MODESTO CITY COUNCIL
RESOLUTION NO. 2006-121

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH ROSS G. STEPHENSON ASSOCIATES, INC., IN THE AMOUNT OF $30,253, EXPANDING THE SCOPE OF WORK BY EXPANDING THE LIMITS OF THE PROJECT TITLED “ROSELLE & FLOYD INTERSECTION WIDENING,” AND AUTHORIZING THE DISTRICT ADMINISTRATOR TO EXECUTE THE AMENDMENT

WHEREAS, on October 26, 2004, the City Council approved a Professional Services Agreement with Ross G. Stephenson Associates, Inc., in the amount of $92,385, to develop engineering plans for the design of the Roundabout at the Floyd & Roselle Intersection, and

WHEREAS, the City has requested that the contract be modified to allow for additional roadway widening on Roselle from the Roundabout at Floyd to Belharbour, and on Floyd from the Roundabout at Roselle to approximately 300’ east, and

WHEREAS, widening on Floyd Avenue, east of Oakdale Road, the construction of the new Enochs High School, and continued residential and commercial development in the area will ease traffic congestion, and

WHEREAS, widening the roadways with one construction project will keep from waiting for development and constructing in phases, and

WHEREAS, all construction funds are programmed in the Community Facilities District 2004-1 (Village One #2), and

WHEREAS, modifying the design contract with Ross G. Stephenson Associates, Inc., will have a financial impact to the project of $30,253.00 for the cost of additional scope of work, and
WHEREAS, Ross G. Stephenson Associates, Inc., will expedite the completion of
the design of the expanded Floyd & Roselle Intersection Widening project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the Amendment to Agreement with Ross G. Stephenson
Associates, Inc., in the amount of $30,253, expanding the scope of work by expanding
the limits of the project titled “Roselle & Floyd Intersection Widening.”

BE IT FURTHER RESOLVED that the District Administrator, 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 28th day of February 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:  

APPROVED AS TO FORM:

By  

RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-122

A RESOLUTION APPROVING THE FINAL MAP OF SCENIC BEND ESTATES SUBDIVISION IN THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH JAMES E. COLEMAN AND SUSANN G. COLEMAN

WHEREAS, JAMES E. COLEMAN AND SUSANN G. COLEMAN, Husband and Wife as community property, are possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 4.75 acres, known as SCENIC BEND ESTATES ("SUBDIVISION"), and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 14th day of February, 2005, and

WHEREAS, the Secretary of the Planning Commission of the City of Modesto and the City Engineer have certified that the final map of said tract substantially conforms to the approved tentative map, and

WHEREAS, the City Engineer of the City of Modesto has certified that the final map of said SUBDIVISION meets all of the provisions of the California Subdivision Map Act and the provisions of the Modesto Municipal Code relating to subdivisions, and that the map is technically correct,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that said final map be approved; that the dedications for public streets and easements as shown thereon within the boundaries of said tract be accepted on behalf of the public for public use; and that the City Clerk be authorized to certify the map of said tract on behalf of the City of Modesto after the fees and deposits required by the Modesto Municipal Code in amounts determined by the City Engineer have been paid; and after subdivider
has furnished securities, as set forth in Section 4-4.605 of the Modesto Municipal Code, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California. Said securities shall be in forms acceptable to the City Attorney and in the amounts required by the City Engineer.

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with subdivider as required by Section 4-4.604(c) of the Modesto Municipal Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February 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 ZAHN, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-123

A RESOLUTION ACCEPTING THE STAFF REPORT ON WASTE MANAGEMENT'S PERFORMANCE DURING THE PERIOD OF JANUARY 1, 2004 THROUGH DECEMBER 31, 2005, AND AUTHORIZING STAFF TO ENTER INTO NEGOTIATIONS WITH WASTE MANAGEMENT FOR A NEW LONGER-TERM SERVICE AGREEMENT

WHEREAS, on November 1, 1997, the City executed a Service Agreement with Modesto Garbage Company, Inc., D.B.A. Modesto Disposal Service, which was then a subsidiary of USA Waste of California, which later acquired Waste Management and changed the name of the corporate parent to Waste Management, for a term through January 1, 2007, and

WHEREAS, while the term of this Service Agreement with Waste Management was for 10 years, due to concerns about the corporation’s problems in other cities, the City Council added a provision to the Service Agreement to allow the City to terminate the agreement on January 1, 2004, if the City found the company did not meet certain performance standards to the satisfaction of the City, and

WHEREAS, pursuant to Modesto Municipal Code Section 5-5.33, the City Council held a public hearing, on Thursday, November 13, 2003, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which hearing the Council heard a report from City staff detailing that over a 3-year period, the company had violated multiple provisions of Section b.1. of their Service Agreement, and

WHEREAS, at said hearing, having considered evidence presented by staff as well as testimony from the Company and members of the public, the Council terminated the Service Agreement with Waste Management (D.B.A. Modesto Disposal Service)
effective January 1, 2004, authorized the City Manager to execute a one (1) year Interim Agreement with Waste Management allowing them to continue providing service through January 2005, authorized the City Manager to extend the Interim Agreement for a total of two (2) one-year extensions if the company fully complied with the service requirements of the City, and required Waste Management to compensate the City for staff time expended in the resolution of customer service complaints, and

WHEREAS, the Interim Agreement required the City to review Waste Management’s performance at 9-month intervals to determine whether the company was making progress in complying with the terms and conditions of the Agreement, and

WHEREAS, as a result of the first 9-month review, the Interim Agreement was extended through January 2006, and

WHEREAS, as a result of the second 9-month review, the Interim Agreement was extended through January 2007, and staff was directed to conduct a final performance review covering the period through December 31, 2005, and

WHEREAS, staff has conducted the final review, and believes that the performance improvements reflected by the service logs and the improved operations at Waste Management’s transfer station warrant entering into a longer-term agreement with Waste Management, and

WHEREAS, staff presented a recommendation to the Economic Development Committee at its February 13, 2006, that staff be authorized to enter into negotiations on a longer term agreement with Waste Management, and
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby authorizes staff to enter into negotiations with Waste Management on a new longer term contract.

The foregoing resolution was introduced at a public meeting of the Council of the City of Modesto held on the 28th day of February 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: __________________________
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By __________________________
RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-124

A RESOLUTION APPROVING AUDIT COMMITTEE RECOMMENDATIONS TO ACCEPT THE AUDITOR'S REPORT ON PUBLIC WORKS DEPARTMENT WASTEWATER DIVISION OPERATIONS, TO REQUEST THE CITY ATTORNEY TO REVIEW THE CITY CHARTER AND MUNICIPAL CODE FOR VIOLATIONS LISTED IN THE AUDITOR'S REPORT, AND TO PERFORM AN AUDIT OF THE PUBLIC WORKS DEPARTMENT WASTEWATER DIVISIONS UTILIZING AN EXTERNAL AUDIT FIRM

WHEREAS, at its April 5, 2005, meeting the Modesto City Council, by motion, assigned to the City Clerk & Auditor's Office an engagement to perform agreed-upon-procedures in the Public Works wastewater divisions, and

WHEREAS, the report on this assignment was presented to the Audit Committee on February 1, 2006,

WHEREAS, the Audit Committee accepted the report, and made the following three recommendations to the Modesto City Council:

1) to accept the Senior Auditor's report on this engagement,
2) to request the Interim City Attorney to review the City Charter and Municipal Code for possible violations listed in the auditor's report, and
3) to perform an audit of the Public Works Department utilizing services of an external audit firm, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby 1) accepts the auditor's report on agreed-upon procedures performed in the Public Works Department Wastewater Divisions, 2) requests the City Attorney to review the City Charter and Municipal Code for possible violations listed in the auditor's report, and to determine responsible parties for those violations, and 3) authorizes Gary
Nienhuis, Senior Auditor, to obtain proposals from external audit firms for a financial audit of the Public Works Department Wastewater Operations, commencing with the date of formation of the Public Works Department by integration of the former Operations and Maintenance Department and the former Engineering and Transportation Department.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February 2006, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Marsh

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney

RESCINDED

MAR - 7 2006

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. _MOTION_
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-124A

A RESOLUTION APPROVING THE ISSUANCE OF A 30-DAY INTENT TO TERMINATE LETTER AND TERMINATION OF THE AGREEMENT BETWEEN THE CITY OF MODESTO AND FORESIGHT CONSULTING

WHEREAS, the City entered into an agreement for the preparation of a study to determine water, waste water and connection fees with Foresight Consulting in December 2003; and

WHEREAS, a review of the actual requirements for the preparation of the wastewater user fees and wastewater connection fees has established that a firm with more staffing and software resources is needed to complete the studies of these fees; and

WHEREAS, the City Council has determined that it is in the best interests of the City to terminate the agreement with Foresight Consulting by issuing a 30-day Intent to Terminate Letter as provided for in the agreement;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Finance Director to issue a 30-day Intent to Terminate Letter to Foresight Consulting immediately.

BE IT FURTHER RESOLVED that the agreement with Foresight Consulting will terminate at the end of the 30-day period prescribed in the Intent to Terminate Letter.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February 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, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: Keating, O'Bryant

ABSENT: Councilmembers: None

ATTEST: Jean Zahn, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-125

A RESOLUTION APPROVING THE APPEAL BY CHARLES EVINS, ON BEHALF OF THE NEW BETHANY MISSIONARY BAPTIST CHURCH, TO AN ADMINISTRATIVE DECISION BY THE CITY ATTORNEY’S OFFICE REQUIRING THE RECORDATION OF A PARKING COVENANT TO SATISFY OFF-STREET PARKING REQUIREMENTS

WHEREAS, on February 26, 2004, by Resolution No. 2004-07, the Board of Zoning Adjustment approved in concept a proposal by the New Bethany Missionary Baptist Church (“Church”) to construct a 300-seat auditorium on property located at 315 6th Street; and

WHEREAS, Condition No. 2 of Resolution No. 2004-07 requires that prior to issuance of a building permit for the expansion, the Church shall submit revised plans showing all off-street parking as required by Article 20 of the Modesto Municipal Code; and,

WHEREAS, the Church is required to provide a total of 38 off-street parking spaces for the proposed expansion, 4 of which can be accommodated on the Church’s property; and

WHEREAS, the Church has proposed to provide the additional 34 off-street parking spaces through a joint use parking arrangement on property owned by Wille Electric, a neighboring business; and,

WHEREAS, Modesto Municipal Code Section 2.2002(h) allows joint use parking arrangements between properties owned by different parties provided a covenant is recorded against the property on which the parking is located, in a form consistent with the requirements set forth in Section 2.2002(h) and in a form approved by the City Attorney; and,
WHEREAS, in December 2005, Reverend Charles Evins, on behalf of the Church, verbally requested that the City Attorney’s office waive the requirement that the parking covenant be recorded; and,

WHEREAS, on December 15, 2005, the City Attorney’s Office issued a letter denying Reverend Evins’ request and advised him of his right to appeal the decision to the Board of Zoning Adjustment; and,

WHEREAS, on January 13, 2006, Reverend Evins filed a timely appeal to the decision of the City Attorney’s Office pursuant to Modesto Municipal Code Section 10-2.2801; and,

WHEREAS, on February 2, 2006, at 10:00 a.m. or as soon thereafter as the matter could be heard, at the Council Chambers, 1010 Tenth Street, Modesto, California, the Board of Zoning Adjustment heard and considered the appeal by Reverend Evins at which hearing evidence both oral and documentary was received and considered; and,

WHEREAS, at the close of the hearing, the Board of Zoning Adjustment determined that the appeal should be referred to the City Council for a final determination, with a recommendation that the appeal be denied; and,

WHEREAS, on February 28, 2006, at 5:30 p.m. or as soon thereafter as the matter could be heard, at the Council Chambers, 1010 Tenth Street, Modesto, California, the City Council held a duly noticed public hearing to consider the above-mentioned appeal at which hearing evidence both oral and documentary was received and considered.

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

1. The foregoing recitals are true and correct.
2. The Council has received and considered all oral and documentary evidence as presented at the appeal.

3. The Council finds and determines that The New Bethany Missionary Church is located in an existing building which has been on the site for over 100 years, that the Church is located in the downtown area and that it is a nonprofit use.

4. Based on the above findings and considerations, the Council hereby grants the appeal of Charles Evins, on behalf of the New Bethany Missionary Church, to the administrative decision by the City Attorney’s Office requiring the recordation of a parking covenant to satisfy off-street parking requirements for the proposed expansion of the Church.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February 2006, by Councilmember Dunbar, who moved its adoption which motion being duly seconded by Councilmember Olsen, which upon roll call carried and the resolution adopted by the following vote:

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

APPROVED AS TO FORM:

By: RICHARD REDNANSKY, Interim City Attorney
A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF JAMES DAVIS FROM THE AIRPORT ADVISORY COMMITTEE

WHEREAS, JAMES DAVIS was appointed a member of the Airport Advisory Committee on March 23, 2004, and

WHEREAS, JAMES DAVIS has tendered his resignation from the aforementioned committee, and

WHEREAS, JAMES DAVIS 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 JAMES DAVIS from the Airport Advisory Committee hereby is accepted with regret.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of March 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: Hawn, Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney

03/07/06/CMO/E Puckett/Item 4
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-127

A RESOLUTION APPROVING AMENDMENT NO. 2 TO THE AGREEMENT BETWEEN THE CITY OF MODESTO AND JONES AND STOKES ASSOCIATES FOR WORK ON AN ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED COMMERCIAL/OFFICE PROJECT, THE PROMENADE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 2 TO THE AGREEMENT IN AN AMOUNT NOT TO EXCEED $41,626

WHEREAS, Setrok Limited Partnership has applied for a general plan amendment and rezoning to a planned development zone to allow 198,350 square feet of specialty retail shops and restaurants, a 68,000 square foot multi-screen theater, 91,350 square feet of offices and a 108-room, three-story hotel on property located on the west side of Dale Road, north of the Vintage Faire Mall (The Promenade), and

WHEREAS, Section 21080.1 of the California Public Resources Code requires the City of Modesto, as lead agency, to make a determination of whether an environmental impact report is required for projects, and

WHEREAS, the City has determined that an environmental impact report is required for the proposed Promenade project, and

WHEREAS, on December 10, 2002, the City Council approved a list of environmental service providers, including the firm of Jones and Stokes, to assist with the preparation of environmental impact reports and other environmental documents, and

WHEREAS, City staff selected Jones and Stokes to prepare the environmental impact report for The Promenade because they had an organized project team at the time of the selection interviews and the sub-consultant they had selected to do the traffic analysis had just completed work in this quadrant of the City for the Kaiser Medical Center project, and
WHEREAS, on July 13, 2004, the City Council adopted Resolution No. 2004-349, approving an agreement with Jones and Stokes Associates for work on an environmental impact report ("EIR") for a proposed commercial/office project, the Promenade, in an amount not to exceed $173,552 ("Agreement"), and

WHEREAS, on May 24, 2005, the City Council adopted Resolution No. 2005-260, approving Amendment No. 1 for additional traffic analysis and services beyond the scope of the Agreement to provide consistency between the Promenade and Kaiser Environmental Impact Reports, in an amount not to exceed $59,956, and

WHEREAS, additional issues have arisen in providing focused analyses at key intersections and access points to the center and in coordinating the EIR with the update to the City's Master utility documents that require services beyond the scope of Amendment No. 1, requiring a second amendment in an amount not to exceed $41,626,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Amendment No. 2 to the Agreement between the City of Modesto and Jones and Stokes to perform additional tasks related to the preparation of the Draft EIR, in an amount not to exceed $41,626, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Amendment No. 2 to the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of March 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:

RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-128

A RESOLUTION AUTHORIZING APPROVAL OF THE FIRST DRINKING WATER AGREEMENT BETWEEN THE CITY OF MODESTO AND THE TURLOCK IRRIGATION DISTRICT (TID) FOR DESIGN, ENVIRONMENTAL REVIEW, PERMITTING, LAND PURCHASES, AND RELATED ACTIVITIES ASSOCIATED WITH TID’S PROPOSED REGIONAL SURFACE WATER SUPPLY PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Turlock Irrigation District (TID) has solicited interest from the City, as well as other local communities, for participation in their proposed Regional Surface Water Supply Project (RSWSP), and

WHEREAS, a report entitled the “Proposed Regional Surface Water Supply Project” (Brown and Caldwell, 2003), provides a program level description of the project, and

WHEREAS, additional water is needed in the South Modesto area because the current local groundwater supply is not sufficient to meet existing demands, and

WHEREAS, this project would be expected to provide existing users with a reliable water source and keep pace with the City’s projected growth in the South Modesto area, and

WHEREAS, the execution of the proposed “First Drinking Water Agreement” between the City and TID will allow work on the project to proceed up to construction, and allow City to reimburse TID for their expenses incurred to that point, and

WHEREAS, the cities of Ceres, Turlock, and Hughson have entered into the same agreement with TID, securing their participation in the project, and
WHEREAS, the treatment plant would be owned and operated by TID, with each participating community contributing their fair-share of the project’s costs, and

WHEREAS, West-Yost and Associates prepared a report in June 2003, that projected a water supply requirement from the proposed RSWSP for the South Modesto area of 11.5 million gallons per day, and

WHEREAS, TID developed preliminary cost estimates for various alternatives (depending on which agencies participate) that put the City’s share of the Phase 1, 2, & 3 costs between $2 and $3 million dollars, and

WHEREAS, Phase 1 of the RSWSP primarily includes preliminary design, water rights issues, and environmental review. Phase 2 includes final design, permitting, land purchases, right-of-ways acquisitions, legal review, and preparatory financial work. Phase 3 includes final financing work and obtaining construction bids, and

WHEREAS, opting out at any time after execution of the “First Drinking Water Agreement” would require the City to reimburse TID for the City’s fair share of costs incurred to that point, and

WHEREAS, a subsequent “Water Sales Agreement” would be entered into at the conclusion of Phase 3 that will address a number of the outstanding issues the First Drinking Water Agreement does not, and

WHEREAS, TID is currently seeking a commitment from the City for participation in Phases 1, 2, & 3 of the project, and

WHEREAS, TID is not asking for any funds from the City until the plant is up and running and water is being delivered. At that point (in approximately five years), all
of the City’s fair-share costs incurred to that point would be rolled into an annual financing plan, and

WHEREAS, prior to the City’s commitment to proceed with the project beyond the end of Phase 3 (i.e. into construction), the City would need to reevaluate the existing utility rates and connection fees because neither of them included the cost for construction of the proposed project in their derivation, and

WHEREAS, this project has been discussed at the Economic Development Committee (April 2003 and January 2004), Finance Committee (November 2005), and Council (January 2004) with direction given to staff each time to continue working with TID regarding the City’s potential participation in the RSWSP, and

WHEREAS, the specifics of the proposed “First Drinking Water Agreement” was recently discussed at the February 16, 2006, Finance Committee where a favorable recommendation was given to be forwarded to the Council for their review, and

WHEREAS, the proposed “First Drinking Water Agreement” is not considered a "project", subject to environmental review; therefore, the California Environmental Quality Act (CEQA) does not apply, and

WHEREAS, the environmental review and documentation for the RSWSP would be prepared by TID as part of the Phase 1 work, and the related downstream improvement projects will be evaluated in the same or a parallel environmental document, and

WHEREAS, additional downstream improvements will be needed to convey and fully integrate surface water from a new TID treatment plant with the City’s existing distribution system in the South Modesto area,
NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the “First Drinking Water Agreement” with respect to the design, environmental review, permitting, land purchases, and related activities for the Turlock Irrigation District’s proposed Regional Surface Water Supply Project between the City of Modesto and the Turlock Irrigation District.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized and directed to execute said Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of March 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: Richard Rudnansky, Interim City Attorney
A RESOLUTION AUTHORIZING THE SOLICITATION OF PROPOSALS FROM QUALIFIED CONSULTING FIRMS TO PERFORM WORK FOR THE ASSOCIATED DOWNSTREAM FACILITIES NEEDED TO CONVEY AND FULLY INTEGRATE ANY SURFACE WATER FROM A NEW TID TREATMENT PLANT WITH THE CITY'S EXISTING DISTRIBUTION SYSTEM IN ACCORDANCE WITH APPROVED PROCEDURES

WHEREAS, the Turlock Irrigation District (TID) has solicited interest from the City, as well as other local communities, for participation in their proposed Regional Surface Water Supply Project (RSWSP), and

