MODESTO CITY COUNCIL
RESOLUTION NO. 2006-070

A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE FURNISHING OF FORMS PRINTING AND MAILING SERVICES FOR THE FINANCE DEPARTMENT, CUSTOMER SERVICES DIVISION TO ABS PRESORT, INC., MODESTO, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL COST OF $144,083

WHEREAS, the Finance Department, Customer Services Division and Information and Technology (IT) Department manage and facilitate the printing and mailing distribution of the City’s billing forms, and

WHEREAS, these forms are printed and mailed to both residential and commercial customers, and include, but are not limited to, business licenses, declarations, notices and utility bills, and

WHEREAS, currently, these forms are printed on a Xerox Docuprint 92C printer, which is housed in the IT Department computer room, and

WHEREAS, the City’s current lease on this printer expired in December 2005, and the printer is currently rented on a month-to-month basis, and

WHEREAS, outsourcing the printing and designing of these forms would provide several benefits to the City, including

- enhanced customer services and technology;
- improve flexibility in areas such as design overlay;
- ability to change forms;
- report options;
- tracking history
- producing duplicate bills
• backup contingency plan for printing
• printing of multiple page bills via the Internet
• reproduce an original bill
• multiple ink color capability, and

WHEREAS, the current utility bill print program is custom designed by a retired individual who no longer lives in the area. Any upgrades or changes to the print program are dependent upon his availability, and

WHEREAS, this leaves the City vulnerable and enhances the desire to seek a more flexible, updated, electronic solution, and

WHEREAS, the IT Department has limited space in its computer room and the current printer occupies a large portion of the space, and

WHEREAS, by outsourcing the forms printing the City could recognize savings by eliminating the monthly rental payment on the printer and staff time to manage the printing process, and

WHEREAS, on March 22, 2005, by Resolution No. 2005-141 Council approved authorizing the Purchasing Supervisor to formally solicit Request for Proposals (RFP) for the furnishing of forms printing and mailing services, for a two (2) year agreement with three (3) one-year extension options for the Finance Department, Customer Services Division, and

WHEREAS, the Purchasing Division solicited RFP No. 0405-05 for the furnishing of forms printing and mailing services to thirty-five (35) companies, twenty-four (24) of which reside in Modesto, posted the proposal on the City’s web site, and formally advertised as required by law, and
WHEREAS, of the thirty-five (35) companies solicited, six (6) companies chose to respond, and

WHEREAS, a committee comprised of City staff personnel evaluated the proposals, and

WHEREAS, the Purchasing Division facilitated the evaluation process and took no active role in evaluating the proposals, and

WHEREAS, RFP specification language allowed the City, should the City elect, to send representatives to visit a proposer’s production facility to ensure that their company can provide the proper quality and level of services outlined in the RFP. On September 30, 2005, the evaluation committee toured the facilities of ABS Presort, Inc. and the Pre-Sort Center of Stockton. The tours consisted of the following:

- a walk through and demonstration of the company’s order entry department;
- in-house contingency backup and disaster recovery programs, including machinery redundancy and backup power supply;
- quality assurance program;
- security of buildings and grounds;
- five-year equipment plan, and

WHEREAS, during the proposal evaluation process committee members found that two (2) proposers did not include a copy of their company’s most recent Annual Report or Financial Statement or Dunn & Bradstreet Rating Report with their proposal, which is a mandatory requirement outlined in the RFP, and
WHEREAS, the failure to provide one (1) of these three (3) documents would deem the proposal incomplete, result in a fail rating in the evaluation criteria, and cause said proposal to receive no further consideration, and

WHEREAS, based on being the most responsive and responsible proposer, City staff recommends the award of RFP No. 0405-05 and contract for the furnishing of forms printing and mailing services for the Finance Department, Customer Services Division to ABS Presort Inc., Modesto, CA, for a two (2) year agreement with three (3) one-year extension options, for an estimated annual cost of $144,083,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards RFP No. 0405-05 and contract for the furnishing of forms printing and mailing services for the Finance Department, Customer Services Division to ABS Presort Inc., Modesto, CA, for a two (2) year agreement with three (3) one-year extension options, for an estimated annual cost of $144,083.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase agreement for the furnishing of forms printing and mailing services for the Finance Department, Customer Services Division to ABS Presort Inc., Modesto, CA, for a two (2) year agreement with three (3) one-year extension options, for an estimated annual cost of $144,083.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th 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, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney

JEAN ZAHN, City Clerk
A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE ACQUISITION OF ORTHO-RECTIFIED AERIAL PHOTOGRAPHY SERVICES FOR THE INFORMATION TECHNOLOGY DEPARTMENT TO VARGIS, LLC, STERLING, VA, FOR A TOTAL ESTIMATED PRICE OF $96,441

WHEREAS, the City of Modesto last obtained high resolution, ortho-rectified aerial photography in March 2001, and

WHEREAS, as we progress further away from the March 2001 flight date, the benefits of using the City’s current aerial photography are diminishing, and

WHEREAS, this is due to the growth and change of the City landscape, which is not reflected in that one-time snapshot taken in March 2001, and

WHEREAS, because the City continues to grow and change on a daily basis it is important that we obtain periodic aerial photography updates, and

WHEREAS, City staff obtained a rough cost estimate of $100,000 to obtain Citywide aerials equivalent to the aerials taken in March 2001, and

WHEREAS, the aerial photography will directly overlay the newly completed City parcel map without visible discrepancies between the map and image, and

WHEREAS, aerial photography is utilized by nearly all of the City’s departments including Public Works, Community and Economic Development, Recreation and Neighborhoods, Finance, City Manager’s Office, Police and Fire, and

WHEREAS, all of these stakeholders use the aerials in a variety of ways, ultimately for one primary purpose, which is to provide a visual reference to what is on the ground at a given location, and
WHEREAS, displaying information (crimes, blight, emergency incidents, neighborhood boundaries, infrastructure) on top of an aerial picture that the public can relate to, can greatly enhance the legibility of a map and help solidify the point being made or the analysis being represented, and

WHEREAS, in addition to City staff’s use of aerals, the general public and development community would also have access to the imagery via our public GIS enabled web site (http://www.modestogov.com/gis), and

WHEREAS, the adage that “a picture is worth a thousand words” is very much true when dealing with aerial photography, and

WHEREAS, the aerial acquisition date should occur during the annual leaf-off (fewest leaves on trees) period, which is typically in late January through February, and

WHEREAS, this time frame provides the City with the clearest view of what is on the ground as tree foliage blocks the view of the ground during other months, and

WHEREAS, as with the 2001 aerial acquisition, City crews will once again provide ground coordinates and will paint flight crosses for this project, and

WHEREAS, the imagery will be delivered in digital form, including both Geo-TIFF format and the “ECW” compressed imagery format, and

WHEREAS, updating the inventory of current aerial photography will provide staff with a current view of land use patterns and the overall growth of the City, and

WHEREAS, current imagery is necessary to accurately depict, locate, assess, inventory, or analyze land use/land use patterns, vacant lands, built vs. natural environments, transportation and utilities infrastructure, buildings inventory throughout the City, and
WHEREAS, many others will simply use the photography to provide a visual reference or backdrop that will help solidify the point being made or the analysis being represented, and

WHEREAS, on October 25, 2005, by Resolution No. 2005-526 Council approved authorizing the Purchasing Supervisor to formally solicit proposals for the acquisition of ortho-rectified aerial photography services for the Information Technology Department, and

WHEREAS, the Purchasing Division solicited Request for Proposal (RFP) No. 0506-13 for the acquisition of ortho-rectified aerial photography services to twenty-eight (28) companies, four of which reside in Modesto, posted the proposal on the City’s web site, and formally advertised as required by law, and

WHEREAS, of the twenty-eight companies solicited, six (6) companies chose to respond, and

WHEREAS, a committee comprised of City staff personnel evaluated the proposals, and

WHEREAS, the Purchasing Division facilitated the evaluation process and took no active role in evaluating the proposals, and

WHEREAS, during the evaluation process committee members found that one (1) proposer could not meet the requirements specified in the RFP, specifically, the proposer could provide oblique imagery and as a side product ortho-rectified photography, but not to the specifications set forth in the RFP, and
WHEREAS, the RFP specifications required ortho-rectified photography that had a ground resolution of 3 inches; the proposer could only provide 6 inch ground resolution, and

WHEREAS, in addition, the proposer was unable to offer ortho-rectified photography exhibiting tonal balancing and a single “seamless” mosaic, which were specified in the RFP, and

WHEREAS, the evaluation committee failed the proposal and the proposal received no further consideration,

WHEREAS, based on being the most responsive and responsible proposer, City staff recommends the award of RFP No. 0506-13 and contract for the acquisition of ortho-rectified aerial photography services for the Information Technology Department to VARGIS, LLC, Sterling, VA, for a total estimated price of $96,441,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards RFP No. 0506-13 and contract for the acquisition of ortho-rectified aerial photography services for the Information Technology Department to VARGIS, LLC, for a total estimated price of $96,441.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase order for the acquisition of ortho-rectified aerial photography services for the Information Technology Department to VARGIS, LLC, Sterling, VA, for a total estimated price of $96,441.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th 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, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: [Signature]
RICHARD RUDNANSKY, interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-072

A RESOLUTION APPROVING A GRANT APPLICATION FOR $50,000 FROM THE STEWARDSHIP COUNCIL YOUTH INVESTMENT PROGRAM 2005-06 TO FUND A PART-TIME NURSERY WORKER AND TO IMPROVE THE FACILITIES AT THE CITY’S NURSERY TO SERVE THE TUOLUMNE RIVER REGIONAL PARK PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT APPLICATION

WHEREAS, the Stewardship Council has made funding available through its Youth Investment Program 2005-06, and

WHEREAS, city desires to fund a part-time nursery worker and to improve the facilities at the City nursery to serve the Tuolumne River Regional Park Project, and

WHEREAS, the continuation and development of the Tuolumne River Regional Park and the City’s interest and work with youth programs is consistent with the Stewardship Council’s Youth Investment Program, and

WHEREAS, said procedures established by the Stewardship Council require the applicant’s governing body to certify by resolution the approval of the application before submission of said application to the Stewardship Council, and

WHEREAS, the applicant will enter into a contract with the Stewardship Council for the Project, and

WHEREAS, staff will return to Council for acceptance of grant funding,

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

1. Approves the filing of an application for $50,000 in local assistance funds from the Stewardship Council’s Youth Investment Program 2005-06; and

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

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: 

JEAN HAHN, City Clerk

APPROVED AS TO FORM:

By: 
RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-073

A RESOLUTION APPROVING AN EMERGENCY HOME REPAIR PROGRAM (EHRP) LOAN FOR WILMA FAE BAILEY, SECURED BY HER HOME AT 1525 TERESA STREET, MODESTO, IN THE AMOUNT OF $98,272, AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL RELATED DOCUMENTS

WHEREAS, this home, located near Orangeburg Avenue and Kearney Avenue, is a 2 bedroom, 1 bath, 790 square foot home, and

WHEREAS, the home was built in 1946 and has been in the family for over 50 years and

WHEREAS, during this time, very little maintenance has been done and the home is reaching the end of its useful life, and

WHEREAS, significant replacement is needed in many areas to maintain this home in a livable condition, and

WHEREAS, the work to be done includes extensive termite work, foundation work, roof, windows, HVAC, bathroom and kitchen remodel, electrical, and plumbing work, and

WHEREAS, there is lead based paint on the exterior of the home which will be stabilized and the home will be repainted, but there is no lead based paint in the home’s interior, and

WHEREAS, the loan amount exceeds the program guidelines of $25,000, which are $20,000 for EHRP and $5,000 for environmental hazards, and

WHEREAS staff is recommending an exception to the maximum loan amount due to the circumstances, and
WHEREAS, Ms. Bailey, a senior, lives alone in the home and her income is less than 50% of the Area Median Income, and therefore, she is eligible for a deferred payment loan, and

WHEREAS, there is a first mortgage on the property that is relatively small, so that the loan to value ratio, including the City’s loan, is estimated to be 42%, based on seven comparable sales during the last five months, and

WHEREAS, Ms. Bailey is eligible for a 3%, 20-year deferred payment loan and owner occupancy will be a requirement for her, and

WHEREAS, the City Council must approve all EHRP requests to be submitted to the City Manager’s Office for signature and all loans over $60,000 must go to the City Council to be approved, and

WHEREAS, the Citizens Housing and Community Development Committee met on January 19, 2006, and supported the recommendation to approve an Emergency Home Repair Program (EHRP) loan for Wilma Fae Bailey, secured by her home at 1525 Teresa Street, Modesto, in the amount of $98,272,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Emergency Home Repair Program (EHRP) loan for Wilma Fae Bailey, secured by her home at 1525 Teresa Street, Modesto, in the amount of $98,272.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all related documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th 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, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: [Signature]
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]
RICHARD RADNANSKY, Acting City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-074

