meeting place located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at 5:30 p.m. on July 11, 2006, at which time said public hearing was held and evidence both oral and documentary was received and considered, and
WHEREAS, after said public hearing the Council of the City of Modesto found and determined that the appeal to the decision of the Planning Commission should be granted and the decision of the Planning Commission should be reversed for the following reason:

A grocery store use in the Northpointe Shopping Center, which is designated as Regional Commercial in the Modesto Urban Area General Plan and Kiernan Business Park Specific Plan, is consistent with the City Council-adopted definitions, as the Northpointe Shopping Center is a well-established regional commercial center which already contains two regional-serving anchor stores, and a grocery store would be considered an ancillary use in this context.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of David O. Romano to the decision of the Planning Commission determining that a supermarket is not consistent with the Regional Commercial General Plan and Specific Plan designations for the Northpointe Shopping Center located at the northeast corner of Pelandale Avenue and Chapman Road is granted and the Council hereby determines that a grocery store use in the Northpointe Shopping Center is consistent with the Regional Commercial General Plan and Specific Plan designations for the Northpointe Shopping Center for the reasons cited above.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July, 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: 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