WHEREAS, a report entitled the “Proposed Regional Surface Water Supply Project” (Brown and Caldwell, 2003), provides a program level description of the project, and

WHEREAS, additional water is needed in the South Modesto area because the current local groundwater supply is not sufficient to meet existing demands, and

WHEREAS, this project would be expected to provide existing users with a reliable water source and keep pace with the City’s projected growth in the South Modesto area, and

WHEREAS, the execution of the proposed “First Drinking Water Agreement” between the City and TID will allow work on the project to proceed up to construction, and allow City to reimburse TID for their expenses incurred to that point, and

WHEREAS, the cities of Ceres, Turlock, and Hughson have entered into the same agreement with TID, securing their participation in the project, and
WHEREAS, additional downstream improvements will be needed to convey and fully integrate surface water from a new TID treatment plant with the City’s existing distribution system in the South Modesto area, and

WHEREAS, it is important that the City proceed in parallel with TID’s RSWSP to identify, plan, and design the downstream facilities that will be needed to fully integrate a future surface water supply with the City’s existing system in the South Modesto area, and

WHEREAS, it is equally important that those downstream facilities be on a financing and construction schedule ahead of the treatment plant so that they are in place prior to the plant becoming fully operational, and

WHEREAS, staff requests authorization to solicit proposals from qualified consulting firms to perform work for the associated downstream facilities needed to convey and fully integrate any surface water from a new TID treatment plant with the City’s existing distribution system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the solicitation of proposals from qualified consulting firms to perform work for the associated downstream facilities needed to convey and fully integrate any surface water from a new TID treatment plant with the City’s existing distribution system, including design, environmental review, permitting, land purchases, and other related activities, in accordance with approved procedures.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 7th day of March 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

RICHARD RUDNANSKY, Interim City Attorney

ATTEST: Jean Morris

JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-130

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH CAROLLO ENGINEERS FOR THE PROVISION OF ADDITIONAL PROFESSIONAL ENGINEERING SERVICES IN SUPPORT OF PHASE 2 OF THE WASTEWATER MASTER PLAN (WWMP) UPDATE IN THE AMOUNT OF $91,888, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE AGREEMENT

WHEREAS, on October 4, 2005 the City Council approved an agreement in the amount of $379,200 with Carollo Engineering to prepare Phase 2 of the Wastewater Master Plan (WWMP) Update, and

WHEREAS, the Phase 2 scope of work included an evaluation of the City’s wastewater treatment and disposal systems, and

WHEREAS, much of the data obtained during the WWMP update is being utilized as part of a separate, but related effort to update the wastewater system rates and connection fees, and

WHEREAS, recent FEMA flood maps show that much of the Sutter Avenue primary plant is located within a flood zone and the City’s current National Pollutant Discharge Elimination System (NPDES) permit requires that flood protection be provided for all treatment facilities, and

WHEREAS, an analysis is required to compare the alternatives of providing flood protection at Sutter Avenue versus abandoning the existing primary treatment facilities and constructing new primary facilities at the Jennings Road site, and

WHEREAS, because funds from the “Wastewater Engineering/Planning Support” task of the original budget were expended after staff and the consultant were directed, at the November 29, 2005 Finance Committee meeting, to work with the food processing
dischargers to investigate preliminary impacts of providing additional capacity for the food processing dischargers, additional unidentified work may be required under this scope, and

WHEREAS, the additional work was not included in the original October 4, 2005 scope of work and the total cost for additional services provided as part of this proposed amendment to the Phase 2 original agreement is $91,888, and

WHEREAS, the Finance Committee, at its January 23, 2006 meeting, recommended approval of this amendment to the agreement to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to the Agreement with Carollo Engineering in the amount of $91,888 to provide professional engineering services in support of Phase 2 of the Wastewater Master Plan (WWMP) Update.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute the agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of March 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 RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-131

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT
BUDGET IN ORDER TO FULLY FUND THE AGREEMENT WITH CAROLLO
ENGINEERS BY APPROPRIATING $101,077 FROM ACCOUNT 6210-800-8000-8003 (SEWER RESERVES) TO CIP ACCOUNT 6210-430-A208 (WASTEWATER MASTER PLAN UPDATE)

WHEREAS, the CIP account 6210-430-A208 (Wastewater Master Plan Update) only provides $379,200 for the Original Agreement with Carollo Engineers for consultant engineering services for Phase 2 scope of work, and

WHEREAS, based on recent FEMA flood maps, additional analysis is required to compare the alternatives of providing flood protection at Sutter Avenue versus abandoning the existing primary treatment facilities and constructing new primary facilities at the Jennings Road site, and

WHEREAS, funds were expended under the “Wastewater Engineering/Planning Support” task of the original budget, after staff and the consultant were directed, at the November 29, 2005 Finance Committee meeting, to work with the food processing dischargers to investigate preliminary impacts of providing additional capacity for the food processing dischargers, and an amendment to reauthorize funds for this task is being requested to cover additional scope items not identified at this time, and

WHEREAS, the original engineer’s report was based on a preliminary evaluation of treatment and effluent disposal needs for the future, and additional work will be required to update and finalize the Engineer’s Report to reflect the more detailed analysis that is being developed within the Phase 2 Master Plan, and
WHEREAS, certain budgetary transactions are necessary to fully fund said Amendment to the Agreement in the amount of $91,888 for consultant engineering services, including additional meetings, and $9,189 for contract administration by City staff for a total of $101,077, and

WHEREAS, the total amount of $101,077 is to be transferred from account 6210-430-8000-8003 (Sewer Reserves) into CIP account 6210-430-A208 (Wastewater Master Plan Update),

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the transfer of funds as set forth herein to fully fund the Amendment to Agreement with Carollo Engineers for consultant engineering services for the Phase 2 of the Wastewater Master Plan Update project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of March 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 Richard Rudnansky, Interim City Attorney
A RESOLUTION ACCEPTING THE WORK BY JVD, INC., FOR THE
PROJECT TITLED "ROTARY CENTENNIAL JUNCTION INFRASTRUCTURE
PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A
NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS
DUE TOTALING $208,666.01. TOTAL PROJECT COST IS $248,621.90, WHICH
INCLUDED CONSTRUCTION CONTINGENCY, AND CONSTRUCTION
ADMINISTRATION

WHEREAS, a report has been filed by the Public Works Director that the project
titled "Rotary Centennial Junction Infrastructure Project" has been completed by JVD, Inc.,
in accordance with the contract agreement dated December 14, 2004,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Rotary
Centennial Junction Infrastructure Project" is hereby accepted as complete from said
contractor, JVD, Inc., that the Notice of Completion be filed with the Recorder of
Stanislaus County and that payment of amounts due totaling $208,666.01, 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 7th day of March 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: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-133


WHEREAS, plans and specifications have been prepared for the “Celeste/Rose/Scenic Sanitary Sewer Improvement Project” and City staff recommends approval to the City Council, and

WHEREAS, the bids received for “Celeste/Rose/Scenic Sanitary Sewer Improvement Project” were opened at 11:00 a.m. on January 17, 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 $3,707,105 received from California Trenchless, Inc., be accepted as the lowest responsible bid and the contract be awarded to California Trenchless, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the “Celeste/Rose/Scenic Sanitary Sewer Improvement Project”.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of $3,707,105.00, and hereby awards California Trenchless, Inc., the contract titled “Celeste/Rose/Scenic Sanitary Sewer Improvement Project.”

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 7th day of March 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

ATTEST: Jean Morris

JBAN MORRIS, City Clerk

APPROVED AS TO FORM:

By RICHARD R. RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-134

A RESOLUTION APPROVING A LANDSCAPE MAINTENANCE SERVICE AGREEMENT FOR A PERIOD OF FIVE (5) YEARS, WITH THE OPTION TO RENEGOTIATE ONE (1) ADDITIONAL FIVE (5) YEAR PERIOD WITH GROVER LANDSCAPE SERVICES, INC. AT THE SOLE DISCRETION OF THE CITY, FOR PARKS, RIGHT-OF-WAYS AND PUBLIC LANDSCAPING OWNED AND/OR MAINTAINED BY THE CITY OF MODESTO, WITH AN ANNUAL CONSIDERATION OF $1,737,981.00 IN YEARS 1 THROUGH 3 OF THE AGREEMENT $1,790,120.43 IN YEAR 4 AND $1,843,924.04 IN YEAR 5, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND AUTHORIZING THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT DIRECTOR TO NEGOTIATE ANY INCREASES TO THE AGREEMENT UP TO $50,000 ANNUALLY

WHEREAS, the City of Modesto’s Parks, Recreation and Neighborhoods Department, Parks Services Division provides landscape maintenance services to over 530 acres of landscaping for 66 parks and about 150 other landscaped sites including public buildings, street medians, sound walls, traffic islands and other miscellaneous sites, and

WHEREAS, funding for this maintenance is provided primarily by the City’s General Fund, although a number of sites are funded from other sources including the Tuolumne River Regional Park JPA, Parking Fund, Storm Drain Fund and several Community Facility Districts, and

WHEREAS, over the past four to five years there has been a dramatic decline in landscape maintenance service levels, and

WHEREAS, in order to evaluate the potential to reduce costs and/or improve the level of service, City management staff recommended that consideration be given to issuing a Request for Proposals for the purpose of improving landscape maintenance standards, and

03/07/06/PR&Nj Niskanen/Item 12
WHEREAS, on December 14, 2004, Council approved Resolution No. 2004-691, authorizing the Purchasing Supervisor to formally solicit Request for Proposals (RFP) for Landscape Maintenance Services for all parks, right-of-ways and public landscaping owned and/or managed by the City of Modesto for a five (5) year period with an option to renegotiate for an additional five (5) year period at an estimated annual cost of $1,200,000, and

WHEREAS, an evaluation committee was formed, and the formal bid process was followed, with a proposers’ conference and several follow-up meetings with the 2 proposers, Grover Landscape Services, Inc. (Grover) and the Modesto City Employees Association (MCEA), and

WHEREAS, Best and Final Offers from the 2 proposers were received on September 6, 2005, and

WHEREAS, based on the evaluation criteria, the determination that MCEA was unresponsive regarding “B” sites, and the proposed costs, the evaluation committee recommended that staff be authorized to negotiate an agreement with Grover Landscape Services, Inc., and

WHEREAS, on November 22, 2005, by Resolution No. 2005-581, the City Council adopted a resolution authorizing the award of proposal for the furnishing of landscape maintenance services to Grover Landscape Services, Inc. and directed staff to negotiate a landscape maintenance service agreement (Agreement) with Grover Landscape Services, Inc. for parks, right-of-ways and public landscaping owned and/or maintained by the City of Modesto, and
WHEREAS, during negotiations, staff identified additional sites that were not included in the original RFP site lists and requested that the maintenance level be increased at some sites, which increased the final consideration to $1,737,981.00 in years 1 through 3 of the Agreement $1,790,120.43 in year 4 and $1,843,924.04 in year 5, and

WHEREAS, staff has negotiated a final agreement with Grover Landscape Services, Inc., a copy of which is attached hereto as Exhibit “1” and incorporated herein by reference, and

WHEREAS, the Finance Committee met on October 24, 2005, and supported the recommendation to award the proposal for landscape maintenance services to Grover Landscape Services, Inc. and to direct staff to negotiate an agreement with Grover Landscape Services Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a landscape maintenance service agreement for a period of five (5) years, with the option to renegotiate one (1) additional five (5) year period with Grover Landscape Services, Inc. at the sole discretion of the City, for parks, right-of-ways and public landscaping owned and/or maintained by the City of Modesto, with an annual consideration of $1,737,981.00 in years 1 through 3 of the Agreement $1,790,120.43 in year 4 and $1,843,924.04 in year 5.

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

BE IT FURTHER RESOLVED that the Parks, Recreation and Neighborhoods Department Director is hereby authorized to negotiate any increases to the Agreement up to $50,000 annually.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of March 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Marsh

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

Attest: Jean Morris
JEAN MORRIS, City Clerk

By: Richard Rudnansky, Interim City Attorney
Whereas, the parties acknowledge that in accordance with the provisions of Article 40 (Layoff and Demotion) of the MCEA Implementation Document of 2005-2007, some MCEA-represented employees may be notified that their positions will be eliminated as part of the Parks Landscaping Managed Competition process,

Whereas, the parties have met and conferred in good faith on issues relating to the impact of these possible lay offs,

Therefore, the parties agree to the following:

**Order of Lay Off**

Evaluations due on or before January 23, 2006 will be used to establish order of layoff for positions eliminated with the implementation of the Parks Managed Competition outsourcing.

**Severance Package**

**Employees in this Bargaining Unit:**

- Shall be paid Severance Pay in the amount of two (2) pay periods base salary upon layoff
- With six (6) or more years of service are eligible for additional Severance Pay in the amount of one week (40 hours) of base salary for each complete year of service in excess of five (5) full years of service, to a maximum of four (4) additional weeks
- Who receive Severance Pay shall also be eligible to receive the City’s contribution to health, dental and vision in the same manner as active employees, except that the amount shall not include the equivalent of any in-lieu deferred compensation. The duration of the premium contributions shall be for the same number of weeks as the severance pay provision noted above.

**“Catch” Positions**

- A “catch” position is a vacant position in the same classification or a classification at a lower Salary Range than that of the employee subject to layoff, that is in their customary promotional progression.
- The order by which employees are given “catch” positions is decided by their total City service, mitigated by performance evaluations per MOU Article 40F, regardless of classification and across department and bargaining unit lines, within a reasonable and/or customary promotional progression. If two or more employees qualify for a “catch” to a single vacancy and that vacancy is in one of
the employee’s current department, that employee has claim to that position first.

- The City will attempt to provide “underfill” positions, when available, to catch employees subject to layoff. If several employees are in underfill positions and a Maintenance Worker vacancy occurs, the most senior Maintenance Worker in the overfill position will have the first right of refusal to the position.
- Employees offered an underfill position are only guaranteed that continued underfill opportunity for one year from the date of the initial layoff notice (assuming no future layoffs are required within that year).

**Interview Leave**

- Will be granted to employees who have been notified that they may be laid off or to employees who elect to demote in lieu of layoff.
- This leave will be available upon notification to the employee by his/her Department Director that they may be laid off.
- An employee may be granted up to fifteen (15) hours of paid leave for the purpose of participating in employment interviews or examinations with other employers. As with other leave requests, Interview Leave is subject to approval, in advance, by the supervisor. Employees must provide supervisors with sufficient advance notice and employees may be required to provide verification of the scheduled interview or examination.
- Interview Leave in excess of fifteen (15) hours may be granted with the written approval of the Department Director

**Employee Assistance Program (EAP)**

- The EAP counseling benefit will be extended to the laid off employee and/or spouse for a period of six (6) months from date of layoff, not to exceed six (6) visits per family. This benefit will be at no cost to the employee.

**Reinstatement**

- Employees who are laid off shall have their names placed on a departmental reinstatement list, by classification and by reverse order of layoff. Vacant positions within the department and the classification series (customary promotional progression) shall first be offered to employees on the appropriate classification reinstatement list for that department. Employees who are laid off will also be considered for vacancies in other departments. Employees on a reinstatement list will be strongly considered for vacancies, Citywide, for their specific classification, and may be given preference prior to the City considering applicants on a valid eligible list for that classification.
- If the “new” vacancy is an employee’s former position, he/she has claim to that position.
- If two employees qualify for reinstatement to a single vacancy and that vacancy is in one of the employee’s “home” department, that employee has claim to that position first.
If two employees qualify for reinstatement to a single vacancy and that vacancy is not in either of the employees’ “home” departments, total City service will be considered for who has first claim to the position.

The eligibility of individuals on the reinstatement list shall extend for a period of two (2) years from date of layoff. Eligibles not responding to a written notification of an opening within fourteen (14) calendar days shall have their names removed from the reinstatement list. It is the individual’s responsibility to keep the City of Modesto Personnel Department informed of any change of address.

The City encourages Departments to consider employees on these reinstatement lists for interviews when filling vacancies that would be considered lateral moves or demotions for the employee (where the vacancy is at the same, or lower, Salary Range as the employee, where the employee holds the minimum knowledges, skills, abilities, experience and/or education of the vacant position, but where the vacant position is not in the customary promotional progression of the laid off employee).

Job Qualifications

Employees unable to pass the 100-pound lifting requirement of the Maintenance Worker positions in Public Works will engage in a discussion with management and other appropriate personnel on a case-by-case basis (in the same manner as other reasonable accommodation requests).

Any accommodation reached will be consistent with state and federal guidelines.

Transition and Timing

Upon approval of the City Manager, up to three months transition time (for cross-training, redistributing work, etc) from the date an employee is notified of a layoff until the layoff or bumping takes place.

Volunteers for Lay-Off

If an employee volunteers to be laid off and is in the classification or the approved bumping chain of a position authorized for layoff, the City Manager may authorize said employee to be laid off, with all rights to receive severance benefits.

2004 Reorganization of O&M, E&T and PRN -- Effects on Bumping:

Any employee in the Parks, Recreation and Neighborhood Department assigned to the Parks Operation Organization, the Building Services Organization, or the Solid Waste Division (now or at the time of any future reduction in FY 06) will have the ability to bump into any position in the Public Works Department and/or the “opposite” Organization in PR&N.

Any employee in the Public Works Department (now or at the time of any future reduction in FY 06) will have the limited ability to bump into any position in the Parks,
Recreation & Neighborhood Department in the Parks Operation Organization, the Building Services Organization or the Solid Waste Division only.

Should the Meter Reading/Repair function of the Public Works Department be transferred to the Finance Department on or before June 30, 2006, the above effects on bumping will be extended to the employees involved in this function, assigned to the Finance Department.

**Sunset:**

Unless otherwise noted in this document, provisions Sunset 120 days after the initial notices of layoff to affected employees.

**This Agreement becomes effective on February 6, 2006.**

For the City of Modesto

Janice Stewart  
Deputy Director – Personnel

Carolyn Eubank  
Administrative Services Officer

For the Modesto City Employees’ Association

W. Robert Phibbs  
Attorney at Law

Tom McCarthy  
MCEA President

Jana McCarron  
Administrative Services Officer
A RESOLUTION APPROVING THE TRANSFER OF APPROXIMATELY $440,000 IN FUNDS FROM THE FLEET FUND TO THE PARK FUND RESERVE; AMENDING THE CAPITAL IMPROVEMENT PROGRAM BUDGET TO APPROPRIATE $340,000 FROM THE PARK FUND RESERVE TO A NEW PROJECT, PARK SYSTEM IMPROVEMENTS; APPROVING THE ALLOCATION OF $100,000 FROM THE PARK FUND RESERVE TO THE STANISLAUS COMMUNITY FOUNDATION, SUBJECT TO THE ABILITY OF THE FINANCE DIRECTOR TO ARRANGE SUITABLE INVESTMENTS AND OVERSIGHT OF THIS DEPOSIT, TO ESTABLISH A PARK SYSTEM MAINTENANCE ACCOUNT; AND USING THE PROCEEDS FROM THE SALE OF THE SURPLUS VEHICLES TO OFFSET A PORTION OF THE FLEET FUND LOAN TO THE GENERAL FUND

WHEREAS, on November 22, 2005, by Resolution No. 2005-581, the City Council adopted a resolution authorizing the award of proposal for the furnishing of landscape maintenance services to Grover Landscape Services, Inc. and directed staff to negotiate a landscape maintenance service agreement (Agreement) with Grover Landscape Services, Inc. for parks, right-of-ways and public landscaping owned and/or maintained by the City of Modesto, and

WHEREAS, staff has successfully negotiated an agreement with Grover Landscape Services, Inc., and

WHEREAS, as a result of the implementation of said agreement, some of the vehicles assigned to the Parks Services Division will no longer be needed and will therefore be surplused and sold, and

WHEREAS, the funds that have been paid into the Fleet Replacement Fund (Fund 7210) will not be needed to replace this equipment, and

WHEREAS, in a report dated November 22, 2005, which was accepted by Council, staff recommended that the revenue from the sale of said vehicles be used to off-
set a portion of a loan from the Fleet Fund to the General Fund, and that the funds in the Fleet Replacement Fund be used for park-system capital projects, and

WHEREAS, staff is recommending that the estimated $440,000 in Fleet Replacement Funds that has been collected for vehicles no longer needed by the Parks Services Division be transferred to the Park Fund (Fund 1400) reserve, and

WHEREAS, staff is further recommending that $100,000 of those funds be placed with the Stanislaus Community Foundation to establish a park fund to be used for future infrastructure needs, subject to the ability of the Finance Director to arrange suitable investments and oversight of this deposit, and

WHEREAS staff is recommending that the balance to be used to establish a new Capital Improvement Program Project to be used for design of non-potable wells at Beyer, Davis and Downey Community Parks, to construct at least one well (based on final costs) to decrease future landscape water costs, and to provide for improvements to the park system’s infrastructure, with Mancini Bowl seating replacement as the highest priority, with other projects to include replacement of leaking restroom roofs, drinking fountains and irrigation systems,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of the funding collected in the Fleet Replacement Fund for vehicles that are being surplused and sold as a result of the landscape maintenance agreement, estimated at $440,000, from the Fleet Fund to the Park Fund Reserve.
BE IT FURTHER RESOLVED that the Council hereby approves amending the Capital Improvement Program budget to appropriate $340,000 from the Park Fund Reserve to a new project, Park System Improvements.