A RESOLUTION AWARDING THE CONTRACT TO MILLER-PEZZONI & ASSOCIATES, INC. (MILLER-PEZZONI) FOR ON-CALL ELECTRICAL ENGINEERING SERVICES FOR THE PUBLIC WORKS DEPARTMENT – CAPITAL IMPROVEMENT SERVICES DIVISION FOR A ONE-YEAR AGREEMENT WITH THREE (3) ONE (1) YEAR EXTENSION OPTIONS IN AN AMOUNT NOT-TO-EXCEED $45,000 ANNUALLY AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Public Works Department – Capital Improvement Services Division performs a number of tasks requiring electrical engineering services that, because of workload levels or staff experience, are beyond the ability of City’s engineering staff to accomplish in a timely manner, and

WHEREAS, the Public Works Department – Capital Improvement Services Division has utilized the services of outside consultant engineers to perform targeted electrical engineering services in the past, and

WHEREAS, retaining on-call engineering services allows the Capital Improvement Services Division to have quick access to electrical engineering design when needed, using experienced staff and with a quick turnaround, thereby improving system efficiencies and minimizing down time, and

WHEREAS, staff solicited and formally advertised a Request for Qualifications (RFQ) for On-call Electrical Engineering Services to local consultants (consultants having offices within the Modesto urbanized area), and

WHEREAS, two (2) Statements of Qualifications were received and the firm of Miller-Pezzoni & Associates, Inc. was deemed the most qualified to provide the requested on-call electrical engineering services, and
WHEREAS, based on the City’s previous experience, Miller-Pezzoni & Associates, Inc. has rendered satisfactory services to the City in past projects, and

WHEREAS, the consultant is paid on an hourly basis for actual hours required to perform individual projects at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes awarding a contract to Miller-Pezzoni for On-call Electrical Engineering Services for the Public Works Department – Capital Improvement Services Division for a one-year agreement, with three (3) one (1) year extension options, in an amount not-to-exceed $45,000 per year.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, 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 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, 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

02/07/06/PW/D Phillips/Item 12  2  2006-074
A RESOLUTION AWARDING THE CONTRACT TO COMPLERE ENGINEERING GROUP, INC. (COMPLERE) FOR ON-CALL MECHANICAL ENGINEERING SERVICES FOR THE PUBLIC WORKS DEPARTMENT – CAPITAL IMPROVEMENT SERVICES DIVISION FOR A ONE-YEAR AGREEMENT WITH THREE (3) ONE (1) YEAR EXTENSION OPTIONS IN AN AMOUNT NOT-TO-EXCEED $45,000 ANNUALLY AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Public Works Department – Capital Improvement Services Division performs a number of tasks requiring mechanical engineering services that, because of workload levels or staff experience, are beyond the ability of City’s engineering staff to accomplish in a timely manner, and

WHEREAS, the Public Works Department – Capital Improvement Services Division has utilized the services of outside consultant engineers to perform targeted mechanical engineering services in the past, and

WHEREAS, retaining on-call engineering services allows the Capital Improvement Services Division to have quick access to mechanical engineering design when needed, using experienced staff and with a quick turnaround, thereby improving system efficiencies and minimizing down time, and

WHEREAS, staff solicited and formally advertised a Request for Qualifications (RFQ) for On-call Mechanical Engineering Services to local consultants (consultants having offices within the Modesto urbanized area), and

WHEREAS, one (1) Statement of Qualifications was received and the firm of Complere Engineering Group, Inc. was deemed qualified to provide the requested on-call mechanical engineering services, and

02/07/06/PW/D Phillips/Item 12 1 2006-075
WHEREAS, based on the City’s previous experience, Complere Engineering Group, Inc. has rendered satisfactory services to the City in past projects, and

WHEREAS, the consultant is paid on an hourly basis for actual hours required to perform individual projects at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes awarding a contract to Complere for On-call Mechanical Engineering Services for the Public Works Department – Capital Improvement Services Division for a one-year agreement, with three (3) one (1) year extension options, in an amount not-to-exceed $45,000 per year.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, 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 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, 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. 2006-076

A RESOLUTION AWARDING THE CONTRACT TO COMPLERE ENGINEERING GROUP, INC. (COMPLERE) FOR ON-CALL STRUCTURAL ENGINEERING SERVICES FOR THE PUBLIC WORKS DEPARTMENT - CAPITAL IMPROVEMENT SERVICES DIVISION FOR A ONE-YEAR AGREEMENT WITH THREE (3) ONE (1) YEAR EXTENSION OPTIONS IN AN AMOUNT NOT-TO-EXCEED $45,000 ANNUALLY AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Public Works Department - Capital Improvement Services Division performs a number of tasks requiring structural engineering services that, because of workload levels or staff experience, are beyond the ability of City’s engineering staff to accomplish in a timely manner, and

WHEREAS, the Public Works Department - Capital Improvement Services Division has utilized the services of outside consultant engineers to perform targeted structural engineering services in the past, and

WHEREAS, retaining on-call engineering services allows the Capital Improvement Services Division to have quick access to structural engineering design when needed, using experienced staff and with a quick turnaround, thereby improving system efficiencies and minimizing down time, and

WHEREAS, staff solicited and formally advertised a Request for Qualifications (RFQ) for On-call Structural Engineering Services to local consultants (consultants having offices within the Modesto urbanized area), and

WHEREAS, one (1) Statement of Qualifications was received and the firm of Complere Engineering Group, Inc. was deemed qualified to provide the requested on-call structural engineering services, and
WHEREAS, based on the City's previous experience, Complere Engineering Group, Inc. has rendered satisfactory services to the City in past projects, and

WHEREAS, the consultant is paid on an hourly basis for actual hours required to perform individual projects at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes awarding a contract to Complere for On-call Structural Engineering Services for the Public Works Department – Capital Improvement Services Division for a one-year agreement, with three (3) one (1) year extension options, in an amount not-to-exceed $45,000 per year.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, 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 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, 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. 2006-077

A RESOLUTION APPROVING THE FINAL MAP OF VILLAGE RANCH UNIT NO. 2 SUBDIVISION IN THE VILLAGE ONE SPECIFIC PLAN AREA OF THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH CENTEX HOMES, A NEVADA GENERAL PARTNERSHIP

WHEREAS, CENTEX HOMES, A NEVADA GENERAL PARTNERSHIP, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 12.246 acres, known as VILLAGE RANCH UNIT NO. 2 ("SUBDIVISION"), in the Village One Specific Plan Area, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 25th day of August, 2003, 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 special meeting of the Council of the City of Modesto held on the 7th 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, 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. 2006-078

A RESOLUTION APPROVING THE FINAL MAP OF TARANTELLA ESTATES IN THE VILLAGE ONE SPECIFIC PLAN AREA OF THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH JOHN S. RUSH, AN UNMARRIED MAN, AND DAVE UECKER CONSTRUCTION, INC., A CALIFORNIA CORPORATION

WHEREAS, JOHN S. RUSH (“Subdivider”), is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 1.23 acres, known as TARANTELLA ESTATES (“SUBDIVISION”), in the Village One Specific Plan Area, and

WHEREAS, DAVE UECKER CONSTRUCTION, INC. is proposing to develop subdivision, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 12th day of July, 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 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 John S. Rush and Uecker Construction Company, Inc. 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 7th day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
A RESOLUTION ADOPTING POLICIES AND PROCEDURES FOR THE APPLICATION OF PUBLIC CONVENIENCE AND NECESSITY, AND RESCINDING RESOLUTION NUMBER 96-84

WHEREAS, effective January 1, 1995, the Business and Professions Code regulations governing liquor license applications were revised allowing the State Department of Alcohol Beverage Control (ABC) to automatically deny an ABC license applicant, if records show an “undue concentration” of licenses in an affected geographical area, and

WHEREAS, on February 27, 1996, by Resolution No. 96-84, the City Council implemented a policy entitled, “Criteria for Variance to ABC Standards,” and

WHEREAS, the City Council, as the local governing body, has been given the delegated authority to recommend approval of a liquor license if public convenience or necessity would best be served, and

WHEREAS, staff has developed a policy recommendation including a process and criteria for evaluating the applications, and

WHEREAS, at its meeting on January 4, 2006, the Safety and Communities Committee recommended approval of said policy, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on February 7, 2006, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, and

WHEREAS, a duly noticed public hearing was held at said time and place, at which time evidence, both oral and documentary, was received and considered,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the policy entitled “Policies and Procedures for the Application of Public Convenience and Necessity,” marked Exhibit “A”, attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that Resolution No. 96-84 is hereby rescinded upon the effective date 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 February 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney
Attachment A

Proposed Policies and Procedures for the Application of Public Convenience and Necessity
MODESTO POLICE DEPARTMENT
GENERAL ORDER

Number ???

Date July 5, 2005

I. **SUBJECT:** POLICIES & PROCEDURES FOR THE APPLICATION OF PUBLIC CONVENIENCE AND NECESSITY

II. **PURPOSE:**

To establish the policies and procedures for processing an Application of Public Convenience and Necessity and/or an application for Variance to ABC (Alcoholic Beverage Control) Standards due to "Undue Concentration" which were established pursuant to the Business & Professions Code effective January 1, 1995. These general orders describe the application, research, hearing and appeal process, and the billing process used to pay for administrative costs associated with the processing of these applications.

III. **DEFINITIONS:**

a. **Un-due Concentration** - Means the case which the applicant premises for an original or premises-to-premises transfer of any retail license are located in an area where any of the following conditions exist:

(1) The applicant premises are located in a crime reporting district that has a twenty percent greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the Modesto Police Department.

(2) As to on-sale retail license applications, the ratio of on-sale retail licenses to population in the census tract or census division in which the application premises are located
exceeds the ratio of on-sale retail licenses to population in the county in which the application premises are located.

(3) As to off-sale retail licenses applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.

Sections 23958 and 23958.4 of the Business and Professions Code. Existing law provides that the Department of Alcoholic Beverage Control shall deny an application for a license if the issuance would, among other things, result in, or add to, an undue concentration of licenses. This current legislation relates to applications for on-sale and off-sale retail licenses where certain conditions exist under Section 23958.4 B&P.

The Department of Alcoholic Beverage Control shall further deny an application for a license if issuance of that license would tend to create a law enforcement problem, except as provided in Section 23958.5 B&P.

b. Crime Reporting Districts: Means geographical areas within the City of Modesto that are identified by the local law enforcement agency in the compilation and maintenance of statistical information on reported crimes and arrests.

c. PC&N: Public Convenience and Necessity.

d. Applicant: Developer or property/business owner.

e. City: The City of Modesto

f. Application Fee: Required fee, as set forth by the City Council - $1,000

g. Hearing Officer(s): Designee(s) authorized to review recommendation reports, conduct hearings, and render a decision pursuant to these policies and procedures. The Hearing Officer(s) will be a three-member panel selected by the City Manager.

h. Transfers: Pursuant to Business & Professions Code section 24070, a location “transfer” has occurred when the: 1) proposed site has had an active license within the preceding
twelve (12) months; or 2) proposed site has had an active license for at least thirty-six (36) of the last sixty months (60).

IV. APPLICATION PROCESS

When ABC denies a request for a liquor license due to "Undue Concentration" (B&P Section 23958), or if an application falls under the current moratorium for on-sale retail licences applications and off-sale license(s) (B&P Section 23817.5, 23817.7 and 23817.8) the applicant may appeal the decision to the "local governing body" for a determination that "public convenience or necessity would be served by issuance of an ABC license (B&P Section 23958.4(b)(2)).

a. The MPD Alcoholic Beverage Control (ABC) Investigator will be responsible for meeting with the applicant prior to or concurrent with the initiation of the application process. The MPD/ABC Investigator will provide the applicant with the current census track information, which includes current license information.

b. An application for a transfer or location change will be handled in the same manner as an application for variance to ABC standards or an application of public convenience and necessity to pursuant to these general orders.

(1) Application. The applicant shall submit the application packet to the Modesto Police Department, Special Investigation Detail Sergeant, together with the application fee. The fee is to pay for the costs associated with the application process.

(2) Application Packet. The application packet shall include the following documents:

- $1,000 Application Fee
- Completed application for variance to ABC standards or application of public convenience and necessity.
- Stamped ABC application.
- ABC application work sheet
- Site plan and area location map depicting the layout, precise location and identification of surrounding land within 300 feet of site.

(3) Project review. Applicant and the MPD/ABC investigator may discuss the application including but not limited to further information that might be required and other issues as necessary. If necessary, the applicant may be required to submit a revised application or additional information.

(4) Project Initiation. The application is submitted to the Special
Investigations Detail Sergeant (SID). The SID Sergeant will review the application for completeness. Following this review the application packet will be sent to the MPD/ABC investigator. The MPD/ABC investigator will assign a case number and initiate an investigation of the application. The MPD/ABC investigator shall complete a summary report within forty-five (45) calendar days of receipt.