BE IT FURTHER RESOLVED that the Council hereby approves the allocation of $100,000 from the Park Fund Reserve to the Stanislaus Community Foundation, subject to the ability of the Finance Director to arrange suitable investments and oversight of this deposit, to establish a park system maintenance account.

BE IT FURTHER RESOLVED that the Council hereby approves using the proceeds from the sale of the surplus vehicles to offset a portion of the Fleet Fund Loan to the General Fund.

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 7th day of March 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Marsh

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

Attest: Jean Morris, City Clerk

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-136

A RESOLUTION APPROVING THE TRANSFER OF APPROXIMATELY $36,658 FROM THE FLEET FUND TO THE TUOLUMNE RIVER REGIONAL PARK CAPITAL FUND RESERVE; ESTIMATING APPROXIMATELY $2,570 IN REVENUE FROM THE SALE OF SURPLUS VEHICLES; AND APPROPRIATING APPROXIMATELY $2,570 IN REVENUE TO THE TUOLUMNE REGIONAL PARK CAPITAL FUND RESERVE

WHEREAS, on November 22, 2005, by Resolution No. 2005-581, the City Council adopted a resolution authorizing the award of proposal for the furnishing of landscape maintenance services to Grover Landscape Services, Inc. and directed staff to negotiate a landscape maintenance service agreement (Agreement) with Grover Landscape Services, Inc. for parks, right-of-ways and public landscaping owned and/or maintained by the City of Modesto, and

WHEREAS, staff has successfully negotiated an agreement with Grover Landscape Services, Inc., and

WHEREAS, as a result of the implementation of said agreement, some of the vehicles assigned to the Tuolumne River Regional Park will no longer be needed and will therefore be surplused and sold, and

WHEREAS, the funds that have been paid into the Fleet Replacement Fund (Fund 7210) will not be needed to replace this equipment, and

WHEREAS, staff is recommending that the total amount paid into the Fleet Replacement Funds that has been collected for vehicles no longer needed by the Tuolumne River Regional Park, estimated at $36,658, be transferred to the Tuolumne River Regional Park Capital Fund (Fund 8910) reserve, and
WHEREAS, staff is recommending that the proceeds from the sale of these vehicles, estimated at $2,570, be allocated to the Tuolumne River Regional Park Capital Fund (Fund 8910) reserve,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the transfer of the funding collected in the Fleet Replacement Fund for vehicles that are being surplused and sold as a result of the landscape maintenance agreement, estimated at $36,658, from the Fleet Fund to the Tuolumne River Regional Park Capital Fund Reserve.

BE IT FURTHER RESOLVED that the Council hereby approves estimating approximately $2,570 in revenue from the sale of surplus vehicles and appropriating approximately $2,570 in revenue to the Tuolumne Regional Park Capital Fund Reserve.

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 7th day of March 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Marsh

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-137

A RESOLUTION APPROVING THE PLANS & SPECIFICATIONS FOR THE TWIN PONDS PUMP STATIONS AT PRESCOTT AND SNYDER, ACCEPTING THE BID AND APPROVING A $1,570,354.40 CONTRACT WITH TNT INDUSTRIAL CONTRACTORS, INC., FOR THE PROJECT TITLED, “TWIN PONDS PUMP STATIONS AT PRESCOTT AND SNYDER” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, City staff has recommended approval of the plans and specifications for the “Twin Ponds Pump Stations at Prescott and Snyder” project, and

WHEREAS, the bids received for “Twin Ponds Pump Stations at Prescott and Snyder” were opened at 11:00 a.m. on January 17, 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 $1,570,354.40 received from TNT Industrial Contractors, Inc., be accepted as the lowest responsible bid and the contract be awarded to TNT Industrial Contractors, 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.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of TNT Industrial Contractors, Inc., in the amount of $1,570,354.40, and hereby awards TNT Industrial Contractors, Inc., the contract titled “Twin Ponds Pump Stations at Prescott and Snyder”.

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 7th day of March 2006, by Councilmember Marsh, who
moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By [Signature]

RICHARD RUDNANSKY, Interim City Attorney

ATTEST: [Signature]

JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-138

A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION (SCH #2005062110) AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE TWIN PONDS PUMP STATIONS PROJECT

WHEREAS, Section 15070 of the CEQA Guidelines relating to Initial Study/Mitigated Negative Declarations permits a lead agency to prepare an Initial Study/Mitigated Negative Declaration on any proposed Project to analyze whether the Project may cause any significant effect on the environment, and

WHEREAS, the proposed Twin Ponds Pump Stations project located on the west side of Prescott Road between Snyder Avenue and Pelandale Avenue consists of two new storm water pump stations that pump storm water runoff from two existing detention basins into the Modesto Irrigation District’s Lateral #6, and

WHEREAS, Stantec Consulting Inc., under contract with the City, prepared an Initial Study, Mitigated Negative Declaration and Mitigation Monitoring Plan (SCH #2005062110) for the Twin Ponds Pump Stations Project, which identified potentially significant impacts from the proposed Project, which could be mitigated to a level of insignificance by incorporating feasible mitigation measures into the Project, and

WHEREAS, feasible mitigation measures were incorporated into the Project and agreed to by the City before the Initial Study/Mitigated Negative Declaration was released for public review, which measures will avoid or mitigate the identified effects to a point where clearly no significant effects will occur, and
WHEREAS, a 30-day public review period for the proposed Initial Study/Mitigated Negative Declaration began on June 21, 2005 and ended on July 20, 2005, and

WHEREAS, the City did not receive any public comments on the draft Initial Study/Mitigated Negative Declaration so, following the public review, there were no comments to respond to or suggested technical revisions to be made to the document or any of the proposed mitigation measures, and

WHEREAS, the Mitigation Monitoring Plan (MMP) is included and described within the Initial Study/Mitigated Negative Declaration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring Plan prepared for the Twin Ponds Pump Stations Project, and based on the substantial evidence provided in said Initial Study/Mitigated Negative Declaration makes the following findings:

1. The recitals set forth above are true and correct.

2. The Initial Study/Mitigated Negative Declaration prepared for the proposed project has identified additional potentially significant environmental effects. These additional potentially significant effects are potential impacts to aesthetics, air quality, biological resources, cultural resources, hydrology and water quality, noise, transportation/traffic, utilities and service systems.

3. Before the Initial Study/Mitigated Negative Declaration was released for public review, feasible mitigation measures were made by or agreed to by the City, which will avoid or mitigate the effects to a point where clearly no significant effect will occur.

4. 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 (Public Resources Code Section 21064.5(2)).
5. The Initial Study/Mitigated Negative Declaration reflects the independent judgment of the lead agency.

6. As required by Public Resources Code Section 21081.6 et seq., the Mitigation Monitoring and Reporting Program is hereby adopted, a copy of which is included in the Mitigated Negative Declaration, which is on file with the City Clerk.

7. The Initial Study/Mitigated Negative Declaration, Environmental Assessment (EA/PW 2005-14, SCH No. 2005062110) provides the substantial evidence to support findings 1 through 6, above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the Initial Study/Mitigated Negative Declaration (SCH No. 2005062110), a copy of which is on file with the City Clerk and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City of Modesto Public Works Department, Capital Improvement Services, is the custodian of the documents and other materials, which constitute the record of proceedings upon which its decision is based. The records are located at the office of the City of Modesto Public Works Deputy Director, 1010 Tenth Street, Fourth Floor, Modesto, CA 95354.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Public Works Director is hereby authorized and directed to file a Notice of Determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of March 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-139

A RESOLUTION AMENDING THE FY 05-06 CIP BUDGET BY DECREASING THE APPROPRIATION FOR THE SNYDER AVENUE WIDENING PROJECT (A102) BY $456,000 AND RETURNING THOSE FUNDS TO RESERVES, THEN REAPPROPRIATING $538,425 FROM RESERVES AND INCREASING THE APPROPRIATION TO THE TWIN PONDS PUMP STATIONS PROJECT (Q318) BY $538,425 TO FULLY FUND THE TWIN PONDS PUMP STATION PROJECT

WHEREAS, on October 25, 2005, Council Resolution No. 2005-537 adopted the 2005/2006 Capital Improvement Program, and

WHEREAS, the 2005/2006 Capital Improvement Program included a project titled “Storm Drain Basins Pump Stations (Q318),” and

WHEREAS, concurrent with this resolution, by Resolution No. 2006-137 Council approved the plans and specifications, accepted the bid and approved a $1,570,354.40 contract with TNT Industrial Contractors, Inc., for the project titled, “Twin Ponds Pump Stations,” and

WHEREAS, the budgeted amount for construction, contingency and construction administration for the Twin Ponds Pump Station Project was $1,366,000 and the current estimate is $1,904,425, and

WHEREAS, staff recommends reducing the Snyder Avenue Widening Project (A102) by $456,000 and appropriating the $456,000 plus an additional $82,425 from Pelandale-Snyder CFD reserves to fully fund the Twin Ponds Pump Station project (Q318),

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves amending the FY 05-06 CIP budget by decreasing the appropriation for the Snyder Avenue Widening Project (A102) by $456,000 and returning
those funds to reserves, then reappropriating $538,425 from Pelandale-Snyder CFD reserve funds and increasing the appropriation to the Twin Ponds Pump Stations project (Q318) by $538,425 to fully fund the Twin Ponds Pump Station Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of March 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By

RICHARD RUDNANSKY, Interim City Attorney

ATTEST: Jean Morris, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-140

A RESOLUTION APPOINTING A MEMBER OF THE PLANNING COMMISSION TO THE BOARD OF ZONING ADJUSTMENT

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

WHEREAS, the Planning Commission met on February 27, 2006 and recommended appointment of TOM BERGLUND as its representative to the Board of Zoning Adjustment.

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

SECTION 1. TOM BERGLUND, as representative of the Planning Commission, is hereby appointed to the Board of Zoning Adjustment with a term expiration of January 1, 2007.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Board of Zoning Adjustment, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of March 2006, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

APPROVED AS TO FORM:

By: [Signature]
RICHARD RUDNANESNY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-141

A RESOLUTION APPOINTING A MEMBER OF THE PLANNING COMMISSION TO THE CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE

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

WHEREAS, on February 27, 2006, the Planning Commission recommended JOHN SANDERS as its representative to the Citizens Housing and Community Development Committee.

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

SECTION 1. JOHN SANDERS, as representative of the Planning Commission, is hereby appointed to the Citizens Housing & Community Development Committee with a term expiration of January 1, 2007.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Citizens Housing & Community Development, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of March 2006, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-142

A RESOLUTION APPOINTING A MEMBER OF THE PLANNING COMMISSION TO THE CITIZENS REDEVELOPMENT ADVISORY COMMISSION

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

WHEREAS, on February 27, 2006, the Planning Commission recommended KENT NEWSWANDER as its representative to the Citizens Redevelopment Advisory Commission.

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

SECTION 1. KENT NEWSWANDER, as representative of the Planning Commission, is hereby appointed to the Citizens Redevelopment Advisory Commission with a term expiration of January 1, 2007.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Citizens Redevelopment Advisory Commission, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of March 2006, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: ________________
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: ________________________________
RICHARD RUDNANSKY, Interim City Attorney
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 14th day of March 2006, by Councilmember Dunbar, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney

ATTEST: JEAN MORRIS, City Clerk
## MONTHLY BUDGET ADJUSTMENTS
### February-06

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<td>Project N059 in Capital Grants Fund #2300-700-N059-9230</td>
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MODESTO CITY COUNCIL
RESOLUTION NO. 2006-144

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR FOURTEEN (14), NEW, CURRENT YEAR/MODEL TRUCKS TO THE FOLLOWING VENDORS: MELROSE FORD OF OAKLAND, CALIFORNIA, FOR FIVE (5) VEHICLES FOR A PURCHASE PRICE OF APPROXIMATELY $85,282.59; AMERICAN CHEVROLET OF MODESTO CALIFORNIA, FOR TWO (2) VEHICLES FOR A PURCHASE PRICE OF APPROXIMATELY $39,879.68; AND COALINGA MOTORS INC, OF COALINGA, CALIFORNIA, FOR SEVEN (7) VEHICLES FOR A PURCHASE PRICE OF APPROXIMATELY $142,103.30. THE APPROXIMATE TOTAL AMOUNT FOR ALL FOURTEEN (14), NEW, CURRENT YEAR/MODEL TRUCKS IS $267,265.57.

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of fourteen (14), new, current year/model trucks, and

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

- Two (2), ¾ ton, regular cab, long bed, 2WD pickups—These trucks are to replace two (2) current pickups in the Curbs, Gutters and Sidewalks 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, long bed, 4WD pickup—This truck is a new addition to the Water Quality Lab vehicles.

- One (1), ¾ ton, crew cab, long bed, 2WD pickup—This truck is to replace a current pickup in the Water 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), ½ ton, extended cab, full size, short bed, 2WD pickup—This truck is to replace a current pickup in the Field Operations Division. 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), ½ ton, extended cab, full size, short bed, 2WD pickup—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.
• One (1), ½ ton, regular cab, full size, 2WD pickup - This truck is to replace a current pickup in the Transportation Transit Division. 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), ½ ton, crew cab, mid size, 2WD pickup - This truck is a new addition to the Water Operations Department. This vehicle will be used for an added position in the department.

• One (1), ½ ton, extended cab, full size, short bed, 2WD pickup - This truck is to replace a current pickup in the Curbs, Gutters and Sidewalk 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), ½ ton, extended cab, mid size, 2WD pickups - These trucks are to replace two (2) current pickups in the Construction Administration 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), ½ ton, extended cab, short bed, 2WD pickup - This truck is to replace a current pickup in the Electrical Division. 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), ½ ton, regular cab, full size, 2WD pickup - This truck is to replace a current pickup in the Modesto Centre Plaza 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), ½ ton, crew cab, mid size, 2WD pickup - This truck is to replace a current pickup in the City Hall Motor Pool. 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.

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 fourteen (14) new, current year/model trucks on Request for Bid (RFB) 0506-18, and
WHEREAS, Seventy-seven (77) vendors were solicited of which ten (10) were local vendors, and

WHEREAS, out of seventy-seven (77) vendors solicited, seven (7) chose to respond to for the RFB, and

WHEREAS, the 2% local vendor preference was a factor in determining the lowest responsive and responsible bidder on two (2) of the fourteen (14), new, current year/model trucks, and

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

WHEREAS, Melrose Ford of Oakland, California was deemed to be the lowest responsive and responsible bidder for the following vehicles:

- One (1), ³⁄₄ ton, regular cab, long bed, 4WD pickup;
- One (1), ½ ton, crew cab, mid-size, 2WD pickup;
- Two (2), ½ ton, extended cab, mid-size, 2WD pickups;
- One (1), ½ ton, crew cab, mid-size pickup,

in the approximate amount of $85,282.59, and

WHEREAS, American Chevrolet of Modesto, California was deemed to be the lowest responsive and responsible bidder for the following vehicles:

- One (1), ½ ton, extended cab, full size, short bed, 2WD, short bed pickup;
- One (1), ½ ton, extended cab, 2WD pickup,

in the approximate amount of $39,879.68, and
WHEREAS, Coalinga Motors, Inc. of Coalinga, California was deemed to be the lowest responsive and responsible bidder for the following vehicles:

- Two (2), ¾ ton, regular cab, long bed, 2WD pickups;
- One (1), ¾ ton, crew cab, long bed, 2WD pickup; one (1), ½ ton, extended cab, full size, 2WD pickup;
- One (1), ½ ton, regular cab, full-size, long bed, 2WD pickup;
- One (1), ½ ton, extended cab, short bed, 2WD pickup;
- One (1), ½ ton, regular cab, full-size, 2WD pickup,

in the approximate amount of $142,103.30, and

WHEREAS, the total cost of the fourteen (14), new, current year/model, trucks is approximately $267,265.57 including freight and sales tax, 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 purchase whose total maximum cost to the City exceeds $50,000 shall receive preliminary approval of Council (MCC 8-3.203(a)), and

WHEREAS, the fourteen (14), new, current year/model 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 account number 7210-480-5814-5281 (Fleet Equipment, Replacement), 7210-480-5814-5282 (Fleet Equipment, Replacement), 6210-480-5215-5700 (Sewer Operations Fund), 7210-1480-5814-5280 (Fleet Equipment,
Replacement), 7210-480-5814-5293 (Water Fund), 7210-480-5814-5318 (Fleet Equipment, Replacement), 7210-480-5814-5316 (Fleet Equipment, Replacement), 7210-480-5814-5242 (Fleet Equipment, Replacement), 7210-480-5814-5284 (Fleet Equipment, Replacement), 7210-480-5814-5301 (Fleet Equipment, Replacement), 7210-480-5814-5302 (Fleet Equipment, Replacement), 0100-480-1961-5500 (General Fund), 7210-480-5814-5317 (Fleet Equipment, Replacement), 6100-480-5012-5700 (Water Fund) in the amount of $313,500.00 for fourteen (14), new, current year/model trucks,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for fourteen (14) new, current year/model trucks in the total approximate amount of $267,265.57 to the following vendors:

Melrose Ford of Oakland, California for the following vehicles:
• One (1), ¾ ton, regular cab, long bed, 4WD pickup;
• One (1), ½ ton, crew cab, mid-size, 2WD pickup;
• Two (2), ½ ton, extended cab, mid-size, 2WD pickups;
• One (1), ½ ton, crew cab, mid-size pickup,
in the approximate amount of $85,282.59.

American Chevrolet of Modesto, California for the following vehicles:
• One (1), ½ ton, extended cab, full size, short bed, 2WD, short bed pickup;
• One (1), ½ ton, extended cab, 2WD pickup,
in the approximate amount of $39,879.68

Coalinga Motor, Inc. of Coalinga, California for the following vehicles:
• Two (2), ¾ ton, regular cab, long bed, 2WD pickups;
• One (1), ¾ ton, crew cab, long bed, 2WD pickup; one (1), ½ ton, extended cab, full size, 2WD pickup;
• One (1), ½ ton, regular cab, full-size, long bed, 2WD pickup;
• One (1), ½ ton, extended cab, short bed, 2WD pickup;
• One (1), ½ ton, regular cab, full-size, 2WD pickup,
in the approximate amount of $142,103.30.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue purchase orders for fourteen (14) new, current year/model trucks as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of March 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-145

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO PURCHASE COMPUTER EQUIPMENT, SOFTWARE, LICENSES AND PROFESSIONAL SERVICES FROM DELL CORPORATION UNDER THE STATE OF CALIFORNIA DEPARTMENT OF GENERAL SERVICES AND THE WESTERN STATES CONTRACTING ALLIANCE (WSCA) CONTRACT, FOR A TOTAL ESTIMATED COST OF $330,000 FOR STARTUP AND YEARLY REOCCURRING COSTS OF $160,000 FOR AN INITIAL 5-YEAR COMMITMENT

WHEREAS, the City of Modesto standardized on Novell products for their file, print, messaging and overall systems management platform, and

WHEREAS, Novell was the industry leader, with over 80% of the market share and, Novell’s products offered functionality and features that were not available from other vendors, and

WHEREAS, over the next decade, Novell and other vendors continued to improve on their products and offer advanced features, however Novell’s maturity and proven products insured its continued use by the City, and

WHEREAS, after the year 2000, Novell’s strengths in management and stability began to be matched by its weaknesses in mobile computing and internet-centric product offerings, and

WHEREAS, during this same timeframe, the City of Modesto moved from a traditional “file-and-print, inside-user-centric” environment to more dynamic “internet-based, mobile computing, citizen-centric” model, and

WHEREAS, the City began to require additional, more robust functionality, and Novell began to become weaker in these exact areas, and
WHEREAS, the recent release of Microsoft’s Active Directory and Exchange in late 2003 provided the City the ability to evaluate its newer, more robust and secure capabilities, and

WHEREAS, City staff findings resulted in the determination that Microsoft’s products have matured sufficiently on both manageability and security to warrant implementation in the City’s environment, and

WHEREAS, the Modesto Municipal Code (MMC) generally requires all purchases exceeding $50,000 for material and equipment of this type to be formally bid, and

WHEREAS, per MMC Section 8-3.204(d) the Purchasing Supervisor may determine that a process other than the formal bid procedure set forth in MMC Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, at its February 16th, 2006, meeting the Finance Committee recommended that Staff go before the full Council for approval to issue an RFP for the Microsoft platform migration, and

WHEREAS, by piggybacking off the Western States Contracting Alliance (WSCA) contract, this purchase will conform to MMC Section 8-3.204(d), and

WHEREAS, cost estimates for the migration of the City’s directory and messaging platforms are $330,000 for startup, and yearly reoccurring costs of $160,000 for an initial 5-year commitment, and

WHEREAS, funding has been earmarked for this project in the Technology Reserve Fund,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the acquisition and migration of City’s current Novell-based software system to a Microsoft based system through a State of California pre-negotiated WSCA contract and authorizes the City Manager to execute the contract.

BE IT FURTHER RESOLVED that the Purchasing Division is hereby authorized to prepare a purchase order for computers, software, licenses and professional services from Dell Corporation under the State of California, Department of General Services and the Western States Contracting Alliance (WSCA) contract for a total estimated start-up cost of $330,000 and yearly reoccurring costs of $160,000 for an initial 5-year commitment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of March 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-146

A RESOLUTION AMENDING THE BUDGET TO APPROPRIATE 330,000 FROM THE IT RESERVE FUND 7130-80-8000-8003 TO THE CIP TO PURCHASE COMPUTER EQUIPMENT, SOFTWARE, LICENSES AND PROFESSIONAL SERVICES FROM DELL CORPORATION UNDER THE STATE OF CALIFORNIA, DEPARTMENT OF GENERAL SERVICES AND THE WESTERN STATES CONTRACTING ALLIANCE (WSCA) CONTRACT FOR A TOTAL ESTIMATED COST OF $330,000 FOR STARTUP AND YEARLY REOCCURRING COSTS OF $160,000 FOR AN INITIAL 5-YEAR COMMITMENT

WHEREAS, the Information Technology Department (IT) has requested the purchase of computer equipment, software, licenses and professional services from Dell Corporation under the State of California, Department of General Services and the Western States Contracting Alliance (WSCA) contract, and

WHEREAS, the Microsoft migration exchange project is crucial to the City’s daily business functions, and

WHEREAS, under the State of California, Department of General Services and the Western States Contracting Alliance (WSCA) contract, the City of Modesto is guaranteed the lowest cost for these products and services, and

WHEREAS, Dell Corporation is a participant in the WSCA contract and has provided the City of Modesto with the lowest bid at an estimated cost of $330,000 for computer equipment, software, licenses and professional services, and

WHEREAS, Council desires to amend the budget for said purchase,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Finance Department to amend the budget to appropriate $330,000 from the IT Reserve Fund 7130-80-8000-8003 to the CIP to purchase computer equipment, software, licenses and professional services from Dell Corporation under the

03/14/06/IT/D Truax/Item 6  1  2006-146
State of California Department of General Services and the Western States Contracting Alliance (WSCA) contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of March 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-147

A RESOLUTION APPROVING THE TIMELINE FOR CITIZEN PARTICIPATION CALENDAR OF EVENTS FOR 2006-2007 HUD ANNUAL ACTION PLAN, AND CDBG AND ESG PUBLIC SERVICE GRANTS

WHEREAS, the Department of Housing and Urban Development (HUD) regulations require that the City of Modesto have a Citizen Participation Plan that contains the City’s procedures for community participation in development of the Annual Action Plan and use of Community Development Block Grant (CDBG), HOME, and Emergency Shelter Grant (ESG) funds, and

WHEREAS, the Fiscal Year 2006-2007 public service process was separated into two stages to allow for a strengthened public outreach campaign to the full Modesto community concerning the priorities and goals for the utilization of HUD funding, and

WHEREAS, the first stage in the Citizen Participation Plan was originally brought to the CH&CDC on October 28, 2005; it identified the process for the Public Service Grant and Emergency Shelter Grant for the Fiscal Year 2006-2007, and

WHEREAS, the second stage of this process is the formulation of the Annual Action Plan to include the required citizen participation meetings and public outreach campaign, and

WHEREAS, the Citizen Participation Plan will contain the Annual Action Plan, public advertisement dates, and public service grant activities recommended by the CH&CDC at its February 24, 2006, meeting, and

WHEREAS, the Citizens Housing and Community Development Committee met on February 24, 2006, and supported the recommended Timeline for the Citizen
Participation Calendar of Events for 2006-2007 HUD Annual Action Plan, and CDBG and ESG Public Service Grants,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the timeline for the Citizen Participation Calendar of Events for the Annual Action Plan, and the CDBG and ESG Public Service Grants, for Fiscal Year 2006-2007, a copy of which is 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 14th day of March 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudiansky, Interim City Attorney
<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Service Timeline Approved by the CH&amp;CDC</td>
<td>28 Oct 05</td>
<td>12:00 noon</td>
</tr>
<tr>
<td>Application Period for Public Service Grants opens (25 Jan to 24 Feb)</td>
<td>25 Jan 06</td>
<td>12:00 noon</td>
</tr>
<tr>
<td>Ad placed in local English Language Newspaper</td>
<td>27 Jan 06</td>
<td>(Friday)</td>
</tr>
<tr>
<td>Ad placed in local Spanish Language Newspaper</td>
<td>01 Feb 06</td>
<td>(Wednesday)</td>
</tr>
<tr>
<td>Staff Technical Assistance Workshop for CDBG Public Service Grants</td>
<td>02 Feb 06</td>
<td>10:00 am</td>
</tr>
<tr>
<td>Room 2008, Tenth Street Place</td>
<td>03 Feb 06</td>
<td>10:00 am</td>
</tr>
<tr>
<td>CH&amp;CDC to review the draft timeline for the Annual Action Plan for</td>
<td>24 Feb 06</td>
<td>12:00 noon</td>
</tr>
<tr>
<td>2006-2007 &amp; Citizen Participation Calendar of Events</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Application due for funding requests for Public Service Grants</td>
<td>24 Feb 06</td>
<td>5:00 pm</td>
</tr>
<tr>
<td>Analysis of Public Service funding requests by staff and Review</td>
<td>27 Feb to 10 Mar 06</td>
<td></td>
</tr>
<tr>
<td>CH&amp;CDC Meeting and public hearing to consider funding requests for</td>
<td>14 Mar 06</td>
<td>5:30 pm</td>
</tr>
<tr>
<td>Public Service Grant Review Committee to review grant requests</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City Council Meeting to approve the draft timeline for Public Service</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Service Applications, Council Chambers, Tenth Street Place</td>
<td>24 Mar 06</td>
<td>12:00 noon</td>
</tr>
<tr>
<td>Community meetings to obtain input on Consolidated Plan &amp; Annual</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Action Plan: (Spanish translators will be available at all meeting)</td>
<td>22 Mar 06</td>
<td></td>
</tr>
<tr>
<td>CH&amp;CDC Meeting and public hearing to consider funding requests for</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Service Applications, Council Chambers, Tenth Street Place</td>
<td>24 Mar 06</td>
<td>12:00 noon</td>
</tr>
<tr>
<td>City Council Study Session, City Council Chambers</td>
<td>04 Apr 06</td>
<td>5:30 pm</td>
</tr>
<tr>
<td>30-day Public notice announcing availability of final draft of 2006-</td>
<td>05 Apr 06</td>
<td></td>
</tr>
<tr>
<td>2007 Annual Action Plan for review and comments (06 Apr to 06 May)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City Council Meeting to consider and approve funding recommendations</td>
<td>11 Apr 06</td>
<td>5:30 pm</td>
</tr>
<tr>
<td>for Public Service Grants, Council Chambers, Tenth Street Place</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CH&amp;CDC Meeting to consider final draft of 2006-2007 Annual Action</td>
<td>21 Apr 06</td>
<td>12:00 noon</td>
</tr>
<tr>
<td>Plan Room 3001, Tenth Street Place</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City Council Meeting and public hearing to consider and approve</td>
<td>09 May 06</td>
<td>5:30 pm</td>
</tr>
<tr>
<td>recommendations for the Consolidated Plan &amp; 2006-2007 Annual Action</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plan Council Chambers, Tenth Street Place</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2006-2007 Annual Action Plan due to HUD</td>
<td>31 May 06</td>
<td>(Wednesday)</td>
</tr>
</tbody>
</table>
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-148

A RESOLUTION APPROVING AN AGREEMENT WITH PACIFIC DESIGN ASSOCIATES, INC., IN THE AMOUNT OF $5,000.00, FOR CONSULTANT SERVICES FOR THE 1029 9TH STREET BUILDING ESTIMATE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, in the next year, City staff anticipates using consultant, Pacific Design Associates, Inc., (Pacific Design), to aid the City in negotiating the insurance settlement on the 1029 9th Street Building project in the not to exceed amount of $5,000.00, and

WHEREAS, on November 24, 2004, the City entered into an agreement with Pacific Design, a local architectural firm, to evaluate the fire damage to said building and create preliminary estimates for insurance purposes, and

WHEREAS, out of the negotiations, Driver Alliant Insurance Services (DAIS) requested that further analysis be done to justify the cost of the damaged kitchen equipment, and

WHEREAS, recently, DAIS has requested further negotiations with the City, and the City’s Risk Manager has requested that Pacific Design attend the meetings for assistance, and

WHEREAS, Staff recommends a new agreement with Pacific Design to include future meetings, and estimate analysis that may result from upcoming negotiations, and

WHEREAS, Pacific Design calculated the City’s current estimates for the value of the 1029 9th Street Building, therefore, their presence during negotiations is important. In addition, using outside professional services will enable negotiations to be completed in a timely manner, and
WHEREAS, based on the City’s previous experience, Pacific Design has rendered satisfactory services to the City in past projects, and

WHEREAS, City desires to pay the Agreement for consultant services with Pacific Design on a time and materials basis in a total amount not to exceed $5,000.00 in full remuneration of performing mediation services to aid the City in negotiating the insurance settlement on the 1029 9th Street Building project and to execute the Agreement for Consultant Services with Pacific Design in said amount,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Pacific Design, in the not to exceed amount of $5,000.00, for consultant services to aid the City in negotiating the insurance settlement for the 1029 9th Street Building project.

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 14th day of March 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By RICHARD RUDNANSKY, Interim City Attorney
A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE ROSE/CELESTE SEWER LIFT STATION PROJECT, ACCEPTING THE BID AND APPROVING A $1,505,875.00 CONTRACT WITH PRESTON PIPELINES, INC., FOR THE PROJECT TITLED, “ROSE/CELESTE SEWER LIFT STATION PROJECT,” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the “Rose/Celeste Sewer Lift Station Project” and City staff recommends approval to the City Council, and

WHEREAS, the bids received for “Rose/Celeste Sewer Lift Station Project” were opened at 11:00 a.m. on January 10, 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 $1,505,875.00 received from Preston Pipelines, Inc., be accepted as the lowest responsible bid and the contract be awarded to Preston Pipelines, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the “Rose/Celeste Sewer Lift Station Project”.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of $1,505,875.00, and hereby awards Preston Pipelines, Inc., the contract titled “Rose/Celeste Sewer Lift Station Project.”

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 14th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-150

A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION (SCH #2005092032) AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE ROSE/CELESTE SEWER LIFT STATION PROJECT

WHEREAS, Section 15070 of the CEQA Guidelines relating to Initial Study/Mitigated Negative Declarations permits a lead agency to prepare an Initial Study/Mitigated Negative Declaration on any proposed Project to analyze whether the Project may cause any significant effect on the environment, and

WHEREAS, the Rose/Celeste Sewer Lift Station was last upgraded in 1979, the two - 10 horsepower pumps are continuously operating for 12-14 hours per day with one pump running 90% of the time, the lift station is located in the middle of the Rose/Celeste intersection, 20 feet deep, with no standby power, and

WHEREAS, Stantec Consulting Inc., under contract with the City, prepared an Initial Study, Mitigated Negative Declaration and Mitigation Monitoring Plan (SCH #2005092032) for the Rose/Celeste Sewer Lift Station Project, which identified potentially significant impacts from the proposed Project, which could be mitigated to a level of insignificance by incorporating feasible mitigation measures into the Project, and

WHEREAS, feasible mitigation measures were incorporated into the Project and agreed to by the City before the Initial Study/Mitigated Negative Declaration was released for public review, which measures will avoid or mitigate the identified effects to a point where clearly no significant effects will occur, and
WHEREAS, a 30-day public review period for the proposed Initial Study/Mitigated Negative Declaration began on September 8, 2005 and ended on October 10, 2005, and

WHEREAS, the City did not receive any public comments on the draft Initial Study/Mitigated Negative Declaration so, following the public review, there were no comments to respond to or suggested technical revisions to be made to the document or any of the proposed mitigation measures, and

WHEREAS, the Mitigation Monitoring Plan (MMP) is included and described within the Initial Study/Mitigated Negative Declaration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring Plan prepared for the Rose/Celeste Sewer Lift Station Project, and based on the substantial evidence provided in said Initial Study/Mitigated Negative Declaration makes the following findings:

1. The recitals set forth above are true and correct.

2. The Initial Study/Mitigated Negative Declaration prepared for the proposed project has identified additional potentially significant environmental effects. These additional potentially significant effects are potential impacts to aesthetics, air quality, biological resources, cultural resources, hydrology and water quality, noise, transportation/traffic, utilities and service systems.

3. Before the Initial Study/Mitigated Negative Declaration was released for public review, feasible mitigation measures were made by or agreed to by the City which will avoid or mitigate the effects to a point where clearly no significant effect will occur.

4. 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 (Public Resources Code Section 21064.5(2)).
5. The Initial Study/Mitigated Negative Declaration reflects the independent judgment of the lead agency.

6. As required by Public Resources Code Section 21081.6 et seq., the Mitigation Monitoring and Reporting Program is hereby adopted, a copy of which is included in the Mitigated Negative Declaration, which is on file with the City Clerk.

7. The Initial Study/Mitigated Negative Declaration, Environmental Assessment (EA/PW 2005-15, SCH No. 2005092032) provides the substantial evidence to support findings 1 through 6, above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the Initial Study/Mitigated Negative Declaration (SCH No. 2005092032), a copy of which is on file with the City Clerk and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City of Modesto Public Works Department, Capital Improvement Services, is the custodian of the documents and other materials, which constitute the record of proceedings upon which its decision is based. The records are located at the office of the City of Modesto Public Works Deputy Director, 1010 Tenth Street, Fourth Floor, Modesto, CA 95354.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Public Works Director is hereby authorized and directed to file a Notice of Determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

APPROVED AS TO FORM:

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-151

A RESOLUTION AMENDING THE FY 05/06 CIP BUDGET BY INCREASING THE ROSE/CELESTE SEWER LIFT STATION APPROPRIATION BY $1,289,141 BY MOVING $1,289,141 FROM ACCOUNT 6210-800-8000-8003 WASTEWATER CONTINGENCY RESERVES TO FULLY FUND THE ROSE/CELESTE SEWER LIFT STATION PROJECT

WHEREAS, on October 25, 2005, Council Resolution No. 2005-537 adopted the 2005/2006 Capital Improvement Program, and

WHEREAS, the 2005/2006 Capital Improvement Program included a project titled “Rose/Celeste Sewer Lift Station,” and

WHEREAS, bid were opened and Preston Pipelines, Inc. was the apparent low bidder in the amount of $1,505,875.00, and

WHEREAS, the apparent low bid was 36% higher than the consultant engineer’s construction estimate, and

WHEREAS, a budget adjustment appropriating $1,289,141 from Account 6210-800-8000-8003 Wastewater Contingency Reserves is needed to fully fund the Rose/Celeste Sewer Lift Station Project,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves funding transfers as set forth herein to fully fund the Rose/Celeste Sewer Lift Station Project.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 14th day of March 2006, by Councilmember Dunbar,
who moved its adoption, which motion being duly seconded by Councilmember Keating,
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-152

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO CALLING
AN ELECTION FOR THE PURPOSE OF SUBMITTING THE LEVY OF THE CITY OF
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)
SPECIAL TAXES TO THE QUALIFIED ELECTORS OF THE TERRITORY
PROPOSED TO BE ANNEXED TO THE DISTRICT (ANNEXATION NO. 11)

WHEREAS, this Council did, on February 7, 2006, adopt its Resolution No. 2006-066
(the “Resolution of Intention to Annex”) to indicate its intention to annex certain territory to the
City’s Community Facilities District No. 2004-1 (Village One #2) (the “District”) and authorize
the levy of the District special taxes within the territory proposed to be annexed (the “Annexed
Territory”), pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with
Section 53311) of the California Government Code, commonly known as the “Mello-Roos
Community Facilities Act of 1982” (the “Act”), and set a hearing thereon; and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-681,
adopted on December 14, 2004, clarify the Rate and Method of Apportionment with respect to
the Maximum Special Taxes to be generated by a parcel that has been rezoned, and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-683,
adopted on December 14, 2004 (“Resolution of Creation of Tax Zone #2), create Tax Zone #2
within the District; and

WHEREAS, the One-Time Facilities Special Tax component of the special taxes is
higher in Tax Zone #2 than in Tax Zone #1; and

WHEREAS, the Annexed Territory will be annexed to and subject to the special taxes in
Tax Zone #2; and
WHEREAS, notice of the hearing was duly published as required by law, as evidenced by the proof of publication on file with the City Clerk; and

WHEREAS, a map of the Annexed Territory, entitled “Annexation Map No. 11 of Community Facilities District No. 2004-1 (“Village One #2) of the City of Modesto, County of Stanislaus, State of California,” was recorded on February 9, 2006, in the Office of the County Recorder of the County of Stanislaus, in Book 4 of Maps of Assessment and Community Facilities Districts, at page 36; and

WHEREAS, at the time and date set for the hearing (March 14, 2006) pursuant to the Resolution of Intention to Annex, this Council held the public hearing on Tuesday, March 14, 2006, as required by the Act, related to the proposed annexation and the levy of the District special taxes for Tax Zone #2 within the Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex; and

WHEREAS, at the hearing all persons desiring to be heard on all matters pertaining to the proposed annexation and the levy of the District special taxes for Tax Zone #2 within the Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex, including all interested persons for or against the proposed annexation to the District and the levy of the District special taxes for Tax Zone #2 within the Annexed Territory were heard and considered, and a full and fair hearing was held thereon; and

WHEREAS, at the hearing evidence was presented to this Council on the matters before it, and this Council, at the conclusion of the hearing, was fully advised as to all matters related to the proposed annexation and the levy of the District special taxes for Tax Zone #2 within the Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex; and
WHEREAS, written protests against the proposed annexation and the levy of the District special taxes for Tax Zone #2 within the Annexed Territory have not been filed with the City Clerk by 50 percent or more of the registered voters or six registered voters, whichever is more, residing within the District or residing within the Annexed Territory, or the owners of one-half or more of the land in the District, or in the Annexed Territory; and

WHEREAS, the Stanislaus County Registrar of Voters has certified there are less than 12 registered voters residing in the Annexed Territory; accordingly, the qualified electors are the landowners; and

WHEREAS, the City Clerk, being the Council's designated election official for purposes of the election herein called, has concurred in the election date herein set forth for the election;

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. All prior proceedings taken with respect to the annexation of the Annexed Territory to the District, and the levy of the District special taxes for Tax Zone #2 within the Annexed Territory were valid and in conformity with the requirements of the Act. This determination shall be final and conclusive upon all persons.

SECTION 3. The proposed annexation of the Annexed Territory to the District and the levy of the District special taxes for Tax Zone #2 within the Annexed Territory have not been precluded by majority protest pursuant to Section 53339.5 of the Act.