V. INVESTIGATIVE PROCESS

The MPD/ABC investigator will be responsible for creating a summary report with recommendations to approve, approve with conditions, or deny the application. Once the summary report has been completed the MPD/ABC investigator will meet with the applicant and review the recommendation to approve, approve with conditions, or deny the license.

The summary report will include, but is not limited to, the following:

- Reporting district is determined
- Census track information is determined
- Review of ABC information to determine accuracy
- Complete (RMS) search of location and adjacent reporting districts
- Determine total number of arrests for a one-year time period twelve (12) months prior to the date of the application

VI. TRANSFERS

a. Transfer of a license from or to an existing location. Any change to the license type shall be deemed the same as applying for a new license.

b. Criteria for transfer of license. Transfers can be approved where they do not result in an over-concentration exceeding 150% of ABC standards. No variance shall be granted for transfer of any license that: 1) is regulated under the current beer and wine moratorium, as per Section 23817.5 of the ABC Control Act; and/or 2) is within 300 feet of any city neighborhood or community park or any school with an enrollment of at least 100 students.

23817.5. (a) (1) The number of premises for which an off-sale beer and wine license is issued shall be limited to one for each 2,500, or fraction thereof, inhabitants of the city or county in which the premises are situated. No additional off-sale beer and wine license, other than a renewal or transfer or as permitted by Section 23821, shall be issued in any city or county where the number of premises for which all off-sale beer and wine licenses are issued is more than one for each 2,500, or fraction thereof, inhabitants of the city or county.
(2) The number of premises for which an off-sale beer and wine license is issued in a city and county, in combination with the number of premises for which an off-sale general license is issued in a city and county, shall be limited to one for each 1,250, or fraction thereof, inhabitants of the city and county in which the premises are situated. No additional off-sale beer and wine license, other than a renewal or transfer or as permitted by Section 23821, shall be issued in any city and county where the number of premises for which all off-sale beer and wine licenses in combination with off-sale general licenses are issued is more than one for each 1,250, or fraction thereof, inhabitants of the city and county.

VII. CONDITIONS:

Variance to ABC regulations will typically be conditional, Conditions shall remain attached to the license in the event of any type of transfer. Examples of possible conditions include, but is not limited to:

- Site lighting
- Security guards
- Beer or wine only
- No single containers
- Signage
- No loitering
- Business hours
- Removal of graffiti within 24 hours
- Age of patrons allowed on premise
- Restrictions on license privileges
- Noise restrictions
- What items may be sold
- No glass containers
- No consumption on premises
- Number of arcade games
- Where items may be sold

VIII. ADMINISTRATIVE HEARINGS

An applicant has the right to contest the decision of the MPD/ABC investigator. If a hearing is desired the applicant must submit the required appeal form to the city clerk within (15) days of the date of mailing of the MPD/ABC investigators summary report.

Whenever a notice of appeal is filed with the City Clerk in proper form and with any fee that may be required, the City Clerk shall set said matter for hearing
before the hearing officers within thirty (30) days after the date of the filing of said notice of appeal with the City Clerk. The City Clerk shall give written notice of the time and place of said hearing to the applicant/appellant and any other persons requesting notice not less than ten (10) days prior to such hearing.

At such hearing the applicant/appellant shall show cause on the ground specified in the notice of appeal why the action accepted to should not be sustained. The applicant/appellant and all other interest parties may present oral or documentary evidence at the hearing. The hearing will be informal and technical rules of evidence will not apply. The hearing officers may continue the hearing from time to time. The hearing officers shall render its decision not more than ten (10) days after the close of the hearing.

a. Approval. A determination by the hearing officers that the applicant/appellant has established “public convenience or necessity” and the license should be granted. The applicant/appellant and the Alcoholic Beverage Control District Office will be notified in writing of the approval.

b. Conditional Approval. Approval as defined in subsection a, with conditions to protect public health, safety and welfare.

c. Denial. A decision by the hearing officers that the applicant/appellant has not established public convenience and necessity. The hearing officers determination is mailed to the applicant and the ABC District Office after the applicant/appellant has exhausted his/her appeal rights or the time to appeal has lapsed. The determination of the Hearing Officer(s) is final unless the applicant/appellant appeals the Hearing Officer(s) determination within the specified time period.

If the applicant/appellant wishes to appeal the decision of the hearing officers decision, he/she shall follow the appeal process set forth at Modesto Municipal Code section 1-4.01

IX. RE-APPLICATION PROCESS

The Application of Public Convenience or Necessity and/or application for Variance to ABC (Alcoholic Beverage Control) Standards due to “Undue Concentration” application is directed at the “location” rather than the “applicant.” As such, an applicant who had his/her application denied, and/or loses his/her appeal to the Hearing Officer or to the City Council, must wait a period of one year from the denial decision date to re-applying for a permit for the same location.
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-080

A RESOLUTION IMPLEMENTING A FEE SCHEDULE ASSOCIATED WITH THE PERMIT APPLICATION AND APPEALS PROCESS IN RELATION TO ABC LIQUOR LICENSES, AND RENAMING FEE SCHEDULE AND POLICY TO APPLICATION OF PUBLIC CONVENIENCE AND NECESSITY, AND RESCINDING RESOLUTION NO. 96-101

WHEREAS, effective January 1, 1995, the Business and Professions Code regulations governing liquor license applications were revised allowing the State Department of Alcohol Beverage Control (ABC) to automatically deny an ABC license applicant, if records show an “undue concentration” of licenses in an affected geographical area, and

WHEREAS, certain types of applications which have not been approved by the Alcohol Beverage Control (ABC) board are now delegated to the City Council, as the local governing body, to consider recommending approval of ABC licenses, “if public convenience or necessity would best be served”, and

WHEREAS, City staff has developed policies and procedures for the Application of Public Convenience and Necessity, and

WHEREAS, at its meeting on January 4, 2006, the Safety and Communities Committee recommended approval of said policy, entitled “Policies and Procedures for the Application of Public Convenience and Necessity,” and said policy was approved by Council Resolution No. 2006-079 on February 7, 2006, and

WHEREAS, said policy includes conditions and criteria for evaluation of the permit applications and the appeal process, including proposed fees to cover staff costs associated with such reviews, and
WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on February 7, 2006, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that the following fees associated with the permit application and appeals process in relation to ABC liquor licenses are hereby approved:

1) New Site application fee $1,000.00
2) City Council appellate fee $100.00

BE IT FURTHER RESOLVED that Resolution No. 96-101 is hereby rescinded upon the effective date 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 February 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
WHEREAS, Article 10 of Chapter 2 of Title 3 of the Modesto Municipal Code authorizes the City Council, by resolution, to establish angle parking in the City of Modesto, and

WHEREAS, City staff received a request from New Bethany Missionary Baptist Church to install angle parking on Sierra Drive between 6th Street and the alley at the west property edge of the New Bethany Missionary Baptist Church to create additional on-street parking, and

WHEREAS, staff evaluated the traffic volumes and the speeds for this section of roadway and concluded that angle parking can be accommodated on Sierra Drive between 6th Street and the alley at the west property edge of the Bethany Missionary Baptist Church without creating a hazard and without impeding traffic flow,

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

SECTION 1. ANGLE PARKING. Angle parking in the City of Modesto is hereby established at the following locations:

- Portions of 10th Street, between I & K Streets (west side) (diagonal)
- 18th Street, between G and H Streets (west side) (diagonal)
- F Street, between 10th and 11th Streets (south side) (diagonal)
- I Street, between 9th and 12th Streets (both sides) (diagonal)
- P Street, between 9th and Needham Streets (both sides) (diagonal)
• Coldwell Avenue, between Tully Road and College Avenue
• 4th Street, between E Street and G Street (west side)
• 16th Street, between I Street and J Street (east side)
• Elm Street, between Jefferson and Washington Streets (diagonal)
• Jefferson Street, between 8th and Laurel Streets (diagonal)
• 13th Street, between H and L Streets (east side)
• J Street, between 7th Street and 8th Street (north side)
• 10th Street, between G Street and F Street (east side) (diagonal)
• F Street, between 10th Street and 11th Street (north side) (diagonal)
• 15th Street, between K Street and H Street (east side) (diagonal)
• F Street, between 9th Street and 10th Street (north side) (diagonal)
• 8th Street, between J Street and K Street (east side) (diagonal)
• 8th Street, between K Street and L Street (east side) (diagonal)
• Sierra Drive between F Street and 4th Street (north side)
• 8th Street between L Street and Jefferson Street (east side) (diagonal)
• M Street between 7th Street and 8th Street (south side) (diagonal)
• 10th Street between G Street and I Street (east side) (diagonal)
• Sierra Drive between 6th Street and the alley at the west property edge of New Bethany Missionary Baptist Church (diagonal)

SECTION 2. The Public Works Director is hereby directed 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 February 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 Zahr, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-082

A RESOLUTION DENYING THE APPEAL OF CHARLES EVINS, ON BEHALF OF THE NEW BETHANY MISSIONARY BAPTIST CHURCH, LOCATED AT 315 SIXTH STREET, REGARDING THE DETERMINATION OF CAPITAL FACILITIES FEES

WHEREAS, on June 24, 2003, the Modesto City Council adopted Resolution No. 2003-309 updating its Capital Facilities Fee (CFF) program for the establishment and collection of fees for future capital facilities, and

WHEREAS Resolution No. 2003-065 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 allow a reimbursement for the use of modulars if said modulars are removed within five years, and

WHEREAS, on November 15, 2005, a request was received from Charles Evins, on behalf of The New Bethany Missionary Baptist Church, to allow a credit of CFF for the removal of two modulars, and

WHEREAS, on December 7, 2005, Charles Evins of The New Bethany Missionary Baptist Church, was notified by letter from Amy Gedney, Infrastructure Financing Program Administrative Officer, that the CFF Committee had determined the CFF for a modular is reimbursable and the City would reimburse The New Bethany Missionary Baptist Church for the removal of two modulars but it would have to pay the fees in effect at the time a new permit was issued for the expansion of the church, and
WHEREAS, by letter from Charles Evins dated January 3, 2006, to Jean Zahr, City Clerk, The New Bethany Baptist Church appealed the City’s determination to pay the capital facilities fees in place at the time a building permit is issued for new construction and requested a credit for the removal of two modulars, and

WHEREAS, said appeal was set for a public hearing before the City Council at its regular meeting place in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, on February 7, 2006 at 5:30 p.m., 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 The New Bethany Missionary Baptist Church’s request and has determined that the City does not issue credits.

2. Said appeal should be denied as recommended because the Modesto Municipal Code Section 8-1.904 specifically states that building permit fees shall be paid at the time the building permit is issued.

3. The project is not entitled to pay CFF at the 1998 CFF rate because the project is subject only to a conditional use permit which does not vest a project against increases in CFF.

4. The City of Modesto hereby denies the appeal of The New Bethany Missionary Baptist Church and its request for CFF credits for the temporary modulars for the reason set forth above.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 7th day of February 2006, by Councilmember Marsh,
who moved its adoption, which motion being duly seconded by Councilmember Hawn,
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney

Attest: JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-083

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF JANE FENTON FROM THE CULTURE COMMISSION

WHEREAS, JANE FENTON was appointed a member of the Culture Commission on August 3, 1999; and

WHEREAS, JANE FENTON has tendered her resignation from the Culture Commission; and

WHEREAS, JANE FENTON 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 JANE FENTON from the Culture Commission 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 the City, hereby expresses its sincere appreciation to JANE FENTON for her outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February 2006, by Councilmember Hawn, 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. 2006-084

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF JOHN HUEY FROM THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

WHEREAS, JOHN HUEY was appointed a member of the Citizens Advisory Committee on Recycling on January 25, 2005; and

WHEREAS, JOHN HUEY has tendered his resignation from the Citizens Advisory Committee on Recycling; and

WHEREAS, JOHN HUEY 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 JOHN HUEY 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 JOHN HUEY 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 14th day of February 2006, by Councilmember Hawn, 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:

ATTEST: Jean Zahr
JEAN ZAHN, City Clerk

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-085

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF EDWIN PENFOLD FROM THE EQUAL OPPORTUNITY/DISABILITY COMMISSION AND HUMAN RELATIONS COMMISSION

WHEREAS, EDWIN PENFOLD was appointed a joint member of the Equal Opportunity/Disability Commission and Human Relations Commission on January 7, 2003, and

WHEREAS, EDWIN PENFOLD has tendered his resignation from the aforementioned committees,

NOW, THEREFORE, BE IT RESOLVED that the resignation of EDWIN PENFOLD from the Equal Opportunity/Disability Commission and Human Relations Commission hereby is accepted with regret.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February 2006, by Councilmember Hawn, 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 Zahiri, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-086

A RESOLUTION APPROVING THE 2006-2007 LEGISLATIVE PLATFORM
FOR THE CITY OF MODESTO

WHEREAS, on October 26, 2004, by Resolution No. 2004-544, the City Council adopted the 2004-2005 Legislative Platform, and

WHEREAS, on April 26, 2005, by Resolution No. 2005-181, the City Council amended the 2004-2005 Legislative Platform, and

WHEREAS, this document provides City staff with the needed direction to determine whether or not the City should support pending federal and state legislation, and

WHEREAS, this document is a living document and should be reviewed and amended from time to time, and

WHEREAS, representatives from the City Manager's Office, the Community and Economic Development Department, the Personnel Department, the City Attorney's Office, the Fire Department, the Police Department, the Finance Department, the Parks, Recreation & Neighborhoods Department, and Public Works recently reviewed the document and recommended that the 2004-2005 Legislative Platform be amended and adopted as the 2006-2007 Legislative Platform as set forth in an agenda report from City Manager, George W. Britton, to the Mayor and Council, dated February 14, 2006,

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Modesto hereby approves the 2006-2007 Legislative Platform as set forth in said agenda report from the City Manager to the Mayor and Council dated February 14, 2006, a copy of which is on file in the office of the City Clerk.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February, 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By

RICHARD RUDNANSKY, Interim City Attorney

ATTEST:  

JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-087

A RESOLUTION APPOINTING THE SEVEN INDIVIDUALS RECOMMENDED
BY THE CITY COUNCIL TO SERVE AS MEMBERS OF THE CHARTER
REVIEW COMMITTEE WITH THE MAYOR'S APPOINTEE SERVING AS
THE CHAIR AND THE VICE-MAYOR'S APPOINTEE SERVING AS THE VICE
CHAIR OF THE CHARTER REVIEW COMMITTEE AND AUTHORIZING
THE SEVEN COMMITTEE MEMBERS TO APPOINT THREE ADDITIONAL
COMMITTEE MEMBERS FROM THE COMMUNITY

WHEREAS, on November 6, 1962 the qualified voters of the City of Modesto at
a Special Charter Election consolidated with the State of California General Election
ratified the Charter of the City of Modesto, and

WHEREAS, this Charter became effective on January 14, 1963, and

WHEREAS, section 1604 of the Charter provides that the City Council shall
cause the Charter to be reviewed at least every ten (10) years commencing with the year
of 1980, and

WHEREAS, the Charter was amended in 1990 and again in 1999, and

WHEREAS, in Fall 2005, the City Council discussed the possible review and
amendment of the City of Modesto Charter, and

WHEREAS, it was determined to initiate the review in 2006 for possible
consideration at the 2007 municipal election, and

WHEREAS, at the January 10, 2006 City Council meeting, the Council approved the
recommendation to consider and take action at the February 14, 2006 City Council
meeting on the following:

1) Appoint seven Charter Review Committee representatives. Each Councilmember
has provided a recommendation of one individual from the City of Modesto to
serve on the Charter Review Committee. These committee members should be prepared to meet at least two or three times a month for up to one year.

2) The individual nominated by the Mayor shall be appointed to serve as the Chair of the Charter Review Committee and the individual nominated by the Vice-Mayor shall serve as the Vice-Chair of the committee. The seven committee members will select three additional members from the community to serve on the Charter Review Committee.

3) The Mayor will appoint one Councilmember to serve as an ad hoc, non-voting member of the Charter Committee.

4) Council will discuss and establish the scope of the Charter review and charge of the Charter Review Committee. With Council direction City staff will be asked to prepare a Draft “Scope of Review” for adoption by the City Council.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Modesto hereby approves the appointments of Thomas Wright, John Shores, Chris Harrigfeld, Marie Bairey, Susan Azevedo, Dave Cogdill, Jr. and George Petrulakis to serve as voting members of the Charter Review Committee with George Petrulakis serving as the Chair and Susan Azevedo serving as the Vice-Chair of the committee.

BE IT FURTHER RESOLVED that the Council of the City of Modesto hereby authorizes the seven Council-appointed committee members to select and appoint three additional members from the community to serve on the Charter Review Committee.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February 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, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

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. 2006-087A

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) AND BENDER ROSENTHAL, INC., INCREASING THE CONTRACT BY AN AMOUNT NOT TO EXCEED $5,000, PROVIDING ADDITIONAL SERVICES RELATED TO THE CERTIFICATION OF THE APPRAISAL DATED OCTOBER 17, 2005 AND AUTHORIZING THE DISTRICT ADMINISTRATOR TO EXECUTE THE AMENDMENT

WHEREAS, on February 25, 2005, a contract was executed between Community Facilities District No. 2004-1 (Village One #2) (“CFD No. 2004-1”) and Bender Rosenthal, Inc. (“Consultant”), in an amount not to exceed $28,190, for services related to an appraisal of properties within CFD No. 2004-1, and

WHEREAS, on October 19, 2005, Change Order #1 was executed, in an amount not to exceed $21,000, and authorized Bender Rosenthal to prepared an updated appraisal for the properties within CFD No. 2004-1, and

WHEREAS, Bender Rosenthal provided an updated appraisal dated October 17, 2005 (“Appraisal”), and

WHEREAS, Bond Counsel has determined that certification of the October 17, 2005 appraisal is required before it will provide certain opinions needed for the sale of the bonds for CFD No. 2004-1, and

WHEREAS, Bender Rosenthal has agreed to prepare a certification of the October 17, 2005, Appraisal, for an amount not to exceed $5,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the District Administrator shall be authorized to execute the Amendment to the
Agreement with Bender Rosenthal in an amount not to exceed $5,000 for certification of the October 17, 2005, Appraisal.

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

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudansky, Interim City Attorney
A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO FORMALLY SOLICIT REQUEST FOR PROPOSALS (RFP) FOR TEMPORARY LABOR SERVICES FOR THE CITY OF MODESTO FOR AN INITIAL THREE (3) YEAR PERIOD WITH TWO (2) ONE-YEAR EXTENSION OPTIONS

WHEREAS, the City of Modesto’s has an ongoing need for temporary labor services to fill in for vacancies created through retirements, resignations and terminations, and

WHEREAS, temporary labor services are also utilized on a sesasonal basis during periods of high demand and to handle workload fluctuations, and

WHEREAS, historically the Personnel Department facilitated the hiring of temporary labor services, and

WHEREAS, in 1999 as part of assessing the Personnel Department’s delivery of services several departments requested that they be permitted to deal with the temporary labor agencies directly, and

WHEREAS, based on departmental requests and workload issues at the time, the decision was made to allow departments to conduct their own transactions, and

WHEREAS, currently most departments are conducting separate transactions with the temporary labor agencies, and

WHEREAS, in most cases these separate transactions do not allow for the City to receive discounted rates based on citywide usage and economies of scales, and

WHEREAS, last fiscal year the City as a whole spent approximately $1.9 million dollars on temporary labor services, and
WHEREAS, historically the largest departmental users of temporary labor services have been the Public Works and Parks, Recreation & Neighborhoods Departments, and

WHEREAS, by bidding temporary labor services staff will provide assurance that these services are being provided at competitive rates and that monitoring will be in place that will ensure compliance with established City policies, and

WHEREAS, Modesto Municipal Code, Section 8-3.203, generally requires all purchases, which meet or exceed $50,000.00 for material, equipment or contractual services to be formally bid, and

WHEREAS, the issuance of a formal Request for Proposal for the furnishing of Temporary Labor Services will conform to Modesto Municipal Code Section 8-3.203,

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

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed proposals for Temporary Labor Services for the City of Modesto, for a three (3) year period, with two (2) one-year contract extension options at the sole discretion of the City, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed proposals in the time, form, and manner provided by law.

SECTION 2. After the sealed proposals are opened, they shall be tabulated and analyzed and a report submitted to Council.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 14th day of February 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, Marsh, O'Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-089

A RESOLUTION APPROVING AN ANNUAL CONTRACT WITH THE
MODESTO BEE (MCCLATCHY NEWSPAPER GROUP) FOR WEEKLY
ADVERTISING OF PARKS, RECREATION AND NEIGHBORHOODS
DEPARTMENT PROGRAMS AND ACTIVITIES IN THE “BUZZ” SECTION
AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, the City currently uses the Modesto Bee (Bee) as its primary
newspaper-advertising source, and

WHEREAS, the Bee is used for the advertisement of classified and legal
advertisements as required by law, and for retail advertisements for public information
purposes, and

WHEREAS, the Public Information Technician in the Parks, Recreation and
Neighborhoods Department was recently contacted by Modesto Bee staff regarding a
unique advertising opportunity in the “BUZZ” section of the newspaper, a weekly section
that is geared to teens, but it is widely read by others, including parents and grandparents,
and

WHEREAS, the Parks, Recreation and Neighborhoods Department would be able
to secure the same advertising space weekly or bi-weekly, and would be able to change
the ad each time to showcase relevant and timely programs, activities and services and to
inform readers about these activities, and

WHEREAS, staff is recommending a weekly ad of 6 by 3 column inches, which
would allow space for two separate programs to be advertised, if desired, at a total annual
cost of $18,720,
WHEREAS, funding would come from the existing advertising budget for the particular programs being spotlighted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an annual contract in the amount of $18,720 with the Modesto Bee (McClatchy Newspaper Group) for weekly advertising of Parks, Recreation and Neighborhoods Department programs and activities in the "BUZZ" section.

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 February 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 ZAHR, City Clerk

APPROVED AS TO FORM:

By:  
RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-090

A RESOLUTION APPROVING AND AUTHORIZING SUBMISSION OF A) THE LOCAL TRANSPORTATION FUND (LTF) CLAIM FOR ROADS AND STREETS FISCAL YEAR 2005-2006 ($2,696,657); B) THE FISCAL YEAR 2004-2005 LTF SUPPLEMENTAL ROADS AND STREETS ($221,818); C) THE FISCAL YEAR 2005-2006 LTF CLAIM FOR NON-MOTORIZED ($140,890); D) THE FISCAL YEAR 2004-2005 LTF SUPPLEMENTAL NON-MOTORIZED ($3,577); E) THE LTF MATCH FOR REGIONAL SURFACE TRANSPORTATION PROGRAM ($25,234)

WHEREAS, on June 8, 2005, the City Council approved the fiscal year 2004-2005 annual claim for Local Transportation Funds (LTF) for transit purposes only, and

WHEREAS, on February 9, 2005, the Stanislaus Council of Governments (StanCOG) pursuant to California State Public Utility Codes (PUC) Section 99401.6 determined that there are no unmet transit needs or that there are no unmet transit needs that are reasonable to meet, and

WHEREAS, StanCOG has informed the Finance Department that it will allocate both the Annual and Supplemental LTF for use on local streets and roads pursuant to PUC Sections 99400 and 99233.11, and

WHEREAS, StanCOG has informed the Finance Department that it has allocated both the Annual and Supplemental LTF for pedestrian and bicycle facilities use pursuant to PUC Sections 99233.3 and 99234, and

WHEREAS, StanCOG has informed the Finance Department that the City of Modesto may claim $2,696,657 of Annual fiscal year 2005-2006 LTF for street purposes, and $140,890 for pedestrian and bicycle projects, and $25,234 for Pavement Management, and

WHEREAS, StanCOG has informed the Finance Department that the City of Modesto may claim $221,818 of Supplemental LTF for street purposes, and $3,577 for pedestrian and bicycle projects, and
WHEREAS, Council action authorizing the above claim is required by StanCOG pursuant to PUC Section 99261 before LTF can be released to the City of Modesto, and

WHEREAS, the City of Modesto had a $1,465,256 carryover of fiscal year 2004-2005 LTF funded Operations and Capital Improvement Project budget projects to fiscal year 2005-2006, and

WHEREAS, Council action authorizing the carryover claim is required by StanCOG pursuant to PUC Section 99261 before LTF can be budgeted by the City of Modesto for multi-year and fiscal year 2004-2005 Operations and Capital Improvement Projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves and authorizes the execution and submission of the claim for apportionment of the fiscal year 2005-2006 Annual ($2,862,781) and fiscal year 2004-2005 Supplemental LTF ($225,395) to StanCOG to obtain non-transit funds in the amount of $3,088,176.