SECTION 4. As stated in the Resolution of Intention to Annex, it is the intention of this Council, subject to the approval of the qualified electors of the Annexed Territory, to annex the Annexed Territory to the District and levy the District special taxes for Tax Zone #2 within the
Annexed Territory. Upon such approval the Council will be authorized to levy the District special taxes for Tax Zone #2 within the Annexed Territory.

SECTION 5. A special election is hereby called at which the question of levying the District special taxes for Tax Zone #2 within the Annexed Territory shall be submitted to the qualified electors of the Annexed Territory. The election shall be held in accordance with and subject to the Act, all of the terms of which shall, unless waived as herein provided, be applicable to such election. The ballot measure shall be substantially in the form attached hereto as Exhibit A.

SECTION 6. Fewer than 12 persons have been registered to vote within the Annexed Territory for each of the 90 days preceding the close of the hearing referenced herein. Accordingly, the vote shall be by the landowners of the Annexed Territory, and each such landowner shall have one vote for each acre or portion thereof that he or she owns within the Annexed Territory. The ballots shall be distributed by mail with return postage prepaid, or by personal service, to each landowner, all as provided in Section 53326 of the Act.

Since the City Clerk has received an appropriate waiver of time limits and other requirements pertaining to the conduct of the election by the owner of all of the land in the Annexed Territory (the “Landowner”), the election shall be held on the 14th day of March 2006. The election shall be conducted by the City Clerk in the manner required by this resolution, the Act and applicable laws.

The hour on such date when the ballots are required to be received in the office of the City Clerk is noon, Pacific Time. If all qualified electors have voted prior to such time, the election shall be closed.
SECTION 7. In accordance with Section 53327(b) of the Act, analysis and arguments, as required by Section 53327(a) of the Act are hereby waived, as the City Clerk has received the unanimous consent to such waivers from the Landowner.

SECTION 8. The publication of this Resolution as notice of the special election is hereby waived as the City Clerk has received the unanimous consent to such waiver from the Landowner.

SECTION 9. The Annexed Territory shall constitute a single election precinct for the purpose of holding the election.

SECTION 10. The City Clerk is hereby authorized to take any and all steps necessary for the holding of the election, and to perform and render all services and proceedings incidental to and in connection with the election.

SECTION 11. The City Clerk shall canvass the returns and certify the results of the election to this Council. If two-thirds or more of the votes cast are in favor of levying the District special taxes for Tax Zone #2 in the Annexed Territory, this Council may thereafter, order the annexation of the Annexed Territory to the District and levy the District special taxes in the Annexed Territory in the amount and for the purposes specified in Resolution No. 2004-199 adopted by this Council on April 6, 2004 (the “Resolution of Formation”). The Special Tax will be levied only at the rate and apportioned only in the manner specified in the Resolution of Formation, as clarified by the City Council on December 14, 2004 (Resolution No. 2004-681) and at the rates set forth in Tax Zone #2 created by the City Council on December 14, 2004 (Resolution No. 2004-683).
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th of March 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
SAMPLE
OFFICIAL BALLOT

BALLOT NO. _____

CITY OF MODESTO
COMMUNITIES FACILITIES DISTRICT NO. 2004-1
(VILLAGE ONE #2)

ANNEXATION NO. 11
SPECIAL TAX ELECTION

March 14, 2006

___% OF LAND IN TERRITORY PROPOSED TO BE ANNEXED TO DISTRICT
NUMBER OF VOTES ENTITLED TO BE CAST ______
(VOTER MAY REMOVE AND RETAIN THIS STUB)

INSTRUCTIONS TO VOTERS

To vote, make a mark (x) in the voting area to the right of the word “YES” or “NO.”

All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly mark, tear or deface this ballot, telephone the Office of the City Clerk of the City of Modesto for instructions as soon as possible at (209) 577-5398, Monday through Friday, between the hours of 9:00 a.m. and noon

MARK YOUR CHOICE IN THIS MANNER ONLY: ☑

MEASURE SUBMITTED TO VOTE OF VOTERS

Proposition A. Shall special taxes for Tax Zone #2, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City’s Resolution No. 2004-683, entitled “A Resolution of the City Council of the City of Modesto Creating Tax Zone #2 in Community Facilities District No. 2004-1 (Village One #2), Approving an Increase in the One-Time Facilities Special Tax Therein, and Approving Updates of the Rate and Method of apportionment of Special Taxes for the District”, adopted by the City Council of the City of Modesto on December 14, 2004, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to Tax Zone #2 of the City of Modesto Community Facilities District No. 2004-1 (Village One #2) pursuant to the City’s Resolution No. 2006-066, entitled “A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special Taxes therein (Annexation No. 11)” adopted by the City Council of the City of Modesto on February 7, 2006, for the purposes set forth in Resolution No. 2004-199, entitled “A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 2004-1 (Village One #2), Authorizing the Levy of Special Taxes within the District, Preliminarily Establishing an Appropriations Limit for the District, and Calling an Election for the Purpose of Submitting the Levy of the Special Taxes and the Establishment of the Appropriations Limit to the Qualified Electors of the District”, adopted by the City Council of the City of Modesto on April 6, 2004, which is incorporated herein by this reference?

BALLOT NO. _____
___% of land in territory proposed to be annexed to District
THIS BALLOT HAS A VALUE OF ___ VOTES
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-153

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
CANVASSING THE RESULTS OF THE MARCH 14, 2006, ELECTION HELD
WITHIN THE TERRITORY PROPOSED TO BE ANNEXED TO CITY OF
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE
#2), AND ORDERING ANNEXATION OF THE TERRITORY TO THE
DISTRICT (ANNEXATION NO. 11)

WHEREAS, this Council is conducting proceedings pertaining to the annexation
of certain territory to the City's Community Facilities District No. 2004-1 (Village One
#2) (the "District") and the levy of the District special taxes (the "District Special Taxes")
within such territory, as described in its Resolution No. 2006-066, entitled "A Resolution
of the City Council of the City of Modesto of Intention to Annex Territory to Community
Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special
Taxes therein (Annexation No. 11)" adopted on February 7, 2006, pursuant to Chapter
2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California
Government Code, commonly known as the "Mello-Roos Community Facilities Act of
1982" (the "Act"); and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-
681, adopted on December 14, 2004, clarify the Rate and Method of Apportionment with
respect to the Maximum Special Taxes to be generated by a parcel that has been rezoned;
and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-
683, adopted on December 14, 2004 ("Resolution of Creation of Tax Zone #2), create
Tax Zone #2 within the District; and
WHEREAS, the territory to be annexed will be subject to the tax rates in Tax Zone #2; and

WHEREAS, the owners of all the property within the territory proposed to be annexed to the District waived those provisions related to the timing and conduct of the election referenced in Sections 5, 6, 7 and 8 of this Council’s Resolution No. 2006-?, adopted on March 14, 2006, and, as a result, this Council called an election within the territory proposed to be annexed to the District (the “Election”) for March 14, 2006, or as soon thereafter as practicable, relative to the foregoing; and

WHEREAS, on March 14, 2006, the Election was held; and

WHEREAS, the City Clerk has certified that at the Election the proposition of levying the District Special Taxes within the territory proposed to be annexed to the District was approved by more than two-thirds (2/3) of the votes cast at the Election;

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

SECTION 1. The Election was duly and validly conducted in conformity with all applicable laws pertaining thereto. It is hereby determined that the owners of the territory proposed to be annexed is as set forth in the Certificate of City Clerk as to Distribution of Official Ballots, submitted to this Council and on file with the City Clerk.

SECTION 2. The ballot proposition presented to the qualified electors of the territory proposed to be annexed at the Election received at least two-thirds (2/3) of the votes cast at the Election. A copy of the City Clerk’s certificate of election results is attached.
CERTIFICATE OF CITY CLERK

I, JEAN ZAHR, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2006-153, A Resolution of the City Council of the City of Modesto Calling an Election for the Purpose of Submitting the Levy of the City of Modesto Community Facilities District No. 2004-1 (Village One #2) Special Taxes to the Qualified Electors of the Territory Proposed to be Annexed to the District (Annexation No. 11) adopted on February 7, 2006, by the City Council of the City of Modesto, I did conduct the Special Tax Election on March 14, 2006, and that the election was conducted by mail or in person at the City Hall of the City of Modesto.

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

**Proposition A.** Shall special taxes for Tax Zone #2, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City's Resolution No. 2004-683, entitled “A Resolution of the City Council of the City of Modesto Creating Tax Zone #2 in Community Facilities District No. 2004-1 (Village One #2), Approving an Increase in the One-Time Facilities Special Tax Therein, and Approving Updates of the Rate and Method of apportionment of Special Taxes for the District”, adopted by the City Council of the City of Modesto on December 14, 2004, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to Tax Zone #2 of the City of Modesto Community Facilities District No. 2004-1 (Village One #2), pursuant to the City’s Resolution No. 2006-066, entitled “A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special Taxes therein (Annexation No. 11)” adopted by the City Council of the City of Modesto on February 7, 2006, for the purposes set forth in Resolution No. 2004-159, entitled “A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 2004-1 (Village One #2), Authorizing the Levy of Special Taxes within the District, Preliminarily Establishing an Appropriations Limit for the District, and Calling an Election for the Purpose of Submitting the Levy of the Special Taxes and the Establishment of the Appropriations Limit to the Qualified Electors of the District”, adopted by the City Council of the City of Modesto on April 6, 2004, which is incorporated herein by this reference?

TOTAL VOTES CAST: YES ___ NO ___

Jean Zahr  
City Clerk of the City of Modesto  
Dated: __________, 2006
SECTION 3. Pursuant to Section 53339.8 of the Act, it is hereby ordered that the territory proposed to be annexed to the District pursuant to Resolution No. 2006-066 be annexed to and be a part of the District with full legal effect, and that the District Special Taxes be levied within the territory so annexed as set forth in the Resolution of Creation of Tax Zone #2.

SECTION 4. The City Clerk is hereby directed to enter this resolution on the minutes of this City Council, which shall constitute the official declaration of the result of the Election.

SECTION 5. The City Clerk is further authorized and directed to record an amendment to the Notice of Special Tax Lien with the County Recorder of the County of Stanislaus, within 15 days from the date hereof, in accordance with the provisions of Sections 3114.5 and 3117.7 of the California Streets and Highways Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of March 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-154

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF WILLIAM GLICK FROM THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

WHEREAS, WILLIAM GLICK was appointed a member of the Citizens Advisory Committee on Recycling on February 24, 2004; and

WHEREAS, WILLIAM GLICK has tendered his resignation from the Citizens Advisory Committee on Recycling; and

WHEREAS, WILLIAM GLICK has been a devoted and sincere public servant and has contributed greatly to our civic progress;

NOW, THEREFORE, BE IT RESOLVED that the resignation of WILLIAM GLICK from the Citizens Advisory Committee on Recycling be, and hereby is accepted with regret.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney

03/28/06/CMO/E Puckett/Item 2
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-155

A RESOLUTION OF THE CITY OF MODESTO AUTHORIZING AN
APPLICATION TO THE HOUSING AND COMMUNITY DEVELOPMENT
DEPARTMENT OF THE STATE OF CALIFORNIA FOR AN ENTERPRISE
ZONE EXPANSION

WHEREAS, the Housing & Community Development Department of the State of
California ("HCD") oversees an Enterprise Zone Program with the goal of stimulating
growth in economically depressed areas of the State, and

WHEREAS, on November 16, 2005, HCD approved the Stanislaus Enterprise
Zone which includes approximately 8,134 acres located within the City limits, and

WHEREAS, current law allows for a total of a fifteen percent (15%) acreage
expansion within Stanislaus County, and

WHEREAS, in response to said Enterprise Zone expansion opportunity, the City
has determined that certain properties meet the qualification for expansion by virtue of
their location in areas zoned for either commercial or industrial uses and interest has been
expressed by certain business owners within said areas, and

WHEREAS, based on this determination, the City will submit an application to
HCD for a Stanislaus Enterprise Zone expansion encompassing approximately 1,327
acres located within City limits, and

WHEREAS, the City has jurisdiction over a portion of the application area and is
adopting this resolution for those certain areas located within the City limits as shown on
Exhibit A - "Stanislaus Enterprise Zone: Modesto Expansion Map", which is attached
hereof and made a part hereof by this reference, and
WHEREAS, the City acknowledges that the Stanislaus Economic Development and Workforce Alliance ("The Alliance") shall be designated as the agency responsible for the submission of the expansion application, under the oversight of the member cities of Modesto, Turlock, Ceres, and the County.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that the boundary of the proposed Enterprise Zone expansion is hereby approved as shown in Exhibit A - “Stanislaus Enterprise Zone: Modesto Expansion Map”.

BE IT FURTHER RESOLVED that, should HCD approve the expansion application, the City agrees to complete all actions as required by HCD.

BE IT FURTHER RESOLVED that the City understands and acknowledges that there are other qualifying areas within Stanislaus County that are not currently described, and that inclusion of these areas in the Stanislaus Enterprise Zone would provide significant economic benefit to all communities within Stanislaus County, and therefore the City agrees to work cooperatively and expeditiously with other members of the Stanislaus Enterprise Zone to obtain approval of future expansion requests as they are submitted.

BE IT FURTHER RESOLVED that the Director of Community & Economic Development or designee, is hereby authorized and directed to execute and submit all required documentation, including the application, memorandum of understanding, and other necessary documents, on behalf of the City of Modesto, subject to any minor conforming technical or clarifying changes approved by the City Attorney, to the
California Housing & Community Development Department for review and approval of the Enterprise Zone boundary expansion as shown in Exhibit A.

The forgoing resolution was introduced in a regular meeting of the City Council of the City of Modesto held on the 28th day of March, 2006 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: 

JAN MORRIS, City Clerk

APPROVED AS TO FORM:

By 

RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-156

A RESOLUTION APPROVING AMENDMENT NO. 3 TO THE AGREEMENT BETWEEN THE CITY OF MODESTO AND TURNSTONE CONSULTING CORPORATION FOR THE PREPARATION OF A MARKET ANALYSIS ON THE PROPOSED REGIONAL COMMERCIAL DEVELOPMENT FOR THE TIVOLI (FORMERLY ROSELLE NEIGHBORHOOD) SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT IN AN AMOUNT NOT TO EXCEED $44,725

WHEREAS, Dave Romano, P.E/AICP, of Russell A. Newman P.L.C., has applied for a specific plan, referred to as the Tivoli (formerly Roselle Neighborhood) Specific Plan, to allow for the orderly and future development within the approximate 454-acre planning area bounded by Sylvan Avenue on the south, the extension of Claratina Avenue on the north, Roselle Avenue on the east and Oakdale Road on the west, and

WHEREAS, the Tivoli Specific Plan will also involve the following associated entitlements: prezoning to a Specific Plan-Overlay (SP-O) Zone; Annexation of the project site into the City of Modesto including approval by the Local Agency Formation Commission; adoption of a specific plan; a General Plan Amendment to 1) reclassify two sites consisting of approximately 67 acres from Village Residential to Regional Commercial, 2) allow Village Residential designation in TSP to exceed the recommended 5.1 units per gross acre, 3) allow commercial development for the Village Residential designation in TSP to exceed the recommended 4%, 4) allow for the TSP neighborhood center focus that combines a neighborhood park and elementary school, 5) reclassify Claratina Avenue from Oakdale Road to Roselle Avenue from a four-lane Expressway to a Principal Arterial with a Class I bike path, 6) reclassify Sylvan Avenue from east of Oakdale Road to Roselle Avenue from a Principal Arterial to a Minor Arterial, 7) amend
Oakdale Road from Sylvan Avenue to Claribel Avenue as a Principal Arterial to include Class 2 Bike Lanes, one lane on each side of the street; adoption of a Facilities Master Plan and a Infrastructure Finance Plan for the Tivoli Specific Plan area; formation of a Community Facilities District to fund the construction of “backbone” public infrastructure, maintenance of applicable public facilities, and applicable public services; approval of a Development Agreement to guide development within the Tivoli Specific Plan area; and subsequent entitlements, including abandonment of a portion of Mable Avenue, approval of Area Plans, Final Development Plans, tentative maps, Conditional Use Permits, and other City entitlement approvals, and

WHEREAS, Section 21080.1 of the California Public Resources Code requires the City of Modesto, as lead agency, to make a determination of whether an environmental impact report is required for projects, and

WHEREAS, the City has determined that an environmental impact report is required for the proposed Tivoli Specific Plan project and related applications, and

WHEREAS, by Resolution No. 2002-622, adopted on December 10, 2002, the City Council approved a list of environmental service providers, including the firm of Turnstone Consulting Corporation, to assist with the preparation of environmental impact reports and other environmental documents, and

WHEREAS, City staff selected Turnstone Consulting Corporation to prepare the environmental impact report for the Tivoli Specific Plan because of their extensive experience on similar projects in other jurisdictions, and
WHEREAS, the City Council adopted Resolution Number 2005-014 on January 4, 2005, approving an agreement with Turnstone Consulting Corporation for the preliminary work on the Environmental Impact Report for the Tivoli Specific Plan, and

WHEREAS, the City Council adopted Resolution Number 2005-184 on April 26, 2005, approving Amendment No. 1 to the agreement with Turnstone Consulting Corporation for the Biological Study and Traffic Study for the Tivoli Specific Plan, and

WHEREAS, the City Council adopted Resolution Number 2005-502 on October 11, 2005, approving Amendment No. 2 to the agreement with Turnstone Consulting Corporation for the preparation of the Draft Environmental Impact Report on the Tivoli Specific Plan, and

WHEREAS, City staff has negotiated a scope of work for a third amendment to the contract, involving the preparation of a market analysis on the proposed regional commercial development for the Tivoli Specific Plan Environmental Impact Report in an amount not to exceed $44,725.00, and

WHEREAS, City staff will be returning to Council for a fourth contract amendment for preparation of the Final EIR,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 3 to the Agreement between the City of Modesto and Turnstone Consulting Corporation for the preparation of a market analysis on the proposed regional commercial development for the Tivoli Specific Plan Environmental Impact Report in an amount not to exceed $44,725.00, 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 Amendment No. 3 to the Agreement and the City Clerk is hereby authorized to attest thereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Morris

JBAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-157

A RESOLUTION APPROVING A POLICY FOR INVESTMENT OF PUBLIC FUNDS, POLICY NO. 1.019

WHEREAS, pursuant to Section 2-3.401 of the Modesto Municipal Code, it is the function of the City of Modesto ("City") Finance Department to deposit and invest funds in accordance with sound treasury management, and

WHEREAS, the City is also governed by Sections 53600 et seq. of the California Government Code, which requires that local agencies annually adopt an investment policy, and

WHEREAS, the City Council approved a contract on February 3, 2004 with Public Financial Management (PFM), an investment services advisor, to provide investment management, research and supervision of the City’s Managed Funds, and

WHEREAS, PFM has reviewed the City’s Investment Policy and is not recommending changes to the City’s general investment philosophy, and

WHEREAS, a copy of the policy is marked Attachment “A”, attached hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the Policy for Investment of Public Funds, Policy No. 1.019.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
PURPOSE
The purpose of this document is to identify various policies and procedures that enhance opportunities for a prudent and systematic investment policy and to organize and formalize investment-related activities.

BACKGROUND
Under Section 2-3.401 of the Municipal Code, it is the function of the Finance Department to deposit and invest funds in accordance with sound treasury management. As a charter city, Modesto operates its pooled idle cash investment under the “prudent investor” rule which states that:

“When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with the care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency.”

The City is also governed by Sections 53600 et seq. of the California Government Code. This affords the City a broad spectrum of investment opportunities, so long as the investment is deemed prudent and allowable under current legislation of the State of California and the charter of the City of Modesto.

On an annual basis, the Finance Director/Treasurer will render to the City Council the statement of investment policy. The report will be considered, with any changes, by the City Council at a public meeting.

INVESTMENT REPORT
The Finance Director/Treasurer shall provide the City Council with a monthly report of investment transactions. In addition, the Finance Director/Treasurer shall render a quarterly report to the City Council, City Manager and the internal auditor within 30 days following the end of the quarter. The report shall contain the following:

1. The type of investment, issuer, purchase date, date of maturity, credit rating, overall portfolio yield based on cost, total par and dollar amount invested on all securities, investments
2. The weighted average maturity of the portfolio.