BE IT FURTHER RESOLVED, by the Council of the City of Modesto that it hereby approves and authorizes the execution and submission of the claim for apportionment of $1,465,253 of carryover funds from fiscal year 2004-2005 to the fiscal year 2005-2006 Operations and Capital Improvement Budgets.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February 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:

Attest: Jean Zahr
JEAN ZAH, City Clerk

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-091  

A RESOLUTION AMENDING THE FY05-06 OPERATING AND CIP BUDGETS TO REFLECT THE NECESSARY INCREASES/ADJUSTMENTS FOR NON-TRANSIT PURPOSES ONLY, TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG)  

WHEREAS, on June 8, 2005, the City Council approved the fiscal year 2004-2005 annual claim for Local Transportation Funds (LTF) for transit purposes only, and  

WHEREAS, on February 9, 2005, the Stanislaus Council of Governments (StanCOG) pursuant to California State Public Utility Codes (PUC) Section 99401.6 determined that there are no unmet transit needs or that there are no unmet transit needs that are reasonable to meet, and  

WHEREAS, StanCOG has informed the Finance Department that it will allocate both the Annual and Supplemental LTF for use on local streets and roads pursuant to PUC Sections 99400 and 99233.11, and  

WHEREAS, StanCOG has informed the Finance Department that it has allocated both the Annual and Supplemental LTF for pedestrian and bicycle facilities use pursuant to PUC Sections 99233.3 and 99234, and  

WHEREAS, StanCOG has informed the Finance Department that the City of Modesto may claim $2,696,657 of Annual fiscal year 2005-2006 LTF for street purposes, and $140,890 for pedestrian and bicycle projects, and $25,234 for Pavement Management, and  

WHEREAS, StanCOG has informed the Finance Department that the City of Modesto may claim $221,818 of Supplemental LTF for street purposes, and $3,577 for pedestrian and bicycle projects, and
WHEREAS, Council action authorizing the above claim is required by StanCOG pursuant to PUC Section 99261 before LTF can be released to the City of Modesto, and

WHEREAS, the City of Modesto had a $1,465,256 carryover of fiscal year 2004-2005 LTF funded Operations and Capital Improvement Project budget projects to fiscal year 2005-2006, and

WHEREAS, Council action authorizing the carryover claim is required by StanCOG pursuant to PUC Section 99261 before LTF can be budgeted by the City of Modesto for multi-year and fiscal year 2004-2005 Operations and Capital Improvement Projects, and

WHEREAS, on February 14, 2006, the City Council approved and authorized the execution and the submission of the claim for apportionment of the fiscal year 2005-2006 Annual ($2,862,781) and fiscal year 2004-2005 Supplemental LTF ($225,395) to StanCOG to obtain non-transit funds in the amount of $3,088,176, and

WHEREAS, on February 14, 2006, the Council of the City of Modesto approved and authorized the execution and submission of the claim for apportionment of $1,465,253 of carryover funds from fiscal year 2004-2005 to the fiscal year 2005-2006 Operations and Capital Improvement Budgets,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby authorizes the Finance Department to amend the Operating and Capital Improvement Program Budgets for Fiscal Year 2006 to appropriately reflect the LTF Claim being submitted to StanCOG.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February 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: \textit{Jean Zahr}

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By \textit{Richard Rudnansky}, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-092

A RESOLUTION ACCEPTING IMPROVEMENTS IN THE UDONA GROVE SUBDIVISION, AND AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION AND AUTHORIZING RELEASE OF BONDS

WHEREAS, WILLIAM EUGENE BUCHTA AND CHARISSE RENEE BUCHTA, husband and wife as joint tenants, INDERJIT S. TOOR AND HARINDER S. TOOR, individuals, are the Subdividers of UDONA GROVE SUDIVISION ("SUBDIVISION"), and

WHEREAS, the Subdividers, have filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $109,108.80 and $109,108.80, respectively, and

WHEREAS, the Subdividers, have filed a warranty bond in the amount of $10,910.88 to guarantee improvements in the UDONA GROVE SUDIVISION, and

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

WHEREAS, the City Engineer has indicated that it would be in order for the City Council to accept the improvements in said subdivision as complete, and authorize the City Clerk to file a Notice of Completion and release the bonds upon expiration of the statutory periods,

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

02/14/06/PW/B Sandhu/Item 14

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2006-092
1. The improvements in the UDONA GROVE SUDIVISION are hereby accepted and the City Clerk is hereby authorized to record a Notice of Completion for the improvements.

2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $109,108.80 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $109,108.80 sixty (60) days after the recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee improvements in the amount of $10,910.88 one year and one day after the effective date of this resolution, provided no claim is made thereon.

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

APPROVED AS TO FORM:

By, 

RICHARD RUDNANSKIY, Interim City Attorney

JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-093

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE
BLOCK WALL CONSTRUCTION FOR WELL 21 IN MCHENRY VILLAGE,
ACCEPTING THE BID AND APPROVING A $156,165.00 CONTRACT WITH
RICHARD TOWNSEND CONSTRUCTION, INC., FOR THE PROJECT
TITLED, "BLOCK WALL CONSTRUCTION FOR WELL 21 IN MCHENRY
VILLAGE", AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE
CONTRACT

WHEREAS, City staff has prepared the plans and specifications for the Block
Wall Construction for Well 21 in McHenry Village and recommends approval to the City
Council, and

WHEREAS, the bids received for “Block Wall Construction for Well 21 in
McHenry Village” were opened at 11:00 a.m. on January 24, 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
$156,165.00 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 Block Wall Construction for
Well 21 in McHenry Village.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of
$156,165.00, and hereby awards Richard Townsend Construction, Inc., the contract titled
"Block Wall Construction for Well 21 in McHenry Village."
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 February 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 Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By  Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-094


WHEREAS, the City of Modesto Police Department desires to undertake a project designated as the 2006 Edward Byrne Justice Assistance Grant to be funded by the U. S. Department of Justice, and

WHEREAS, acceptance of said $79,092 grant will continue to assist in the funding for the Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS), and

WHEREAS, there is no local match required for this program, and

WHEREAS, awards are made in the first fiscal year of the appropriation and may be expended during the following 3 years, for a total of 4 years, and

WHEREAS, the program requires a public hearing for application, or any future amendments, to be made public and an opportunity to comment, and

WHEREAS, these funds must be held in an interest-bearing 2006 Byrne Justice Assistant Grant Fund and must not be used to supplant existing budget funds, and

WHEREAS, the Modesto Police Department plans to budget these funds for technology, communication equipment, and field equipment, which is needed but was not included in the budget due to budget reductions,

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the $79,092 grant entitled the 2006 Edward Byrne Justice Assistance Grant from the U.S.
Department of Justice.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute the necessary grant documents, including any extensions or amendments thereof and any subsequent contract with the Federal Government in relation thereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February 2006, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-095

A RESOLUTION TO INCLUDE THE GRANT AMOUNTS IN THE FISCAL YEAR 2006/07 ADOPTED BUDGET TO ESTIMATE REVENUE AND APPROPRIATE FUNDS FOR THE 2006 BYRNE JUSTICE ASSISTANCE GRANT (BJAG) WITH THE U.S. DEPARTMENT OF JUSTICE

WHEREAS, the Police Department can make application to the U.S. Department of Justice for the 2006 Byrne Justice Assistance Grant in the sum of $79,092, and

WHEREAS, the funds will be used to assist in the continued funding of the Modesto Police Department’s new Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS) upgrade, and

WHEREAS, the grant will commence on October 1, 2006 and end on September 30, 2010, and

WHEREAS, the City shall be compensated $79,092 from the U.S. Department of Justice for this program, and

WHEREAS, there is no local match required for this program,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2006/2007 Operating Budget is hereby amended as follows:

Expenses:
To: 0400-190-2905-5000 $79,092 2005 Byrne Justice Assistance Grant

Revenue:
From: 0400-190-2905-3508 $79,092 Grant Revenue
BE IT FURTHER RESOLVED that the Finance Director, or his authorized
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 14th day of February 2006, by Councilmember O'Bryant,
who moved its adoption, which motion being duly seconded by Councilmember Olsen,
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

Attest: Jean Zahr, City Clerk

By: Richard Rudnansky, Interim City Attorney
WHEREAS, the City of Modesto's Strategic Plan includes Strategy II.B.1: “Develop an efficient, well coordinated, county-wide, multi-modal transportation system”, and

WHEREAS, Modesto Area Express (MAX) is a critical component of the transportation system for the City of Modesto, and

WHEREAS, to make the MAX system more efficient and productive, City staff is recommending extending and connecting Routes 24 and 34 to serve Village One and the new Enochs High School and revising Route 27 to provide more service on Mc Henry Avenue, and

WHEREAS, City staff is recommending the deletion of portions of Routes 24, 27, and 34 to enhance the efficiency of the MAX system, and

WHEREAS, additional efficiencies are to be gained by making schedule and/or route changes to Routes 21, 22, 28, and 36, and

WHEREAS, a public meeting was held on January 31, 2006, to allow for discussion of the proposed route changes, and

WHEREAS, the Economic Development Committee approved this item at its January 9, 2006 meeting, and
WHEREAS, by a report to the Council dated January 18, 2006, from the Public Works Department, City staff recommended implementing changes to Routes 21, 22, 24, 27, 28, 34 and 36, and

WHEREAS, said matter was set for a duly noticed public hearing of the City Council of the City of Modesto to be held on February 14, 2006, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, in accordance with Federal Transit Administration regulations, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the extension and connection of Routes 24 and 34, the revision of Route 27, the deletion of portions of Routes 24, 27, and 34, and schedule and/or route changes to Routes 21, 22, 28, and 36 as shown on Exhibits “A”, “B” and “C” attached hereto and incorporated herein by reference and said changes shall become effective August 1, 2006.

BE IT FURTHER RESOLVED that the Transit Manager is authorized to implement said changes.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney
Routes 24 and 34 would be combined, with Route 24 traveling clockwise and Route 34 traveling counter clockwise on the same streets.

Proposed Changes to Route 24/34 Effective Summer 2006

Legend
- - - - - Added portions of route
••••• Eliminated portions of route

Changes to Route 24/34

- Added portions of route
- Eliminated portions of route

La Loma I Jr. High School
EIVista School
Stanislaus Behavioral Health Center

Ensen School
Roosevelt Jr. High School
Doctora Medical Center
E. Granger Alternative Ed School

Beyer High School
Skate Park

Capistrano School
Creekside Golf Course

Orangeburg
La Loma Jr. High School

Wilson School
Downtown Transportation Center
Dotted section indicates portion of Route 27 to be eliminated.

Proposed Changes for Route 27 effective Summer 2006
Proposed Changes to Route 28
Effective Summer 2006

Legend

- - - - - Added portion of route
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-097

A RESOLUTION COMMITING $331,389 TO THE UPCOMING FISCAL YEAR 2006/07 OPERATING BUDGET FUNDS TO COVER OPERATION OF NEW BUS SERVICE DURING THAT FISCAL YEAR

WHEREAS, the City Council has been requested in the staff report from Nicholas Pinhey, Public Works Director, to the City Council dated January 18, 2006, to approve the route and schedule changes for Modesto Area Express (MAX) Routes 21, 22, 24, 27, 28, 34 and 36 effective August 1, 2006, and

WHEREAS, funds for these route and schedule changes will be included in the fiscal year 2006/07 Operating Budget, and

WHEREAS, a commitment of fiscal year 2006/07 Operating Budget Funds in the amount of $331,389 to increase the proposed transit services is necessary before work on said services begins, and

WHEREAS, funding for the $331,389 will be provided through the following revenue sources:

- Federal Transit Administration Funds $ 69,592
- Passenger Fares $ 49,708
- Local Transportation Funds (LTF) $212,089

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby commits funds in the amount of $331,389 in upcoming fiscal year 2006/07 Operating Budget to cover operation of new bus service during that fiscal year.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following 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 Zahr, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-098

A RESOLUTION REAPPOINTING AND APPOINTING MEMBERS TO THE PLANNING COMMISSION

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

WHEREAS, the Economic Development Committee met on February 2, 2006, and recommended reappointment of JOHN SANDERS, and appointment of TED BRANDVOLD and WILLIE McDANIEL to the Planning Commission.

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

SECTION 1. JOHN SANDERS is hereby reappointed to the Planning Commission with a term expiration of January 1, 2008, and TED BRANDVOLD and WILLIE McDANIEL are hereby appointed to the Planning Commission, with term expirations of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed and appointed members of the Planning Commission, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February 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 Zahr, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-099

A RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ZONING ADJUSTMENT

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

WHEREAS, the Economic Development Committee met on February 2 and February 6, 2006, and recommended appointment of RALPH SAXTON, AMY NEUMANN, HENRI (HANK) POLLARD, WILLIAM SCROGGINS and WILL GROVER to the Board of Zoning Adjustment.

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

SECTION 1. The following are hereby appointed to the Board of Zoning Adjustment:

- RALPH SAXTON, with a term expiration of January 1, 2007,
- AMY NEUMANN and HENRY (HANK) POLLARD with term expirations of January 1, 2009,
- WILLIAM SCROGGINS, with a term expiration of January 1, 2010,

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members 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 28th day of February 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 Zahr, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-100

A RESOLUTION APPOINTING PAMELA HOLLY TO THE CITIZENS
ADVISORY COMMITTEE ON RECYCLING

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

WHEREAS, the Economic Development Committee met on February 2, 2006,
and recommended appointment of PAMELA HOLLY to the Citizens Advisory
Committee on Recycling.