3. A description of any funds, investments or programs that are under management of contracted parties, including lending programs. Funds and investments held by contracted parties shall be reported at market value and the source of valuation shall be reported.

4. The market value as of the date of the report, and the source of the valuation.

5. A statement of compliance with the investment policy or manner in which the portfolio is not in compliance.

6. A statement denoting the City’s ability to meet its expenditure requirements for the next six months or provide an explanation as to why sufficient money shall, or may, not be available.

INVESTMENT CRITERIA
Public funds are invested in the following manner in order of priority:

1. **Safety of Principal**
   The duty of the Finance Director/Treasurer is to protect, preserve and maintain cash and investments on behalf of the citizens of the community. To guard against loss of principal, only prudent and safe investments will be considered.

2. **Liquidity**
   The receipt of revenues and maturities of investments should be scheduled so that adequate cash will be available to meet disbursements. An adequate portion of the portfolio should be maintained in liquid short-term instruments which can be readily converted to cash if necessary.

3. **Yield**
   Yield is the potential dollar earnings, or rate of return, an investment can provide. Yield becomes a consideration only after the basic requirements of safety and liquidity have been met.

SAFEKEEPING AND CUSTODY
All security transactions entered into by the City shall be conducted on a delivery-versus payment basis. Securities will be held by third party custodian designated by the Finance Director/Treasurer and evidenced by safekeeping receipts.

The only exception to the foregoing are Local Agency Investment Pools, Certificates of Deposit, and money market funds since the purchased securities are not deliverable. In all cases, purchased securities shall be held in the City’s name.
PERFORMANCE STANDARDS
The investment portfolio shall be designed with the objective of obtaining a rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow needs. The City will measure the portfolio's performance against a market benchmark that is commensurate with the City's investment risk constraints and the cash flow characteristics of the portfolio.

AUTHORIZED INVESTMENTS
Commencing with Section 53601 of Article 1, Chapter 4 of the Government Code of the State of California, surplus money may be invested in the following:

A. City of Modesto bonds. Bonds issued by the City.

B. U.S. Treasury securities. United States Treasury notes, bonds, bills or certificates of indebtedness or those for which the faith and credit of the United States are pledged for the principal and interest.

C. State of California securities. Registered State of California warrants, treasury notes or bonds, provided that the securities are rated AAA by a nationally recognized statistical rating agency.

D. California municipal securities. Bonds, notes, warrants or other evidence of indebtedness of any local agency within California, provided that the securities are rated AAA by a nationally recognized statistical rating agency.

E. Federal Agency securities. Obligations issued by a federal agency or United States government-sponsored enterprise.

F. Bankers' Acceptances. Bankers' Acceptances issued by domestic or foreign banks, which are eligible for purchase by the Federal Reserve System, the short-term paper of which is rated in the highest category by a nationally recognized statistical rating agency.

Purchases of Bankers' Acceptances may not exceed 180 days maturity or 40 percent of the City's surplus money. The maximum amount permitted to be invested in the Banker's Acceptances of any one commercial bank is the greater of 10 percent of the City's surplus funds or $1 million.

G. Commercial Paper. Commercial paper of "prime" quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical-rating organization. The entity that, issues the commercial paper shall meet all of the following conditions in either paragraph (1) or paragraph (2):

(1) The entity meets the following criteria: (a) is organized and operating within the United States as a general corporation. (b) Has total assets in excess of $500 million. (c) Has debt other than commercial paper, if any, that is rated "A" or higher by a nationally
recognized statistical-rating organization (NRSRO).

(2) The entity meets the following criteria: (a) is organized within the United States as a special purpose corporation, trust, or limited liability company. (b) Has program wide credit enhancements including, but not limited to, over collateralization, letters of credit, or surety bond.

Investments in commercial paper are limited to a maximum of 25% of the portfolio. Purchases shall not exceed 10 percent of the outstanding paper of the issuing corporation. The maximum investment maturity is restricted to 270 days.

H. Certificates of Deposit. FDIC insured or fully collateralized time certificates of deposit in financial institutions located in California. Eligible investments are restricted to those issuing institutions that have been in business at least five years. The maximum term for deposits shall be one year. Investments in certificates of deposit are further limited to 20% of surplus funds. All time deposits must be collateralized in accordance with California Government Code section 53561. The City, at its discretion, may waive the collateralization requirements for any portion of the deposit that is covered by federal insurance.

I. Negotiable Certificates of Deposit. Negotiable certificates of deposit issued by a nationally- or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank; provided that the senior debt obligations of the issuing institution are rated “AA” or better by Moody’s or Standard & Poor’s. Investments in negotiable certificates of deposit are limited to 30 percent of the portfolio.

J. Repurchase Agreements. Repurchase Agreements used solely as short-term investments not to exceed 90 days.

The following collateral restrictions will be observed: Only U.S. Treasury securities or Federal Agency securities as described in 1 and 2 will be acceptable collateral. All securities underlying Repurchase Agreements must be delivered to the City’s custodian bank versus payment or be handled under a tri-party repurchase agreement. The total of all collateral for each Repurchase Agreement must equal or exceed, on the basis of market value plus accrued interest, 102 percent of the total dollar value of the money invested by the City for the term of the investment. For any Repurchase Agreement with a term of more than one day, the value of the underlying securities must be reviewed on a regular basis.

Market value must be calculated each time there is a substitution of collateral.

The City or its trustee shall have a perfected first security interest under the Uniform Commercial Code in all securities subject to Repurchase Agreement.

The City may enter into Repurchase Agreements with (1) primary dealers in U.S. Government securities who are eligible to transact business with, and who report to, the Federal Reserve Bank of New York, and (2) California and non-California banking
institutions having assets in excess of $1 billion and in the highest short-term rating category as provided by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

The City will have specific written agreements with each firm with which it enters into Repurchase Agreements.

K. Reverse Repurchase Agreements. The City may invest in reverse repurchase agreements only with "primary dealers" with which the City has entered into a master repurchase agreement contract. The City may invest in reverse repurchase agreements with the following conditions: The City may only use reverse repurchase agreements to (1) cover a temporary cash shortage, or (2) augment earnings. Reverse repurchase agreements may not be used to leverage the portfolio.

In addition, if a reverse repurchase agreement is authorized, it may be utilized only if the security to be sold on reverse repurchase agreement has been owned and fully paid for by the City for a minimum of 30 days prior to the sale; the total of all reverse repurchase agreements on investments owned by the City does not exceed 20% of the portfolio; and the agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of the security using a reverse repurchase agreement and the final maturity date of the same security. The proceeds of the reverse repurchase agreement may not be invested in securities whose maturity exceeds the term of the Reverse Repurchase Agreement.

L. Medium-term corporate notes. Medium-term corporate notes defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the U.S. or any state and operating within the U.S. Medium-term notes shall be rated in a rating category "AA-" or its equivalent or better by a nationally recognized rating service. Purchase of medium-term corporate notes may not exceed 30 percent of the City's investment portfolio.

M. Money market funds. Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (money market funds).

N. State of California Local Agency Investment Fund (LAIF).

O. Mortgage and asset-backed securities. Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable-backed bond that has been issued by a Federal Agency and has a maximum of five years maturity.

MAXIMUM MATURITY
Investment maturities shall be based on a review of cash flow forecasts. Maturities will be scheduled so as to permit the City to meet all projected obligations.
Maximum maturity of an authorized investment is limited to five years.

Proceeds of sales or funds set aside for the repayment of any notes (e.g., Tax and Revenue Anticipation Notes) shall not be invested for a term that exceeds the term of the notes.

**INELIGIBLE INVESTMENTS**
Any security type or structure not specifically approved by this policy is hereby specifically prohibited. Security types which are thereby prohibited include, but are not limited to,

- Investment in inverse floaters, range notes, or interest only strips that are derived from a pool of mortgages is prohibited.
- Investment in any security that could result in a zero interest accrual if held to maturity is prohibited.

**RESTRICTIONS SET BY THE FINANCE DIRECTOR/TREASURER**

A. Prior approval of the Finance Director/Treasurer is required for the following transactions:

- Sale of securities
- Swaps and trades
- Purchase of collateralized mortgage obligations (CMO)
- Purchase of mortgage-backed obligations
- Purchase of corporate notes
- Purchase transaction in excess of $3 million

B. The following investments are not deemed appropriate for the City and will not be utilized:

- Futures and options
- Small Business Administration notes

**AUTHORIZED INVESTMENT PERSONNEL**
Pursuant to the Government Code, the City Council delegates the authority to invest or to reinvest funds, or to sell or exchange securities so purchased, to the Finance Director/Treasurer for a one-year period. The Finance Director/Treasurer is charged with the responsibility for carrying out the policies of the City Council and shall assume full responsibility for investment transactions until the delegation of authority is revoked or expires.

Idle cash management and investment transactions are the responsibility of the Finance Department, which is under the control of the Finance Director/Treasurer. The Finance Director/Treasurer may designate an individual(s) [“Designee”] to be responsible for the daily management of the City’s portfolio of treasury investments. The Designee may also be directed to monitor and forecast the City’s cash flows, and prepare periodic investment reports that are
submitted to the City Council. The Accounting Division of the Finance Department monitors all treasury transactions and prepares accounting records of all investment transactions as to type of investment, amount, yield, and maturity. No other person has authority to make investment transactions without the written authority of the Finance Director/Treasurer. Pursuant to Government Code chapter 53600, all persons investing monies are trustees and therefore fiduciaries subject to the prudent investor standard. Financial market security transactions will be executed by delivery versus payment and the securities will be held by a third party custodian.

Subject to required procurement procedures, the City may engage the support services of outside professionals in regard to its financial program, so long as it can be demonstrated or anticipated that these services produce a net financial advantage or necessary financial protection of the City’s resources.

POLICY REVIEW
The investment policy shall be adopted by resolution of the City Council on, at minimum, an annual basis. This investment policy shall be reviewed at least annually to ensure its consistency with the overall objectives of preservation of principal, liquidity and yield, and its relevance to current law and financial and economic trends. Any amendments to the policy shall be forwarded to City Council for approval.

This policy and the internal controls related to the investment of City funds will be reviewed by the City’s independent external auditors in the conduct of their annual audit of the City.
APPENDIX A - GLOSSARY

Bankers Acceptances (BAs)
Bankers Acceptance is a time bill of exchange drawn on and accepted by a commercial bank to finance the exchange of goods. When a bank “accepts” such a bill, the time draft becomes, in effect, a predated certified check payable to the bearer at some future specified date. Little risk is involved for the investor because the commercial bank assumes primary liability once the draft is accepted.

Certificates of Deposit (CDS)
A certificate of deposit is issued against funds deposited in a commercial bank for a definite period of time and earning a specified rate of return. They are issued in two forms, negotiable and non-negotiable:

- **A negotiable certificate of deposit** may be sold by one holder to another prior to maturity. This is possible because the issuing bank agrees to pay the amount of the deposit, plus earned interest, to the Bearer of the certificate at maturity.

- **A non-negotiable certificate of deposit** is collateralized and is not a money market instrument since it cannot be traded in the secondary market. It is issued on a fixed maturity basis and often pays a higher interest rate than is permissible on other savings or time deposit accounts.

Collateralized Mortgage Obligation (CMO)
A CMO is a pool of mortgages sold as a single investment with interest paid monthly, quarterly, or semi-annually. Mortgage securities pay a higher rate than U.S. Treasury securities due to risk of prepayment and default.

Commercial Paper (CP)
This is a short-term promissory note issued by a corporation to raise working capital. The interest rates tend to be higher than other investments of similar liquidity.

Derivatives
A financial instrument with a value derived from the value of one or more underlying assets or indexes of asset values. The term “derivative products” refers to instruments or features such as collateralized mortgage obligations (CMOs), interest-only (IOs) and principal-only (POs), forwards, futures, currency and interest rate swaps, options, floaters/inverse floaters, and caps/floors/collars.

Federal Agency Securities
Certain agencies created by Congress and sponsored by the federal government issue debt that is considered to be of prime quality and have a very high standing in the bond market. The major federal agencies are described as follows:

- **Federal National Mortgage Association** (FNMA, “Fannie Mae”) provides funds to the mortgage market primarily by purchasing loans from local lenders.
Federal Home Loan Mortgage Corporation (FHLMC, "Freddie Mac") purchases conventional mortgages and sells mortgage-backed securities.

Student Loan Marketing Association (SLMA, "Sallie Mae") facilitates that flow of private capital into various federally-guaranteed student loan programs maintained through banks, S&Ls, educational institutions and other participating lenders.

Federal Farm Credit System (FFCB) sells securities to provide mortgage loans and short-term and intermediate-term credit to farmers, ranchers, and agricultural cooperatives.

Federal Home Loan Bank (FHLB) acts as a credit reserve system for the thrift industry to stabilize the flow of funds to member savings and loan and savings banks.

Futures
Exchange traded contracts specifying a future date of delivery or receipt of a specific product (physical commodity or financial instrument). Futures are used by business as a hedge against unfavorable price changes, and by speculators who hope to profit from such changes.

Local Agency Investment Fund (LAIF)
State of California LAIF is designed to provide a convenient and safe means of investing temporarily idle monies by the State Treasurer. LAIF provides high liquidity and generally pays higher yields than can be realized by individual local agencies (for similar maturities) due to economies of scale.

Medium-Term Notes
Issued by corporations (in the form of secured or unsecured debt) for the purpose of raising working capital and purchasing capital assets.

Options
A right to buy (call) or sell (put) a fixed amount of a given stock at a specified price within a limited period of time. The purchaser hopes that the stock’s price will go up (if he bought a call) or down (if he bought a put) by an amount sufficient to provide a profit when he sells the option. If the price is static or moves in the opposite direction, the price paid for the option is lost entirely.

Repurchase Agreement
As authorized in Government Code Section 5360i(1), these investment vehicles are (generally short-term) agreements between the local agency and seller for the purchase of Government securities to be resold at a specific date and for a specific amount.

Reverse Repurchase Agreement
This transaction is the opposite of a repurchase agreement. The dealer buys securities with a contractual agreement to sell them back at a prearranged date. The local agency pays the dealer’ interest for the use of the funds. The money “borrowed” on a “reverse repo” can be reinvested in higher yielding instruments.
**U.S. Treasury Securities**
The highest quality, most liquid debt investments available in the fixed income market-place; unconditionally backed by the "full faith and credit" of the U.S. Government. Treasury bills are short-term instruments (maturity of three months to one year); Treasury notes and bonds are currently issued with maturities of two to ten years.
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-158

A RESOLUTION AUTHORIZING INVESTMENT OF CITY MONIES IN THE LOCAL AGENCY INVESTMENT FUND

WHEREAS, pursuant to Chapter 730 of the statutes of 1976, Section 16429.1 was added to the California Government Code to create a Local Agency Investment Fund in the State Treasury for the deposit of money of a local agency for purposes of investment by the State Treasurer; and

WHEREAS, the City Council does hereby find that the deposit and withdrawal of money in the Local Agency Investment Fund, in accordance with the provisions of Section 16429.1 of the Government Code, for the purpose of investment as stated therein as in the best interests of the City of Modesto.

NOW THEREFORE, BE IT RESOLVED, that the City Council does hereby authorize the deposit and withdrawal of City monies in the Local Agency Investment Fund in the State Treasury in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated therein, and verification by the State Treasurer’s Office of all banking information provided in that regard.

BE IT FURTHER RESOLVED, that the following City of Modesto officers or their successors in office shall be authorized to order the deposit or withdrawal of monies in the Local Agency Investment Fund:

M. Wayne Padilla  Gregory M. Baird  Cheryl Detmar  Barry Newlin
Finance Director  Deputy Finance Dir  Deputy Finance Dir  Accounting Div Mgr

03/28/06/Finance/Padilla/Item 7  1  2006-158
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

By

RICHARD RUDNANSKY, Interim City Attorney

ATTEST: 

JEAN MORRIS, City Clerk
A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT TO HERITAGE FORD OF MODESTO, CALIFORNIA FOR FIFTEEN (15) NEW, CURRENT YEAR/MODEL, CHP CLASS “E” POLICE INTERCEPTOR SEDANS IN THE APPROXIMATE AMOUNT OF $392,110.58

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of fifteen (15) new, current year/model, CHP Class “E” Police Interceptor sedans, and

WHEREAS, delivery of these vehicles will be coordinated to coincide with the lifecycles of the current patrol fleet in order to meet the replacement needs over the next twelve (12) months, and

WHEREAS, Resolution No. 2005-381 authorizes the Purchasing Supervisor to solicit formal 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 authorization, and

WHEREAS, the Purchasing Division solicited formal bids for fifteen (15) new, current year/model, CHP Class “E” Police Interceptor sedans on Request for Bid (RFB) 0506-26, and

WHEREAS, eighteen (18) vendors were solicited, one (1) of which was a local vendor, and

WHEREAS, out of eighteen (18) vendors solicited, three (3) chose to respond, and
WHEREAS, the City’s 2% local vendor preference was not a factor in determining the lowest responsive and responsible bidder for the CHP, Class “E”, Police Interceptor sedans, and

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

WHEREAS, the approximate cost of the fifteen (15) new, current year/model, CHP, Class “E”, Police Interceptor sedans is approximately $392,110.58 including freight and sales tax, and

WHEREAS, Heritage Ford of Modesto, California was deemed to be the lowest responsive and responsible bidder, 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 states that purchases whose total maximum cost to the City exceeds $50,000 shall receive preliminary approval of the Council (MMC 8-3.203(a)), and

WHEREAS, this request for award of bid and contract conforms to City Code, and

WHEREAS, funds are available in the following accounts: 7210-480-5814-5323, 7210-480-5814-5326 and 7210-480-5814-5324 (Fleet Equipment, Replacement), and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for fifteen (15) new, current
year/model, CHP, Class “E” Police Interceptor sedans to Heritage Ford of Modesto, California in the approximate amount of $392,110.58.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase order to Heritage Ford of Modesto, California for fifteen (15) new, current year/model, CHP, Class “E”, Police Interceptor sedans in the approximate amount of $392,110.58.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-160

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT TO JM SQUARED ASSOCIATES, INC. OF CONCORD, CALIFORNIA FOR TWO (2) NEW FAIRBANKS MORSE VERTICAL PROPELLER PUMPS FOR A TOTAL APPROXIMATE AMOUNT OF $133,980.38

WHEREAS, the Public Works Department-Secondary Treatment Plant, located at 7007 Jennings Road, Modesto, California has requested the purchase of two (2) new Fairbanks Morse Vertical Propeller pumps, and

WHEREAS, the two (2) pumps at the secondary treatment facility are nearing the end of their life cycle and need to be replaced, and

WHEREAS, these pumps are used to move water from facultative ponds into Storage Pond No. 1 as part of the process to moving treated water received from the Primary Treatment Facility, and

WHEREAS, the treatment process involves moving water from the facultative pond into the storage pond, and

WHEREAS, there are currently four (4) pumps in a series that are alternated when moving the water, and

WHEREAS, over the past three (3) years staff has replaced two (2) of the four (4) pumps as they reached the end of their life cycle, and

WHEREAS, the two (2) pumps were replaced with the same Fairbank pump staff is requesting authorization to purchase for the remaining two (2) pumps, and

WHEREAS, it is necessary to replace the last two (2) original Flygt Submersible pumps in the Storage Pond Forebay at the Secondary Treatment Plant with two (2) new...
Fairbanks Morse Vertical Propeller pumps to match the existing of Fairbanks Morse Vertical Propeller pumps, and

WHEREAS, the two (2) new pumps need to match the existing vertical propeller pumps at this site for the following reasons:

- By having four (4) pumps at this site confirming exactly to each other will allow for one (1) spare shaft, impeller, split mechanical seal and motor.
- This reduction in spare parts will minimize the capital cost, storage space, and operational cost for training employees to operate and maintain only one (1) brand of pump for this system.
- These replacement parts cost approximately $25,000.
- The propeller is 24 inches in diameter and weighs approximately 500 pounds.
- The shaft is approximately 15 feet long.