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

SECTION 1. PAMELA HOLLY is hereby appointed to the Citizens Advisory
Committee on Recycling 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 newly appointed member of the Citizens Advisory Committee on
Recycling, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February 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:

Attest: 

JEAN ZAHR, City Clerk

RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-101

A RESOLUTION APPOINTING LILIANA LAZO AND GRACE LIEBERMAN TO THE CULTURE COMMISSION

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

WHEREAS, the Economic Development Committee met on February 2, 2006, and recommended appointment of LILIANA LAZO and GRACE LIEBERMAN to the Culture Commission.

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

SECTION 1. LILIANA LAZO and GRACE LIEBERMAN are hereby appointed to the Culture Commission with term expirations of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Culture 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 28th day of February 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: [Signature]
RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-102

A RESOLUTION APPOINTING DONALD LENGLING TO THE GOLF COURSES ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on February 2, 2006, and recommended appointment of DONALD LENGLING, as representative of Modesto Golf Club.

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

SECTION 1. DONALD LENGLING, as representative of Modesto Golf Club, is hereby appointed to the Golf Courses Advisory 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 newly appointed members of the Golf Courses Advisory Committee, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February 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 ZAHN, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney

02/14/06/CMOE Pocket/Item 3 2006-102
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-103

A RESOLUTION APPOINTING BARBARA PARRILL TO THE LANDMARK PRESERVATION COMMISSION

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

WHEREAS, the Economic Development Committee met on February 2, 2006, and recommended appointment of BARBARA PARRILL to the Landmark Preservation Commission.

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

SECTION 1. BARBARA PARRILL is hereby reappointed to the Landmark Preservation Commission with a term expiration of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Landmark Preservation 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 28th day of February 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 Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-104

A RESOLUTION APPROVING THE APPOINTMENT
OF CINDY POWERS TO THE PUBLIC EVENTS COMMISSION

WHEREAS, on June 25, 2002, the Mayor and each Councilmember appointed
one member to the Public Events Advisory Committee, and

WHEREAS, due to the recent election, a new appointment is necessary,

WHEREAS, Councilmember Kristin Olsen has nominated Cindy Powers to serve
as a member of the Public Events Advisory Committee,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto
that Cindy Powers is hereby appointed to the Public Events Commission.

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 Hawn,
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZABR, City Clerk

APPROVED AS TO THE FORM

RICHARD RUDNANSKY, Interim City Attorney
A RESOLUTION AUTHORIZING THE CITY MANAGER TO TERMINATE THE AGREEMENT WITH PATTON BOGGS, LLP FOR FEDERAL LOBBYING SERVICES, AND APPROVING A TWO (2) YEAR AGREEMENT FOR FEDERAL LOBBYING SERVICES IN THE ANNUAL AMOUNT OF $120,000 WITH PILLSBURY WINTHROP SHAW PITTMAN, LLP AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto has determined it is desirable to retain a consultant to represent the City’s interests at the federal level, and

WHEREAS, since 2001, Ms. Elizabeth V. Moeller of Patton Boggs, LLP has provided federal lobbying services to the City of Modesto and has been able to secure significant federal funding for Modesto projects, and

WHEREAS, on February 10, 2006, she notified the City that she had moved from the firm Patton Boggs, LLP to Pillsbury Winthrop Shaw Pittman, LLP, and

WHEREAS, in order to maintain the relationship the City has established with Ms. Moeller as the City’s federal lobbying representative, City staff recommends terminating its agreement with Patton Boggs, LLP and authorizing the City Manager or his designee to execute a new agreement with Pillsbury Winthrop Shaw Pittman, LLP, and

WHEREAS, Ms. Moeller has been an exceptional advocate for the City of Modesto having helped secure over $27.75 million in federal funding for City projects over the last four years, and

WHEREAS, due to the tremendous success and the excellent relationship the City has developed with Ms. Moeller staff recommends terminating the current agreement
with Patton Boggs, LLP and entering into a new agreement with Pillsbury Winthrop Shaw Pittman, LLP to maintain this established and successful relationship, and

WHEREAS, the City of Modesto has negotiated a new two (2) year Agreement for Consultant Services in the annual amount of $120,000 with Pillsbury Winthrop Shaw Pittman, LLP to perform federal legislative lobbying services from April 1, 2006 through March 31, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager to terminated the agreement with Patton Boggs, LLP for federal lobbying services.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves a two (2) year Agreement for Consultant Services in the annual amount of $120,000 with Pillsbury Winthrop Shaw Pittman, LLP to perform federal legislative lobbying services from April 1, 2006 through March 31, 2008, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference.

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 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 ZAH, City Clerk

APPROVED AS TO FORM:

RICHARD RUDNANSKY, Interim City Attorney
STANDARD
AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT, made and entered into in the City of Modesto, State of California, this ____ day of ________, 2006, by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter referred to as CITY, and PILLSBURY WINTHROP SHAW PITTMAN LLP, hereinafter referred to as CONSULTANT.

This agreement is made with regard to the following recitals:

A. The City has determined that it is appropriate to retain a consultant to represent the City's interests in Washington, D.C.

B. Consultant represents that it is qualified, willing and able to provide the services to provide such services.

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

1. SCOPE OF SERVICES

Consultant shall provide the services as set forth and described in the documents attached hereto and referred to as Exhibit A. The Consultant shall perform the services as described in Exhibit A in a manner compatible with the standards of its profession. Over the term of this agreement, the scope of services can be amended by mutual acceptance of both parties.

2. TERM OF AGREEMENT

This Agreement is effective as of April 1, 2006, and will continue in effect until March 31, 2008, unless terminated earlier in accordance with the provisions of the termination clause in this agreement. Upon mutual agreement of the parties, this Agreement may be extended for an additional term not to exceed five years on the same terms and conditions as set forth herein. The
City Manager has the authority to execute said extension, if any, on behalf of the City of Modesto.

3. COMPENSATION

Consultant agrees to perform the services set forth in Exhibit A for a flat fee of ten thousand dollars ($10,000) per month beginning on April 1, 2006 and ending on March 31, 2008. Compensation for any extension of this Agreement will be in an amount mutually agreed upon by the parties hereto.

The compensation shall be paid pursuant in the manner and at the times set forth below: On or before the fifteenth (15th day of each month), Consultant shall submit to the City a report for monthly payment for the work performed during the previous month.

4. OBLIGATIONS OF CONSULTANT

Throughout the term of this Agreement, Consultant shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. Consultant warrants that it has all of the necessary professional capabilities and experience, as well as all tools, instrumentalities, facilities and other resources necessary to provide the City with services contemplated by this Agreement. Consultant further warrants that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding the services to be provided pursuant to this Agreement. Consultant will also file all necessary and required legal documentation for disclosure of the extent and nature of lobbying services for the City and will provide a copy of said documentation to the City on an annual basis.

5. PERFORMANCE BY KEY EMPLOYEE
Consultant has represented to City that Elizabeth Vella Moeller will be the person primarily responsible for the performance of the services referred to in this Agreement. City has entered into this Agreement in reliance on that representation by Consultant. Consultant shall not change this personnel assignment without the written consent of City’s Project Manager which shall not be unreasonably withheld.

6. OWNERSHIP OF DOCUMENTS/TITLE TO DATA

Ownership of Documents

All reports, drawings, designs, graphics, working papers and other incidental work or materials furnished hereunder shall become and remain the property of the City, and may be used by City as it may require without any additional cost to City. No reports shall be used by the Consultant for purposes other than this contract without the express prior written consent of City.

Title to Data

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

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

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

8. AVOIDANCE OF POTENTIAL CONFLICTS

Whenever the federal objectives of existing or future clients conflict with those of the City, the Consultant shall notify the City. The Consultant shall not advocate or promote federal objectives on behalf of existing or potential clients that are determined by the City to be in direct conflict with the City’s federal objectives without the prior consent of the City.

9. AMENDMENTS

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

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

10. INDEPENDENT CONTRACTOR

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

Consultant, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent contractors and not as employees of City.

Consultant shall determine the method, details and means of performing the work and services to be provided by Consultant under this Agreement. Consultant shall be responsible to City only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to City’s control with respect to the physical action or activities of the Consultant in fulfillment of this Agreement. Consultant has control over the manner and means of performing the services under this Agreement. Consultant is permitted to provide services to others during the same period service is provided to City under this Agreement. If necessary, Consultant has the responsibility for employing other persons or firms to assist Consultant in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by Consultant, such persons shall be entirely and exclusively under the direction, supervision, and control of Consultant. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirement of law shall be determined by the Consultant.
It is understood and agreed that as an independent contractor and not an employee of City neither the Consultant or Consultant’s assigned personnel shall have any entitlement as a City employee, right to act on behalf of the City in any capacity whatsoever as an agent, or to bind the City an obligation whatsoever.

It is further understood and agreed that Consultant must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Consultant’s personnel.

As an independent contractor, Consultant hereby indemnifies and holds City harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

11. ASSIGNMENT

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

12. PATENT/COPYRIGHT MATERIALS

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

13. NOTICES

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

FOR CITY:

Name: George W. Britton, City Manager
Address: City of Modesto
         Post Office Box 642
         Modesto, CA 95353-9003

FOR CONSULTANT:

Name: Elizabeth Vella Moeller
Address: Pillsbury Winthrop Shaw Pittman LLP
         2300 N Street NW
         Washington DC 20037

14. INSURANCE REQUIREMENTS

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

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

(c) **Professional Liability** insurance with a minimum limit of $1,000,000 per claim and policy aggregate.

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

15. TERMINATION OF AGREEMENT

Termination on Occurrence of Stated Events

This Agreement shall terminate automatically on the date on which either of the
following events occur: (1) bankruptcy or insolvency of Consultant or (2) legal dissolution of
Consultant. In the event of the death of key principal(s) of Consultant the City shall have the
option to terminate this Agreement.

Termination by City for Default of Consultant

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

Termination by Consultant for Default of City

Should City default in the performance of this Agreement or materially breach
any of its provisions, at its option Consultant may terminate this Agreement by giving written
notice to City. The termination date shall be the effective date of the notice. For the purposes of
this section, material breach of this Agreement shall include but not be limited to any of the
following: failure to cooperate reasonably with Consultant, willful destruction of Consultant’s
property by city, dishonesty or theft.
**Termination by City for Lack of Budgeted Funds**

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

**Termination for Failure to Make Agreed Upon Payments**

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

**Termination by City for Change of Consultant’s Tax Status**

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

**Voluntary Termination**

The parties may terminate this contract at any time upon mutual written Agreement. In addition, either party may terminate this Agreement for any reason upon thirty (30) days written notice to the other.

**In the Event of Termination**

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

If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, City will pay Consultant for the final month in which Consultant provided services on a pro rata basis as determined by City in its sole discretion.

16. CITY PROJECT MANAGER

The City Project Manager shall be the designated Deputy City Manager or such other person as shall be designated in writing by the City Manager.

(a) The Project Manager is authorized to approve work and billings hereunder, to give notices referred to herein, to terminate this Agreement as provided herein, and to carry out any other actions referred to herein.

17. INDEMNITY

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

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

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

19. PARTIAL VALIDITY

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

20. WAIVER

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

21. AUDIT

The City’s duly authorized representative shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify Consultant’s charges to City under this Agreement.

Consultant agrees to retain reports, records, documents, files and other materials related to charges under this Agreement for a period of four (4) years following the date of final
payment for Consultant services. City’s representative shall have the right to reproduce any of the aforesaid documents.

22. **GOVERNING LAW**

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

23. **HEADINGS NOT CONTROLLING**

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

24. **COMPLIANCE WITH LAWS**

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

CITY OF MODESTO, a California municipal corporation

By: ______________________________________
George W. Britton, City Manager

PILLSBURY WINTHROP SHAW
PITTMAN LLP

By: ______________________________________

Consultant Federal ID# ____________

ATTEST:

By: ______________________________________
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: ______________________________________
RICHARD R. RUDNANSKY, Interim City Attorney

By: ______________________________________
MARY AKIN, Risk Manager
EXHIBIT “A”
SCOPE OF SERVICES

The Consultant shall provide the following services for the City:

A. Consultant shall, at the direction of the City Manager and/or designee, develop a prioritized program of federal legislative funding targets and will develop strategies to successfully promote the City’s objectives. This program will target projects in the broad categories of:

1. Economic Development
2. Health & Safety
3. Diversity & Culture

B. Consultant shall represent the City’s federal objectives with members of Congress, appropriate congressional committees, federal agencies and congressional staff. In addition, consultant shall maintain effective liaison with major public interest groups and coalitions.

C. Consultant shall monitor specified federal legislation, legislative committees, federal agencies, rule making, and the activities of appropriate interest groups, which are of a critical nature to the City of Modesto.

D. Consultant shall identify grant opportunities for City projects and assist the City with submission of completed applications to the appropriate federal agencies.

E. Consultant shall notify the City when testimony or personal communication is required to protect the City’s federal interest. Consultant will assist the City in preparation of written and oral testimony and will coordinate federal visits.

F. Consultant shall provide the City Manager and/or designee with periodic communications, both oral and written, outlining the activities undertaken on the City’s behalf.
MODESTO CITY COUNCIL
RESOLUTION 2006-108

A RESOLUTION APPROVING A DEFERRED PAYMENT AGREEMENT AND NOTICE OF LIEN WITH PETER AND CHARLENE REECE, JOSEPH AND SHERYL PIMENTEL, AND STEPHEN AND KATHLEEN HUGHES FOR THE PAYMENT OF $27,657.79 FOR CAPITAL FACILITIES FEES AT THE TIME OF BUILDING PERMIT ISSUANCE AND $110,631.15 PLUS INTEREST IN NO MORE THAN FIVE (5) ANNUAL INSTALLMENTS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, Owner owns certain real property located within the City of Modesto, County of Stanislaus, State of California, more particularly described on Exhibit “A”, attached hereto and incorporated herein by reference (Property), and

WHEREAS, Owner desires to obtain three building permits from the City for the construction of Village Comers, a commercial development consisting of three buildings approximately 25,226 square feet, located at 3948 Sylvan Avenue, Modesto, California (Project), and

WHEREAS, Owner desires to defer payment of Capital Facilities Fees (CFF), in the amount of $138,288.93 which are due and payable at the time of issuance of the building permits, and

WHEREAS, the City has determined that it is appropriate to defer payment of said fees pursuant to Modesto City Council Resolution No. 2006-061,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Deferred Payment Agreement and Notice of Lien (“Agreement”) with Peter and Charlene Reece, Joseph and Sheryl Pimentel, and Stephen and Kathleen Hughes for the payment of $27,657.79 for capital facilities fees at the time of building permit issuance and $110,631.15 plus interest in no more than five (5) annual installments is hereby approved.
BE IT FURTHER RESOLVED that the City Manager is 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 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

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim, City Attorney

ATTEST: JEAN ZAHR, City Clerk
EXHIBIT “A”
Legal Description

Property Subject to Deferred Payment Agreement and Notice of Lien

Parcels 1, 3 and 4 as shown on map filed in Book 52 of Parcel Maps, at Page 11, Stanislaus County Records, in a portion of the southeast quarter of Section 12, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California.

Containing 2.45 acres, more or less.

December 5, 2005
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-106

A RESOLUTION AUTHORIZING MID-VALLEY ENGINEERING (MVE) TO INSTALL FOURTEEN (14) BOLLARDS IN THE PUBLIC RIGHT-OF-WAY AT ITS BUSINESS OFFICE LOCATED AT 1117 L STREET, MODESTO, CALIFORNIA, APPROVING AN INDEMNITY AND HOLD HARMLESS AGREEMENT WITH MVE, AND AUTHORIZING THE CITY MANGER TO EXECUTE SAID AGREEMENT

WHEREAS, Mid-Valley Engineering (MVE) is located on the northwest corner of the intersection of 12th and L Streets and is concerned with the traffic accidents that have occurred at this intersection over the last few years, and

WHEREAS, according to Modesto Police Department records sixty (60) collisions have been investigated at that location between January 1, 2000 and May 24, 2005, and

WHEREAS, two accidents have resulted in vehicles leaving the roadway and colliding with the Mid-Valley Engineering office building, and

WHEREAS, the owners of MVE desire to install fourteen (14) bollards around their office building at 1117 L Street, Modesto, California, and

WHEREAS, seven (7) of the bollards will be installed in front of the building along 56.31 feet of L Street and seven (7) will be installed along the side of the MVE building that is parallel to 12th Street, and

WHEREAS, the Citizens Redevelopment Advisory Committee considered this item at its February 1, 2006, meeting and recommended Council approval,
BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager to execute an Indemnity and Hold Harmless Agreement with MVE that releases the City of Modesto from any liability related to the bollards that will be installed in front of and along the side of the MVE business office, and authorizes the City Manager to execute said 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 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, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: Hawn, Marsh

ABSENT: Councilmembers: None

ATTEST: 

JEAN ZAHRI, City Clerk

APPROVED AS TO FORM:

By RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-107

A RESOLUTION APPROVING AN AGREEMENT BETWEEN CITY OF
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE
#2) AND PETER & CHARLENE REECE, JOSEPH & CHERYL PIMENTEL
AND STEPHEN & KATHLEEN HUGHES WITH A MAXIMUM
REIMBURSEMENT AMOUNT OF $246,726.45 PLUS CONTINGENCY FOR
IMPROVEMENTS ON SYLVAN AVENUE (PORTION AT CLAUS ROAD) AND
A STORM DRAIN LINE (PORTION BETWEEN LITT AND CLAUS ROAD)
AND AUTHORIZING THE DISTRICT ADMINISTRATOR TO EXECUTE SAID
AGREEMENT

WHEREAS, the City of Modesto desires to complete the core infrastructure
needed to serve the Village One area, and

WHEREAS, Peter & Charlene Reece, Joseph & Cheryl Pimentel and Stephen &
Kathleen Hughes (collectively “Landowner”) have agreed to install certain improvements
on Sylvan Avenue (portion at Claus Road) and a storm drain line (portion between Litt
and Claus Road), and

WHEREAS, the City Council has considered the proposed Acquisition &
Shortfall Agreement (“Agreement”) between City of Modesto Community Facilities
District No. 2004-1 (“Village One #2”) and Landowner to acquire all such improvements
to be installed by Landowner pursuant to the Agreement, and

WHEREAS, said Agreement shall have a maximum reimbursement
amount of $246,726.45 plus contingency,

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

1. The proposed Acquisition and Shortfall Agreement between City
of Modesto Community Facilities District No. 2004-1 and Peter &
Charlene Reece, Joseph & Cheryl Pimentel and Stephen & Kathleen Hughes (collectively “Landowner”) for improvements on Sylvan Avenue (portion at Claus Road) and a storm drain line (portion between Litt and Claus Road) are hereby approved.

2. That the District Administrator, 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 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 Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-109

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO SOLICIT FORMAL REQUEST FOR BIDS (RFB) FOR JANITORIAL PAPER PRODUCTS FOR AN INITIAL THREE (3) YEAR PERIOD, WITH TWO (2) ONE-YEAR CONTRACT EXTENSION OPTIONS FOR A TOTAL ESTIMATED ANNUAL COST OF $43,400

WHEREAS, the Finance Department-Central Stores has requested the purchase of janitorial paper products, and

WHEREAS, Central Stores will purchase the required janitorial paper products from account number 7110-120-8311-0439, and

WHEREAS, departments purchase the janitorial paper products from Central Stores with accounts designated for that purpose, and

WHEREAS, departments may pick up the materials at Central Stores, or transmit their request to Central Stores for delivery, and

WHEREAS, the following objectives will be achieved with a contract for janitorial paper products:

• Custodial personnel will not be performing unrelated duties.

• Materials will be purchased from the awarded vendor at the lowest competitive price.

• Processing of invoices and accounting of material for multiple departments is available from one location – Central Stores, and

WHEREAS, specifications for janitorial paper products have been developed over time through collaboration between Central Stores staff and division staff requesting the janitorial paper products, and
WHEREAS, by soliciting competitive bids, the City will achieve the best value for janitorial paper products and meet Modesto Municipal Code (MMC) requirements for formal bids, and

WHEREAS, the 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, this Request for Bid (RFB) conforms to City Code, and

WHEREAS, the funds for inventory purchases have been appropriated in account number 7110-120-8311-0439 (INVENTORY PURCHASES STORES), and

WHEREAS, material is purchased using these funds and recouped through sales to City divisions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is hereby authorized to solicit formal Request for Bids for the janitorial paper products as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for janitorial paper products, for an initial three (3) year period, with two (2) one-year contract extension options at the sole discretion of City, to be opened in the office of the City Clerk, 1010 10th Street, in the City of Modesto. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

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

APPROVED AS TO FORM:

By: RICHARD RUDNASNY, Interim City Attorney

ATTEST: JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-110

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR MATERIAL HAULING SERVICES TO BOB HARKRADER & SONS TRUCKING INC. OF CERES, CA. FOR AN INITIAL TWO (2)-YEAR PERIOD, WITH THREE (3) ONE-YEAR CONTRACT EXTENSION OPTIONS FOR A TOTAL ESTIMATED ANNUAL COST OF $400,000.00

WHEREAS, the Public Works Department-Streets Division has requested material (asphalt grindings & hot asphalt) hauling service, and

WHEREAS, Resolution 2005-402 authorized the Purchasing Supervisor to solicit formal bids for material hauling services, and

WHEREAS, the Streets Division is responsible for maintaining (paving) residential streets, alleys, and major arterial and collector streets, and

WHEREAS, to repave a street, a grinding operation removes the worst sections of roadways from two (2) to twelve (12) inches deep, and

WHEREAS, this operation requires larger end dump trucks that haul the material away to the Fire Training Center where it is stockpiled and use to repair alleys in the winter months, and

WHEREAS, in the past, asphalt grindings were hauled away by using rented dump trucks, or by staff borrowing dump trucks from other divisions, and

WHEREAS, the Streets Division currently does not have the trucks or the staff resources to haul away the materials during the paving season, and

WHEREAS, the paving season runs from April 15th to November 15th, and

WHEREAS, if the Streets Division had to provide the trucks to support paving
operations, street crews productivity would be reduced by approximately 80%, and

WHEREAS, by having a material hauling service in place, staff can place 700 tons of asphalt a day; and without material hauling service, staff is limited to 14 tons a day, and

WHEREAS, the initial estimated total annual cost for material hauling services of $250,000 has been revised to $400,000 based on new Proposition 42 funding, and

WHEREAS, the Purchasing Division solicited formal bids for material hauling services on Request for Bid (RFB) 0506-05, and

WHEREAS, twenty-one (21) vendors were solicited, eleven (11) of which were local vendors, and

WHEREAS, out of the twenty-one vendors solicited, two (2) chose to respond, and

WHEREAS, Purchasing Division and Public Works Department-Streets Division staff evaluated bids, and

WHEREAS, bids were received from Thornberry of Ceres, CA. and Bob Harkrader & Sons Trucking Inc. of Ceres, CA. for material hauling services, and

WHEREAS, both vendors quoted an hourly straight time labor rate of $80.00, and

WHEREAS, based on feedback from vendor references, Bob Harkrader & Sons Trucking Inc. had best performed work as outlined in RFB 0506-05, technical requirement for material hauling services, and

WHEREAS, based on the evaluation of bids per RFB 0506-05, Bob Harkrader & Sons Trucking Inc. of Ceres, CA. is the most responsive bidder for material hauling services, and
WHEREAS, the City Council has appropriated funds for material hauling service in account numbers: 1130-320-3223-6041 (CDBG Direct Program) and 0700-480-4617-0360 (Streets, Traffic & Forestry), and

WHEREAS, the present funding will support approximately $250,000 and could increase to $400,000 based on additional funds that could be available based on new Proposition 42 funding, and

WHEREAS, the 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, this Request for Bid process conforms to the Municipal Code, and

WHEREAS, the Purchasing Division has coordinated the solicitation and evaluation of bids for material hauling services with the Public Works Department-Street Division staff,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid and contract for material hauling services to Bob Harkrader & Sons Trucking Inc. of Ceres, CA. for an initial two (2) year period, with three (3) one-year contract extension options at the sole discretion of the City, for a total estimated annual cost of $400,000.

BE IT FURTHER RESOLVED that the Purchasing Division is hereby authorized to issue a purchase order for material hauling services in the total estimated annual cost of $400,000.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of 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: [Signature]

APPROVED AS TO FORM:

By: [Signature]
RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-111

A RESOLUTION APPROVING A REQUEST FROM THE ALUMNI ASSOCIATION IN STANISLAUS COUNTY FOR USE OF AMPLIFIED MUSIC AT MANCINI BOWL FOR A RALLY FOR RECOVERY EVENT TO BE HELD ON SEPTEMBER 9, 2006

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has received a letter from The Alumni Association In Stanislaus County, requesting use of amplified music at Mancini Bowl on Saturday, September 9, 2006, for a Rally For Recovery event, 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 February 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 Alumni Association In Stanislaus County for the use of amplified music at Mancini Bowl for a Rally For Recovery event on September 9, 2006.
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 Zahr, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-112

A RESOLUTION GRANTING APPROVAL TO THE FOURTH OF JULY CELEBRATION COMMITTEE OF THE MODESTO JAYCEES TO HOLD A PARADE, PICNIC IN THE PARK AND FIREWORKS DISPLAY FOR THE FOURTH OF JULY CELEBRATION IN THE CITY OF MODESTO, SUBJECT TO CERTAIN CONDITIONS, AND RESCINDING RESOLUTIONS NOS. 96-308 AND 2003-208

WHEREAS, the Fourth of July Celebration Committee of the Modesto Jaycees (hereinafter referred to as the Committee) has filed a request with the City Council for permission to have a parade, picnic in the park and fireworks display which will be held to celebrate the Fourth of July, and

WHEREAS, the Committee has requested the use of Graceada Park for the Fourth of July Celebration, and

WHEREAS, the Council deems it appropriate to grant approval and assistance to the Committee relating to its Fourth of July Celebration, subject to certain conditions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the following, subject to the conditions set forth, relating to the Committee's Fourth of July Celebration parade, picnic in the park and fireworks display:

1. Parade
   a. "I" Street, between 11th and 12th Streets will be barricaded between 9:30 a.m. and 2:30 p.m. on the Fourth of July for the parade.
   b. The parade route to be used on the Fourth of July shall be subject to approval of the Police Chief and the Public Works Director: starting at 10th and F Streets, north on 10th to J Street; east on J Street to 11th Street; south on 11th Street to I Street; east on I street to 16th Street; then disband.
c. Responsibilities of the City

1) Barricades will be provided by the City of Modesto and will be placed by City staff.