WHEREAS, JM Squared Associates Inc. of Concord, California is the only authorized Fairbanks Morse pump distributor for OEM parts and pumps in the Northern California territory, and

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

WHEREAS, per Modesto Municipal Code Section 8-3.204(d), the Purchasing Supervisor may determine that a process other then the formal bid procedure set forth in Section 8-3.203 will result in a procurement for the City at the lowest possible cost commensurate with the desired quality, and
WHEREAS, this request for authorization to do a “sole source” award will conform to code, and

WHEREAS, the City Council has appropriated funds for two (2) new Fairbanks Morse pumps in account number 6210-480-B589-6070 (R&R STOR POND1 LSPMP1 SECONDARY),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for two (2) new Fairbanks Morse Vertical Propeller pumps to JM Squared Associates, Inc. of Concord, California for a total approximate amount of $133,980.38.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order to JM Squared, Inc. for two (2) new Fairbanks Morse Vertical Propeller pumps as set forth herein.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-161

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR SEVEN (7) NEW, CURRENT YEAR/MODEL TRUCKS TO THE FOLLOWING VENDORS: ALTEC INDUSTRIES OF DIXON, CALIFORNIA FOR ONE (1) VEHICLE FOR A PURCHASE PRICE OF APPROXIMATELY $89,074.01; WESTERN TRUCK PARTS & EQUIPMENT COMPANY OF SACRAMENTO, CALIFORNIA FOR TWO (2) VEHICLES FOR A PURCHASE PRICE OF APPROXIMATELY $328,990.56; AND COALINGA MOTORS INC. OF COALINGA, CALIFORNIA FOR FOUR (4) VEHICLES FOR A PURCHASE PRICE OF APPROXIMATELY $114,942.79. THE APPROXIMATE TOTAL AMOUNT FOR ALL SEVEN (7) TRUCKS IS $533,007.36

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of seven (7) new, current year/model 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 pickup in Electrical 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), trucks with packer body—These trucks are to replace (2) current trucks in the Pruned Refuse 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), truck with Aerial Bucket Altec AT37-G, Ford Super Duty F550—This truck is to replace a current pickup in the Electrical 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), ¾ ton, extended cab, chassis with low profile utility body trucks—These two trucks are a new addition to the Water Department. These trucks were approved in the supplemental budget update for added work crews.

One (1), ¾ ton, regular cab, long bed, 2WD pickup—This truck is a new addition to the Water Department. This truck was approved in the supplemental budget update for added work crews.
WHEREAS, Resolution No. 2005-381 authorize the Purchasing Supervisor to solicit bids for new vehicles and heavy equipment throughout FY 05/06 using various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, the Purchasing Division solicited formal bids for seven (7) new, current year/model trucks on Request for Bid (RFB) 0506-20, and

WHEREAS, Sixty-seven (67) vendors were solicited of which nine (9) were local vendors, and

WHEREAS, out of sixty-seven (67) vendors solicited, six (6) chose to respond to the RFB, and

WHEREAS, the 2% local vendor preference was a factor in determining the lowest responsive and responsible bidder for one (1) of the seven (7) trucks, and

WHEREAS, the two (2) trucks with packer bodies received consideration for the 2% local vendor preference, and

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

WHEREAS, Altec Industries of Dixon, California was deemed to be the lowest responsive and responsible bidder for the following vehicle:

- One (1), truck with Aerial Tower Altec AT37-G, Ford Super Duty F550 truck,

in the approximate amount of $89,074.01, and
WHEREAS, Western Truck Parts & Equipment Company of Sacramento, California was deemed to be the lowest responsive and responsible bidder for the following vehicle:

- Two (2), trucks with packer bodies, options two (2) and five (5) in the approximate amount of $328,990.56, and

WHEREAS, Coalinga Motors Inc. of Coalinga, California was deemed to be the lowest responsive and responsible bidder for the following vehicles:

- One (1), one (1) ton, DRW utility trucks;
- Two (2), ¾ ton, extended cab, chassis with low profile utility body trucks;
- One (1), ¾ ton, regular cab, long bed, 2WD pickup,

in the approximate amount of $114,942.79, and

WHEREAS, the approximate amount for seven (7) new, current year/model trucks is $533,007.36, 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 states that purchases whose total maximum cost to the City exceeds $50,000 should receive preliminary approval of Council (MCC 8-3.203(a)), and

WHEREAS, this request for award of bid and contract conforms to City Code, and

WHEREAS, funds are available in the following accounts: 7210-480-5814-5258 (Fleet Equipment, Replacement); 7210-480-5814-5277 (Fleet Equipment, Replacement); 7210-480-5814-5278 (Fleet Equipment, Replacement); 7210-480-5814-5319 (Fleet Equipment, Replacement).
Equipment, Replacement); 6100-480-5013-5700 (Water Fund); and 6100-480-5013-5700 (Water Fund) in the amount of $555,000 for seven (7) new, current year/model trucks,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for seven (7) new, current year/model trucks in the approximate total amount of $532,944.68 to the following vendors:

Altec Industries of Dixon, California for the following vehicle:
• One (1), truck with Aerial Tower Altec AT37-G, Ford Super Duty F550 truck,
in the approximate amount of $89,074.01, and

Western Truck Parts & Equipment Company of Sacramento, California for the following vehicle:
• Two (2), trucks with packer bodies, options two (2) and five (5)
in the approximate amount of $328,990.56,

Coalinga Motors Inc. of Coalinga, California for the following vehicles:
• One (1), one (1) ton, DRW utility truck;
• Two (2), ¾ ton, extended cab, chassis with low profile utility body trucks;
• One (1), ¾ ton, regular cab, long bed, 2WD pickup,
in the approximate total amount of $114,942.79.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue purchase orders for seven (7) new, current year/model trucks as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar,
who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-162  

A RESOLUTION APPROVING DOWNTOWN ROCKS, TO BE HOSTED BY THE PRODUCING GROUP, LLC, IN DOWNTOWN MODESTO ON FOUR EVENINGS BETWEEN JUNE 1, 2006, AND SEPTEMBER 30, 2006

WHEREAS, during the summer of 2004, the State Theatre sponsored a summer concert series in downtown Modesto called Downtown Rocks, and

WHEREAS, these family-oriented concerts were successful in bringing thousands of people to downtown Modesto to enjoy quality music, and

WHEREAS, because of changes at the State Theatre, the concert series was not repeated in the summer of 2005, and

WHEREAS, Chris Ricci Presents, Inc., is requesting that Downtown Rocks be revived for the summer of 2006, and

WHEREAS, Chris Ricci has formed a new entertainment partnership called The Producing Group, LLC that is proposing to present up to four headliner concerts between the dates of June 1 and September 30, 2006, and

WHEREAS, Chris Ricci Presents, Inc. has been the promoter of the successful Xclamation Fest, held in July in downtown Modesto, for the last six years, and

WHEREAS, as with Xclamation Fest, the cost of producing Downtown Rocks would be assumed by the promoters, and

WHEREAS, the use of City staff and/or equipment would be reimbursed by The Producing Group, LLC and in addition, the City of Modesto would receive 10% of the gross ticket sales, and
WHEREAS, the Safety and Communities Committee met on March 6, 2006, and supported the recommendation to approve Downtown Rocks, with the particular dates for the event to be coordinated with the Police Department in relation to other events occurring in downtown Modesto, and the location be coordinated with the Police Department, Public Works Department and Parks, Recreation and Neighborhoods Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Downtown Rocks, to be hosted by The Producing Group, LLC, in downtown Modesto on four evenings between June 1, 2006, and September 30, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-163

A RESOLUTION APPROVING A REQUEST FROM THE LIVING WATER
BIBLE CHURCH FOR USE OF AMPLIFIED MUSIC AT MANCINI BOWL FOR
A WORSHIP CONCERT TO BE HELD ON JUNE 2, 2006

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has received a letter from the Living Water Bible Church, requesting use of amplified music at Mancini Bowl on Friday, June 2, 2006, from 5:00 p.m. to 10:00 p.m. for a worship concert, and

WHEREAS, City Council Policy No. 6-007 prohibits the use of amplified music in public without City Council approval, and

WHEREAS, the Safety and Communities Committee met on March 6, 2006, and supported the request for amplified music,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a request from the Living Water Bible Church for the use of amplified music at Mancini Bowl for a worship concert event on June 2, 2006 from 5:00 p.m. to 11:00 p.m.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: 
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-164

A RESOLUTION SUPPORTING OPPOSITION TO THE SIGNIFICANT REDUCTION OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING IN THE PRESIDENT’S 2007 BUDGET PROPOSAL, AND AUTHORIZING STAFF TO SEND LETTERS SUPPORTING THE OPPOSITION TO THE RESPECTIVE LEGISLATIVE COMMITTEES

WHEREAS, in early February, President Bush released his budget proposal for fiscal year 2007, and

WHEREAS, although the proposed budget covers various funding proposals, of particular concern for the City of Modesto is the proposed reduction in funding of the Community Development Block Grant (CDBG) program, and

WHEREAS, while details regarding the 2007 budget proposal are still under study, it appears that the CDBG program would be reduced nationwide by $1 billion, which represents a potential reduction of 27% in program funding, and

WHEREAS, the President's proposed budget is a real investment in building a society based on ownership and reaching out to those people and places in need to make sure every American has a place to call home, and formula changes will be proposed to direct more of the program's base funding to communities that cannot meet their own needs, and bonus funds will be available to communities that demonstrate the greatest progress in expanding homeownership and opportunity for their residents, and

WHEREAS, it appears that the President’s budget proposal will meet significant resistance, and
WHEREAS, in 2006, the President attempted to eliminate the CDBG program and met immense opposition and many groups rallied to save the CDBG program last year and new groups are mobilizing opposition efforts to the reductions, and

WHEREAS, the CDBG Program has served communities for 30 years as a resource to help cities, counties and States meet their community development, affordable housing, and economic development needs, and

WHEREAS, as an entitlement area, the City of Modesto will receive $2,428,846 in funding for Fiscal Year 2006-2007 (this represents a 10% reduction from the current year), and

WHEREAS, the proposed 27% cut in funding could significantly reduce the City’s capacity to assist some of Modesto’s most vulnerable citizens, including persons who are homeless, low-income seniors and families, children, victims of domestic violence, persons with HIV/AIDS and persons who are victims of Fair Housing discrimination, and

WHEREAS, if the proposed reduction percentage was applied across the board, a loss of $655,788 would result for the City of Modesto in CDBG funding, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on February 24, 2006, and supported staff’s recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby supports the opposition to the significant reduction of Community Development Block Grant (CDBG) funding in the President’s 2007 Budget Proposal.

BE IT FURTHER RESOLVED that the Council hereby authorizes staff to send letters supporting the opposition to the reduction of Community Development Block
Grant (CDBG) funding in the President’s 2007 Budget Proposal to the respective legislative committees.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-165

A RESOLUTION APPROVING A SIXTY (60) DAY EXTENSION TO A 6-MONTH PROVISIONAL APPOINTMENT FOR DESIRREE ABSHIRE, SENIOR COMMUNITY DEVELOPMENT PROGRAM SPECIALIST

WHEREAS, the Parks, Recreation and Neighborhoods Department has a vacancy for the position of Senior Community Development Program Specialist, and

WHEREAS, Desirree Abshire was provisionally appointed as Senior Community Development Program Specialist on October 4, 2005, and

WHEREAS, a successful recruitment for the Senior Community Development Program Specialist is nearing completion, and

WHEREAS, the Parks, Recreation and Neighborhoods Department desires to extend the provisional appointment of Desirree Abshire to this position until a successful candidate can be hired, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a sixty (60) day extension to the six-month provisional appointment of Desirree Abshire to the position of Senior Community Development Program Specialist is hereby approved.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O' Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-166  

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

WHEREAS, a Position Classification Plan for the City of Modesto was adopted 
by Modesto City Council Resolution 88-338 pursuant to Rule 2 of the Personnel Rules 
and Regulations of the City of Modesto, and  

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

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

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

SECTION I. CLASSIFICATION AMENDED. The Position Classification Plan 
of the City of Modesto is hereby amended to revise the job specification for the 
classification of Supervising Animal Control Officer. The job specification for this 
classification is being amended to change the required experience to include additional 
enforcement experience not specific to animal control. The job specification for the 
classification of Supervising Animal Control Officer, as shown on the attached Exhibit 
“A,” which is hereby made a part of this resolution by reference, is hereby approved and 
made part of the Position Classification Plan of the City of Modesto.  

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and 
The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 28th day of March, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

By ____________________________
RICHARD RUDNANSKY, Interim City Attorney

ATTEST: _______________________
JEAN MORRIS, City Clerk

03/28/06/Personeel/C Platt/Item 15  2  2006-166
SUPERVISING ANIMAL CONTROL OFFICER

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

DEFINITION

Plan, organize and supervise Animal Control operations; to protect citizens from dangerous or hazardous animals; to ensure proper enforcement of City and local ordinances governing the care and keeping of domestic and wild animals in the City; to capture and impound animals, as appropriate, to promote responsible pet ownership and to perform a variety of community relations, administrative and technical duties.

Note: When working in a field setting, the Supervising Animal Control Officer is required to carry a firearm and wear a ballistic vest.

DISTINGUISHING CHARACTERISTICS

Supervising Animal Control Officer is the supervisory level in the Animal Control Officer series. The position is a working supervisor, with responsibility for supervising Animal Control Officers and assigned technical and administrative staff, while also functioning as a technically experienced field officer. This class is distinguished from Animal Control Officer II in that the latter is a journey level class, while Animal Control Supervisor is the supervisory level.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from a Police Lieutenant or other management staff. Exercises direct and indirect supervision over Animal Control Officers and assigned technical and administrative staff.

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

Essential Functions:

Supervise, evaluate and coach assigned staff; maintain discipline and ensure all rules, policies and procedures are enforced; advise and counsel subordinates; prepare performance evaluations; follow up on problems and complaints; participate in selection of staff.

Exhibit "A"
Essential Functions: (Continued)

Schedule personnel for shifts, ensure sufficient shift coverage and adjust shift schedules to fill vacancies, determine overtime needs and authorize overtime; prioritize calls and assignments.

Oversee training and orientation of new staff; train department personnel on animal control techniques, animal handling, tranquilizing, animal behavior, and common diseases of animals, human behavior, handling stress, crisis intervention, and report writing.

Interpret animal control laws, regulations, ordinances policies and procedures; recommend, coordinate and implement unit policy and procedures; advise Animal Control Officers on complex issues or calls.

Investigate reports or complaints of dogs, cats or other animals creating nuisances, use tactical communication style to de-escalate situations and use mediation techniques to reconcile various complaints.

Investigate reports of animal cruelty or abuse, and take appropriate action.

Patrol City streets, roads and parks; search for stray or abandoned animals; capture and confine animals using appropriate procedures; impound and quarantine animals, as appropriate; enforce City animal control and licensing laws; issue citations for violations of animal control and licensing ordinances.

Administer vaccines and provide first aid medical treatment to animals; may euthanize severely injured animals.

Write incident reports, gather evidence, prepare and present cases at administrative hearings; prepare and maintain a variety of records and reports; maintain inventories of medications supplies.

Maintain contact with citizens regarding animal control issues and problems and preserve good relationships with the general public; explain ordinances relating to the care and keeping of animals to the public; provide information regarding policies and procedures used by Animal Control Officers; conduct educational seminars and presentations promote and provide education to the public regarding the keeping and caring of pets.

Work with other department personnel, city staff and the public in the areas of assigned functional responsibilities.

Exhibit "A"
Essential Functions: (Continued)

Attend meetings and respond to questions and complaints; receive and investigate complaints, resolve or recommend resolutions of complaints; implement corrective actions, policy amendments or other actions to address complaints.

May assist Police Officers on high risk operations including dynamic and tactical entries, searches, and in serving arrest warrants, when vicious dogs may be present.

May make warrantless arrests related to penal code 830.9; interview victims, complainants and witnesses.

Present and maintain a positive and professional image of the police department; participate in community oriented policing.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles and practices of supervision and training; basic principles of public sector personnel management.

Applicable rules and regulations relating to laws and regulations governing the licensing, quarantine, impounding, care, release and disposal of animals:

PC 830 and 832 related to animal control; powers of arrest and use of firearms.

Principles and practices of humane apprehension and care of animals.

Physical and behavioral characteristics of common breeds of domestic animals.

Police protocols and standard operating procedures.

First aid and CPR procedures and practices.

Symptoms of common animal diseases:

Methods and equipment used in handling various types of animals and reptiles.

Exhibit "A"
Knowledge of: (Continued)

General safety requirements.

Procedures and techniques for working with the public in a tactful but firm manner.

Basic personal computer operation.

Ability to:

Supervise, train, plan, organize and review the work of assigned staff; coach and counsel staff.

Learn applicable rules and regulations relating to laws and regulations governing the licensing, quarantine, impounding, care, release and disposal of animals.

Learn PC 830 and 832 related to animal control, powers of arrest and use of firearms.

Identify symptoms of common animal diseases.

Learn methods and equipment used in handling various types of animals and reptiles.

Exercise independent judgment and make sound decisions in emergency situations.

Communicate clearly and concisely, both orally and in writing; write defensible reports.

Evaluate and establish priorities; handle simultaneous events effectively.

Establish and maintain effective working relationships with coworkers, subordinates and supervisors, other departments, outside agencies and the public including the ability to resolve conflicts.

Interact with the public displaying a high degree of courtesy, tact, compassion and poise.

Administer humane euthanasia to animals, as necessary.

Maintain neat and accurate logs, records, and related forms; maintain inventories of supplies, medications and drugs.

Exhibit "A"
Ability to: (Continued)

Perform a variety of animal control activities such as animal handling, capturing, and confining including mitigating the most complex cases.

Enforce animal regulations and ordinances.

Provide high level of expertise in conduct of investigations into more involved problems, i.e. animal abuse/cruelty cases.

Interpret and apply applicable laws, ordinances and regulations.

Learn the operation of standard equipment required for job performance including the use of a computer and police radio.

Use maps and learn City geography.

Use and care for firearms.

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

License or Certificate:

Possession of an appropriate, valid driver's license at time of application; valid California driver's License by time of appointment.

Possession of a POST approved P.C. 832 Certificate is required by the end of probationary period.

Possession of level one and level two certificates of completion from the National Animal Control Association (NACA) Training Academy is required by the end of probationary period. Failure to obtain the required certificates will result in release from probation.

Possession of a level three certificate of completion from the National Animal Control Association (NACA) Training Academy is desirable.
Experience:

Three years of progressively responsible experience in a governmental animal control agency or humane society performing animal control responsibilities including a minimum of one (1) year as a lead worker or supervisor.

OR

Three years of progressively responsible public contact experience in a public agency interpreting or enforcing codes and regulations at a level comparable to Police Clerk I/II, Community Service Officer, Code Enforcement Officer or a related field. Experience including lead responsibility is highly desirable.

Training:

Equivalent to the completion of the twelfth grade.

WORKING CONDITIONS

Environmental Conditions:

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

Physical Conditions:

Essential and marginal functions may require gaining and maintaining control of large and often aggressive animals; lifting/carrying medium-heavy objects of up to 75 lbs. of weight, maintaining physical condition necessary for standing, squatting, twisting, running, stooping and walking for prolonged periods of time; operating motor vehicle and other equipment.

Work Assignment:

Wear a Police Department approved uniform and related equipment including firearm and ballistic vest. Subject to irregular work shifts including evening, weekend and holiday shift assignments.

Must be able to pass a police background investigation.
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-167

A RESOLUTION APPROVING A STANDARD AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND BOB MURRAY AND ASSOCIATES TO CONDUCT AN EXECUTIVE RECRUITMENT FOR THE POSITION OF COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR AT A COST OF $24,700 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the current Community and Economic Development Director, Brad Kilger, is resigning effective April 7, 2006,

BE IT RESOLVED by the Council of the City of Modesto that the Standard Agreement for Consultant Services between the City of Modesto and Bob Murray and Associates to conduct the recruitment for Community and Economic Development Director be, and it is hereby approved.

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 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

By
RICHARD RUDNANSKY, Interim City Attorney

ATTEST: JEAN MORRIS
JEAN MORRIS, City Clerk

03/28/06/Personnel/R Renwick/Item 16 1 2006-167
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-168

A RESOLUTION APPROVING AN AGREEMENT WITH THE HOUSING AUTHORITY OF STANISLAUS COUNTY IN THE AMOUNT OF $52,183 TO PROVIDE A COMMUNITY POLICE OFFICER FOR THE WESTVIEW GARDENS HOUSING COMPLEX FOR A PERIOD OF TWELVE (12) MONTHS FROM JANUARY 1, 2006 THROUGH DECEMBER 31, 2006, WITH AN OPTION TO EXTEND THE AGREEMENT FOR AN ADDITIONAL TWELVE (12) MONTHS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Housing Authority of Stanislaus County operates the Westview Gardens federal housing complex in Modesto, California, and

WHEREAS, by agreement, the Modesto Police Department has assigned a Police Officer to the complex for fourteen (14) years, and

WHEREAS, the Housing Authority is desirous to continue this special police service which will provide for the presence of the same police officer for thirty (30) hours per week for patrol, investigation, response to calls for police service, presentation of community crime resistance education, drug traffic suppression and drug education, graffiti abatement program education and coordination of the exchange of information between residents and other non-enforcement services of the City, and

WHEREAS, the term of this agreement is January 1, 2006 through December 31, 2006, and

WHEREAS, the agreement shall be automatically be renewed for one (1) year, until December 31, 2007, unless terminated by a 30-day written notice by either party, and
WHEREAS, the cost of providing this special police service to the Westview Gardens Housing Complex is $52,183 and will be paid for by the Housing Authority of Stanislaus County, and

WHEREAS, this special police service benefits the City of Modesto in reducing calls for police service to the Westview Gardens Housing Complex,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with the Housing Authority of Stanislaus County in the amount of $52,183 for special police services for the Westview Gardens Housing Complex for a period of twelve (12) months, from January 1, 2006 through December 31, 2006, with an option to extend the agreement for twelve (12) months.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-169

A RESOLUTION APPROVING THE SUBMITTAL OF THE MODESTO CITY-COUNTY AIRPORT’S REVISED AIRPORT CAPITAL IMPROVEMENT PLAN (ACIP) TO THE FEDERAL AVIATION ADMINISTRATION (FAA)

WHEREAS, Modesto City-County Airport is a commercial service airport that is part of the federal airport system and eligible for federal funding through the Airport Improvement Program, and

WHEREAS, the Federal Aviation Administration (FAA) prioritizes airport funding needs through the Airport Capital Improvement Plans (ACIP) submitted by the nation’s airports, and

WHEREAS, the FAA requires airports to update their ACIPs annually, and

WHEREAS, since the City’s latest ACIP was submitted to the FAA the Airport Master Plan is in the process of being updated; however, a new airport layout plan has been published with the FAA, and

WHEREAS, the FAA is requesting the City submit a revised 5-year ACIP, and

WHEREAS, the Economic Development Committee considered this item at its March 13, 2006 meeting and recommended approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submittal of the Modesto City-County Airport’s revised Airport Capital Improvement Plan to the FAA.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: Marsh

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-170

A RESOLUTION APPROVING THE SUBMITTAL OF A FEDERAL AIRPORT IMPROVEMENT PROGRAM (AIP) GRANT APPLICATION IN THE AMOUNT OF $1 MILLION TO THE FEDERAL AVIATION ADMINISTRATION (FAA), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE APPLICATION

WHEREAS, Modesto City-County Airport is a commercial service airport and is eligible for Federal Airport Improvement Program (AIP) entitlement and discretionary funds, and

WHEREAS, the Federal Aviation Administration (FAA) has requested the City submit a new funding application for the Modesto City-County Airport capital funding, along with a revised Airport Capital Improvement Plan (ACIP), and

WHEREAS, the Economic Development Committee at its March 13, 2006 meeting recommended approval of the submittal of a AIP grant application for $1 million to the FAA, and

WHEREAS, the Federal grant application is consistent with the City’s approved revised ACIP, and

WHEREAS, the AIP includes projects totaling $1.052 million, and

WHEREAS, the $1 million Federal AIP Grant will pay 95% of the total projects and Passenger Facility Charges (PFCs) collected by the airlines from enplaning passengers will pay the remaining 5%,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submitting a Federal AIP grant application in the amount of $1 million to the FAA.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the grant application.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: Marsh

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
WHEREAS, due to recent rains, erosion on a portion of the Tuolumne River embankment near Neece Drive occurred, and

WHEREAS, this erosion has left a gravity sewer pipe undermined and unsupported in two locations of approximately two (2) linear feet each, and

WHEREAS, at one of these locations a manhole’s concrete footing is partially exposed and unsupported as well, and

WHEREAS, the same conditions exist for approximately 200 feet upstream and 100 feet downstream along the river’s edge, and

WHEREAS, HDR Engineering was contracted through an existing On-Call Engineering contract to review repairs needed to permanently fix the problem, and

WHEREAS, the magnitude of repairs recommended by HDR requires this to be a public works project, and

WHEREAS, the estimated cost to complete this new project is $381,800, and

WHEREAS, funds are available in the Collection System Rehabilitation Project (6210-480-B574) in the amount of $381,800 and it is necessary to transfer these funds to the new project titled Tuolumne River Bank Erosion Project (6210-480-B447) to perform the necessary repairs, and

WHEREAS, the Economic Development Committee considered this item at its March 13, 2006 meeting and recommended approval,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the transfer of funds in the amount of $381,800 from Collection System Rehabilitation Project (B574) to Tuolumne River Bank Erosion Project (B447) to cover the cost of this new project.

BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary budget adjustments in coordination with the Finance Department.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006–172

A RESOLUTION AUTHORIZING AWARD OF A CONTRACT TO KLEINFELDER IN THE AMOUNT OF $61,800, WITH CONTINGENCY FUNDS IN THE AMOUNT OF $20,000, FOR PERMITTING ASSISTANCE AND ENVIRONMENTAL REVIEW SUPPORT FOR THE TUOLUMNE RIVER BANK EROSION PROJECT, AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, due to recent rains, erosion on a portion of the Tuolumne River embankment near Neece Drive occurred, and

WHEREAS, this erosion has left a gravity sewer pipe undermined and unsupported in two locations of approximately two (2) linear feet each, and

WHEREAS, at one of these locations a manhole’s concrete footing is partially exposed and unsupported as well, and

WHEREAS, the same conditions exist for approximately 200 feet upstream and 100 feet downstream along the river’s edge, and

WHEREAS, HDR Engineering was contracted through an existing On-Call Engineering contract to review repairs needed to permanently fix the problem, and

WHEREAS, the magnitude of repairs recommended by HDR requires this to be a public works project, and

WHEREAS, several permits and an environmental review will be required because the improvement and restoration repairs will affect the river directly, and

WHEREAS, quotations were requested from more than 80 environmental consultants because this will be a complicated and time-consuming process, and
WHEREAS, six (6) proposals were received and Kleinfelder was selected at a cost of $61,800, with a contingency of $20,000 for any additional studies or permits required, and

WHEREAS, contingency funds will require Deputy Director approval in writing before any funds are used, and

WHEREAS, funds are budgeted in the Tuolumne River Bank Erosion Project (B447) after transfer of funds to this project from Collection System Rehabilitation Project (B574) which has been authorized under a separate resolution, and

WHEREAS, the Economic Development Committee considered this item at its March 13, 2006 meeting and recommended approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes award of a contract to Kleinfelder in the amount of $61,800, with a contingency fund in the amount of $20,000, for permitting assistance and environmental review support for the Tuolumne River Bank Erosion Project.

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 28th day of March, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney

ATTEST: JEAN MORRIS, City Clerk

03/28/06/PW/A Denlinger/Item 20
MODESTO CITY COUNCIL
RESOLUTION NO. 2006–173

A RESOLUTION AUTHORIZING THE SOLICITATION OF A REQUEST FOR PROPOSALS (RFPs) FOR PERFORMANCE OF THE TUOLUMNE RIVER BANK EROSION PROJECT

WHEREAS, due to recent rains, erosion on a portion of the Tuolumne River embankment near Neece Drive occurred, and

WHEREAS, this erosion has left a gravity sewer pipe undermined and unsupported in two locations of approximately two (2) linear feet each, and

WHEREAS, at one of these locations a manhole’s concrete footing is partially exposed and unsupported as well, and

WHEREAS, the same conditions exist for approximately 200 feet upstream and 100 feet downstream along the river’s edge, and

WHEREAS, HDR Engineering was contracted through an existing On-Call Engineering contract to review repairs needed to permanently fix the problem, and

WHEREAS, the magnitude of repairs recommended by HDR requires this to be a public works project, and

WHEREAS, the Public Works Department desires to solicit a Request for Proposals (RFPs) for construction service for the Tuolumne River Bank Erosion Project, and

WHEREAS, funds are budgeted in the Tuolumne River Bank Erosion Project (B447) after transfer of funds to this project from Collection System Rehabilitation Project (B574) which has been authorized under a separate resolution, and
WHEREAS, the Economic Development Committee considered this item at its March 13, 2006 meeting and recommended approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes solicitation of Request for Proposals (RFPs) for construction service for the Tuolumne River Bank Erosion Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: ________________
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: ________________
RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-174

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET TO INCREASE THE EXPENDITURE APPROPRIATION OF MY-2300-160-N064, “EXPAND ATMS COLLEGE AVE,” TO REFLECT THE INCREASE OF CONSTRUCTION COSTS BY AN APPROPRIATION TRANSFER FROM 0700-700-N064, IN THE AMOUNT OF $65,610

WHEREAS, the bids received for the “Expand ATMS-College Avenue” project were opened at 11:00 a.m., on January 31, 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 $119,076.43 received from Adesta Limited Partnership be accepted as the lowest responsible bid, and the contract be awarded to Adesta Limited Partnership, and

WHEREAS, the City has obtained CMAQ funding to pay for up to $135,989.68, of the project costs and the remaining portion of $17,618.91, is matching funds from Gas Tax, and

WHEREAS, $7,526 in additional local matching funds is required to fully fund the construction of this project, and

WHEREAS, there are sufficient funds in the Gas Tax account to fully fund 2300-160-N064,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the CIP budget is hereby amended to increase the expenditure appropriation of 2300-160-N064, to reflect the anticipated increase of the construction costs.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Marsh

Attest: Jean Morris
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-175

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS AND AWARDING THE BID AND APPROVING A $119,076.43 CONSTRUCTION CONTRACT WITH ADESTA LIMITED PARTNERSHIP FOR THE PROJECT ENTITLED “EXPAND ATMS-COLLEGE AVENUE,” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT AGREEMENT

WHEREAS, City staff has reviewed the plans and specifications for the project entitled, “Expand ATMS-College Avenue” and recommends approval to the City Council, and

WHEREAS, the bids received for the “Expand ATMS-College Avenue” project were opened at 11:00 a.m., on January 31, 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 $119,076.43 received from Adesta Limited Partnership be accepted as the lowest responsible bid, and the contract be awarded to Adesta Limited Partnership,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the “Expand ATMS-College Avenue” project.

BE IT FURTHER RESOLVED that the Council accepts the bid of Adesta Limited Partnership in the amount of $119,076.43, and hereby awards Adesta Limited Partnership the contract for “Expand ATMS-College Avenue.”

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 28th day of March 2006, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Marsh

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-176

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE REQUEST FOR PROPOSALS (RFP) TO ANALYTICAL LABORATORIES FOR RECEIVING WATER AND EFFLUENT DATA TESTING AND ALLOWING THE CONTINUED USE OF CALTEST LABORATORY FOR ANALYTICAL TESTING SERVICES DURING THE RFP PROCESS TO MEET NPDES PERMIT REQUIREMENTS

WHEREAS, On September 10, 2001, the Regional Water Quality Control Board (Regional Board) issued a Water Code Section 13267 letter to the City requiring submittal of ambient receiving water and effluent data regarding priority pollutants, and

WHEREAS, the 13267 letter requirements are in addition to the City’s existing National Pollution Discharge Elimination System (NPDES) permit requirements for ambient and effluent monitoring, and

WHEREAS, all samples required by the Regional Board must be Environmental Laboratory Accreditation Program certified, and

WHEREAS, staff evaluated contracting options for analytical work in 2001 and chose Caltest Analytical as the lead analytical work for this monitoring plan, and

WHEREAS, Caltest has performed the City’s lead analytical work for the past several years because they have been able to meet our NPDES testing requirements relating to testing criteria and time constraints, and

WHEREAS, Purchasing approved Caltest in 2001, as a sole source vendor; and staff has continued to use them for the NPDES required monitoring and testing, and

WHEREAS, during a recent internal review of expenditures, it was determined that Caltest costs were over $50,000, and
WHEREAS, after this review, staff identified other laboratories within the Western United States that may be able to meet our testing requirements, and

WHEREAS, staff is requesting authorization for the Purchasing Manager to issue a Request for Proposals to insure we are receiving the best price for this service, and

WHEREAS, as Caltest is currently meeting our analytical testing, holding times, and reporting requirements, staff is also requesting that we be allowed to continue to use Caltest until a vendor is selected and a contract in place, and

WHEREAS, the Economic Development Committee considered this item at its March 13, 2006 meeting and recommended approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue Request for Proposals (RFPs) for Analytical Laboratories for Receiving Water and Effluent Data Testing, and

BE IT FURTHER RESOLVED by the Council of the City of Modesto also authorizes the continued use of Caltest Laboratory for analytical testing services during the RFP process to meet NPDES Permit requirements.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

By: Richard Rudnansky, Interim City Attorney
A RESOLUTION APPROVING A WATER MAIN REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND JOSEPH PIMENTEL, PETER REECE, AND STEPHEN HUGHES, RELATED TO THE INSTALLATION OF 1623 LINEAL FEET OF A 12" WATER MAIN IN THE AMOUNT NOT TO EXCEED $133,692.00 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, JOSEPH PIMENTEL, PETER REECE, AND STEPHEN HUGHES ("Developer"), are in the process of developing a commercial property located at the southwest corner of Sylvan Avenue and Claus Road, commonly known as Village Corners, and

WHEREAS, in connection with the development of said Village Corners, Developer is required to install 1623 linear feet of a 12" water main and appurtenances thereto, located at the southwest corner of Sylvan Avenue and Claus Road ("Improvements"). The Improvements are designed to serve a large portion of the Village One Specific Plan area, and

WHEREAS, the Improvements will serve other properties in addition to this development and, the other properties have or will pay fees to the City to assist in paying the cost of constructing the Improvements and the owners of said other properties have not participated in constructing the Improvements, and

WHEREAS, Modesto Municipal Code Section 4-4.802.1 authorizes the City to enter into an agreement with the Developer for reimbursement of costs of improvements, and
WHEREAS, Developer has requested, and City has agreed, that Developer be reimbursed for the actual costs in the amount of $133,692.00 required to construct the Improvements, and

WHEREAS, City will inspect the construction of the Improvements and will accept the Improvements as part of City’s public water system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the water main reimbursement agreement between the CITY OF MODESTO and JOSEPH PIMENTEL, PETER REECE, AND STEPHEN HUGHES related to the installation of 1623 lineal feet of 12” water main in the amount not to exceed $133,692.00.

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 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-178

A RESOLUTION APPROVING THE PARCEL MAP OF EASTGATE CENTER LOCATED AT THE SOUTHWEST CORNER OF BRIGGSMORE AVENUE AND OAKDALE ROAD IN THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PARCEL MAP AGREEMENT WITH WARNER M. SOELLING, A SINGLE MAN AS HIS SOLE AND SEPARATE PROPERTY

WHEREAS, WARNER M. SOELLING ("Subdivider"), is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 4.36 acres, known as EASTGATE CENTER ("PARCEL"), and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 1st day of March, 2004, and

WHEREAS, the Secretary of the Planning Commission of the City of Modesto and the City Engineer have certified that the final map of said tract substantially conforms to the approved tentative map, and

WHEREAS, the City Engineer of the City of Modesto has certified that the final map of said PARCEL meets all of the provisions of the California Subdivision Map Act and the provisions of the Modesto Municipal Code relating to subdivisions, and that the map is technically correct,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that said parcel map be approved; that the dedications for public streets and easements as shown thereon within the boundaries of said tract be accepted on behalf of the public for public use; and that the City Engineer be authorized to certify the map of said tract on behalf of the City of Modesto after the fees and deposits required by the Modesto Municipal Code in amounts determined by the City Engineer have been paid and after
SUBDIVIDER has furnished securities, as set forth in Section 4-4.605 of the Modesto Municipal Code, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California. Said securities shall be in forms acceptable to the City Attorney and in the amounts required by the City Engineer.

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with Warner M. Soelling, a single man as his sole and separate property as regulated by Section 4-4.503(f) and 4-4.605(a) of the Modesto Municipal Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

By Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-179

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE “CONSTRUCT FLUSH LINE FOR WELL 63 AT MILDRED PERKINS PARK PROJECT”, ACCEPTING THE BID AND APPROVING A $102,437.00 CONTRACT WITH RICHARD TOWNSEND CONSTRUCTION INC., FOR THE PROJECT TITLED, “CONSTRUCT FLUSH LINE FOR WELL 63 AT MILDRED PERKINS PARK PROJECT,” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the “Construct Flush Line for Well 63 at Mildred Perkins Park Project” and City staff recommends approval to the City Council, and

WHEREAS, the bids received for “Construct Flush Line for Well 63 at Mildred Perkins Park Project” were opened at 11:00 a.m. on January 17, 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 $102,437.00 received from Richard Townsend Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to Richard Townsend Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the “Construct Flush Line for Well 63 at Mildred Perkins Park Project.”

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of $102,437.00, and hereby awards Richard Townsend Construction, Inc., the contract titled “Construct Flush Line for Well 63 at Mildred Perkins Park Project.”
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 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC., FOR THE PROJECT TITLED "ENCINA AVENUE ROUNDABOUT IMPROVEMENTS" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $279,824.20. TOTAL PROJECT COST IS $395,426.24, WHICH INCLUDED CONSTRUCTION CONTINGENCY AND CONSTRUCTION ADMINISTRATION

WHEREAS, a report has been filed by the Public Works Director that the project titled "Encina Avenue Roundabout Improvements" has been completed by George Reed, Inc., in accordance with the contract agreement dated February 22, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Encina Avenue Roundabout Improvements" is hereby accepted as complete from said contractor, George Reed, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $279,824.20, 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 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-181

A RESOLUTION DENYING THE APPEAL OF GRACE LUTHERAN CHURCH AND SCHOOL FOR MODIFICATION OF CAPITAL FACILITIES FEES

WHEREAS, on January 24, 2006, the Modesto City Council adopted Resolution No. 2006-61 updating its Capital Facilities Fee (CFF) program for the establishment and collection of fees for future capital facilities, and

WHEREAS Resolution No. 2006-61 defines the categories of uses and rates on which the fees will be collected, and

WHEREAS, the categories identified in the CFF program include a broad range of uses based on square footage to ensure that each use pays its share of the CFF based on the anticipated impacts of the development, and

WHEREAS, the current City practice is to charge churches with schools the daycare rate for multi-purpose rooms on square footage as a result of the comprehensive study undertaken to enact the CFF program which went into effect in September 2003, and

WHEREAS, on December 8, 2005, a request was received from Grace Lutheran Church and School to collect CFF at the church rate rather than the daycare rate for the for the proposed 17,520 square foot multi-purpose building, and

WHEREAS, on December 14, 2005, Grace Lutheran Church and School was notified by letter from Amy Gedney, Infrastructure Financing Program Administrative Officer, that the CFF Committee had determined that CFF for a multi-purpose room should be collected at the daycare rate, and
WHEREAS, by letter from Grace Lutheran Church and School dated March 6, 2006, to Jean Morris, City Clerk, Grace Lutheran Church and School appealed the City’s determination that multi-purpose rooms for churches with schools should be charged CFF at the daycare rate, and

WHEREAS, said appeal was set for a public hearing on March 28, 2006 at 5:30 p.m., before the City Council at its regular meeting place in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held and evidence, both oral and documentary, was received and considered,

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

1. The City Council has reviewed Grace Lutheran Church & School’s request based on traffic data and has determined that churches with schools fall within the normal range for daycare uses as outlined in the CFF program based on the afternoon peak hour rates per 1,000 sq. feet for the range of retail uses as denoted in the Institute of Transportation Manual.

2. Said appeal should be denied as recommended because churches with schools fall within the normal range for daycare uses as outlined in the CFF program.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the appeal of Grace Lutheran Church and School regarding modification of Capital Facilities Fees for churches with schools is hereby denied and the decision of the CFF Committee is hereby affirmed for the reasons set forth above.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28\textsuperscript{th} day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

**NOES:** Councilmembers: Olsen

**ABSENT:** Councilmembers: Marsh

Attest: \textit{Jean Morris}  
\textit{JHAN MORRIS, City Clerk}

APPROVED AS TO FORM:

By: \textit{Richard Rudnansky, Interim City Attorney}