2) City personnel will erect City’s reviewing stand with canvas top on “I” Street close to the cannon in the Courthouse Park prior to 8:00 a.m. and will remove said reviewing stand thereafter.

3) The City will supply three (3) street sweepers for the parade route.

d. Responsibilities of the Committee

1) Committee is granted permission to use a public address system at the reviewing stand for the parade. Said public address system shall be furnished by the Committee at its expense.

2) Committee may place other public address systems along the parade route at its expense.

2. Picnic in the Park

a. The Committee is granted permission to use Graceada Park relating to the Picnic in the Park Fourth of July celebration, subject to the following conditions:

1) The City shall allow the Committee the use of amplified instrumentation at the event during the designated event times at a volume not to disturb the adjoining neighborhoods.

2) The Committee shall adhere to all Alcoholic Beverage control requirements.
3) All alcoholic beverages shall remain within the enclosed “beer garden” sales area.

4) The Picnic in the Park Fourth of July Celebration shall not continue beyond the hour of 6:00 p.m. on the said date(s).

b. If the Fourth of July falls on Friday, Saturday, Sunday or Monday, the Fourth of July Celebration Committee has the option to use Graceada Park for two (2) consecutive days, one of which shall be the Fourth of July.

c. The City will waive all fees for use of facilities at Graceada Park, including, but not limited to, Mancini Bowl and the picnic area.

d. Responsibilities of the City

1) The City will provide barricades to be placed on the streets around the perimeter of Graceada Park to provide curbside parking for the Committee during park activities.

2) The City shall provide two (2) barbecue trailers to be located in Graceada Park at mutually agreed to locations.

3) The City shall provide a technician to connect the Committee’s sound system to the electrical power at Mancini Bowl.

4) The City shall provide twenty (20) trash receptacles in Graceada Park and shall remove them following the event.

e. Responsibilities of the Committee

1) The Committee shall provide, at its expense, one (1) security guard that is licensed and insured to provide security for the beer garden from the time the beer garden is erected, during the event, and until the beer garden and contents are removed.
2) The Committee shall be responsible for providing a technician for electrical services for the food booths, sound systems and light systems.

3) The Committee shall supply a minimum of ten (10) chemical toilets for use in Graceada Park for the Picnic in the Park.

3. **Fireworks Display**

   a. The Committee is granted permission to use the bluff land adjacent to Dryden Park Golf Course (part of the Tuolumne River Regional Park) for display of fireworks on the evening of the Fourth of July, subject to the following conditions:

      1) That the weather conditions will not create any fire hazard to the surrounding area;

      2) That the City will be reimbursed for any damages which may occur to the bluff land adjacent to Dryden Park Golf Course, City’s two (2) adjacent golf courses, and John Thurman Field;

      3) That arrangements be cleared by the Parks, Recreation and Neighborhoods Department Director, Fire Chief and the Police Chief; and

      4) That the fireworks display be conducted according to the requirements of the Fire Chief of the City of Modesto.

   b. **Responsibilities of the City**

      1) The City will provide two (2) standby fire trucks.

   c. **Responsibilities of the Committee**

      1) The Committee will provide, at its expense, twelve (12) chemical toilets to be situated at locations designated by the Park Operations Superintendent, or his designee.
2) The Committee shall require its Fireworks Display Contractor to maintain liability insurance in the amount of two million dollars ($2,000,000.00) per occurrence/aggregate limits in a form satisfactory to the City. Such insurance must name the Fourth of July Celebration Committee, the City of Modesto and the Modesto Jaycees as “additionally insured”.


a. Dial-A-Ride service will operate on its regular schedule for handicapped and senior citizens on the Fourth of July.

b. For Fiscal Year 2005-06, the City has allocated $8,750 in grant funds to the Committee for the Fourth of July Celebration. The City will continue to allocate funds to the Celebration, with the amount to be increased or decreased by the same percentage adopted by the City Council for other local organizations receiving funds under the Cultural Promotions budget organization.

c. The City will provide police assistance during the parade, picnic in the park and fireworks display as deemed necessary by the Police Chief.

d. The Committee will endeavor to secure sufficient funds to reimburse the City for its actual costs, except for grant funds specified above.

e. The City of Modesto shall indemnify and hold harmless the committee from any and all liability, costs, damages, or injuries to persons or damage to property, which may arise out of or in any way be connected with the ordinary and customary condition of City property and facilities, or which may arise out of the negligent acts or omissions of any officer, agent or employee of the City of Modesto.
f. The Committee shall indemnify, defend and hold harmless the City of Modesto, its officers, agents and employees from any and all liability, costs, damages or injuries to persons or damage to property which may arise out of or in any way be connected with the Committee’s sponsored Fourth of July parade, use of the bluff land adjacent to Dryden Park Golf Course, City’s two (2) adjacent golf courses and John Thurman Field, and the streets and areas adjacent thereto for the Committee’s fireworks display and the use of City facilities for the Committee’s parade and picnic in the park.

g. The Committee shall provide to the City Clerk current and valid certificate(s) of insurance that are in compliance with the City of Modesto Standard Insurance requirements. Such insurance, at a minimum, shall include Commercial General Liability coverage in a primary amount of not less than $2,000,000 per occurrence; include the City of Modesto as additionally insured; provide the City with then (10) days written notice prior to cancellation, alteration or material change in coverage. The Committee shall also file acceptable verification of coverage for legal liquor liability. Such verifications shall be submitted to the Risk Manager and shall meet with Risk Management’s approval one (1) week prior to the date of the event. Upon approval, said verification shall be filed with the City Clerk.

BE IT FURTHER RESOLVED that future Fourth of July Celebrations consisting of parades, picnics in the park and/or fireworks displays are hereby approved so long as each such event and activity complies with all ordinances, rules, regulations, orders, conditions or the like as the same now exists or as hereafter may be promulgated and all authorizations or approvals are first obtained from the City Manager, Police Chief, Fire
Chief, Parks, Recreation and Neighborhoods Department Director or such other City officers as may be appropriate.

BE IT FURTHER RESOLVED that the City Clerk shall furnish the Committee with a copy of this resolution. The Committee shall file a written acceptance of this resolution with the City Clerk, and no right shall be conferred hereby until said acceptance is filed.

BE IT FURTHER RESOLVED that Resolution No 96-308, adopted June 11, 1996, is hereby rescinded.

BE IT FURTHER RESOLVED that Resolution No. 2003-208, adopted April 22, 2003, is hereby rescinded.

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 ZAHR, City Clerk

APPROVED AS TO FORM:

By:  
RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-113

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

Emergency Medical Services Coordinator

Said classification is being created to administer the emergency medical services program of the Fire Department. The job specification for the classification of Emergency Medical Services Coordinator, as shown on the attached Exhibit “A,” which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.
SECTION 2. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the following classification:

   Fire Division Chief

Said job specification is being amended to incorporate the Fire Marshal functions including emergency preparedness and other changes to more accurately reflect the requirements of this classification. The job specification for classification of Fire Division Chief, as shown on the attached Exhibit “B”, which is hereby made a part of this resolution by reference, is hereby amended and made part of the Position Classification Plan of the City of Modesto.

SECTION 3. CLASSIFICATION DELETED. The Position Classification Plan of the City of Modesto is hereby amended to delete the following classification:

   Fire Marshal

Said classification is no longer being used.

SECTION 4. EFFECTIVE DATE. This resolution shall become effective on and after February 28, 2006.
The foregoing resolution was introduced in 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 Zahr, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky, Interim City Attorney
EMERGENCY MEDICAL SERVICES COORDINATOR

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

DEFINITION

To administer emergency medical services (EMS) programs of the Fire Department including training, equipment, certifications, legislative requirements, vaccinations, medical exposures and EMS contracts.

SUPERVISION RECEIVED AND EXERCISED

Receives general direction from a Fire Division Chief.

May exercise direct supervision over assigned staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS

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

**Essential Functions:**

Develop, implement, administer and evaluate operations and activities of EMS programs; recommend improvements and modifications; prepare various reports on operations and activities.

Ensure all EMS programs, operations and personnel comply with State and local laws, regulations, protocols, licensure and accreditation requirements; assist Emergency Medical Technicians (EMTs) and Paramedics with re-certification needs.

Provide and coordinate the department's continuous EMS education program in accordance with State and local regulations.

Coordinate and provide training for the cardio pulmonary resuscitation (CPR) program for department personnel and the public.

Track, maintain records and generate reports regarding certification, re-certification and other educational licensing requirements.

Exhibit "A"
Essential Functions: (Continued)

Implement and monitor the Department’s continuous quality improvement program for Basic Life Support (BLS) and Advanced Life Support (ALS).

Develop, implement, review, monitor and revise training courses and manuals for BLS and ALS to ensure Fire Department personnel meet established standards.

Observe patient care provided by Paramedics, including furnishing Paramedics with training, counseling and orientation as needed.

Participate in evaluating Paramedic personnel to ensure performance standards compliance; may provide technical expertise regarding Paramedic performance in disciplinary actions.

Review and update the Department’s exposure control program. This may include assisting with drafting policies and procedures, providing training, and writing exposure follow-up reports. Work with the Risk Division on required “Designated Officer” duties and responsibilities.

Analyze and interpret relevant legislation, regulations and local protocols that may impact Paramedic, EMT or other department EMS programs; make written recommendations as necessary.

Evaluate, select and purchase equipment and supplies used in EMS programs; maintain equipment and supply inventory.

Attend various City Council, Commission, board and other governmental meetings; prepare and present agenda items to the City Council.

Answer questions and provide information to the public, outside agencies and City staff; investigate complaints and recommend corrective action as necessary to resolve complaints.

Assist in developing and implementing an EMS public education program; coordinate, schedule and participate in presenting public awareness and educational programs.

Recommend goals and objectives; assist in the development of policies and procedures.

Assist in the preparation, review and monitoring of the EMS budget.

Exhibit "A"
Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles, terminology, procedures, medications and equipment used in the administration of emergency medical response, including advanced life support services.

Principles and practices of emergency medicine, including clinical assessment techniques and the principles of patient prioritization and stabilization.

Principles and practices related to the development, management and administration of EMS systems and quality assurance programs.

State and local statutes and regulations pertaining to EMS training, service delivery and quality improvement.

Effective training techniques and learning processes.

Principles and practices of budget preparation and administration.

Ability to:

Coordinate and effectively manage all aspects of an EMS quality assurance program.

Monitor, evaluate and provide feedback regarding the work performance of EMTs and Paramedics.

Plan, develop, coordinate and conduct EMS training based upon a continuous quality improvement plan.

Coordinate, develop and conduct a variety of training programs for department staff and the public.

Research and analyze operational and technical issues and develop appropriate recommendations for action.

Exhibit "A"
Ability to: (Continued)

Interpret, explain and apply applicable laws, codes, regulations, standards, policies and procedures.

Develop and maintain accurate record keeping systems.

Use a computer and applicable software programs.

Communicate clearly and concisely, both orally and in writing; make effective oral presentations.

Establish and maintain effective working relationships with those contacted in the course of work.

EXPERIENCE AND TRAINING GUIDELINES

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

Experience:

Three years of progressively responsible supervisory or administrative experience in the field of health care services or hospital administration.

Two years academic training or clinical experience in the practice of emergency medicine or pre-hospital care in the last five years is desirable.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major coursework in health administration or related field.

License or Certificate:

Possession of, or the ability to obtain an appropriate, valid California driver's license.

Must possess the following valid, current certificates:

Exhibit "A"
License or Certificate: (Continued)

- American Heart Association (AHA) CPR and Automatic External Defibrillator (AED) Instructor
- Basic Life Support Instructor

The following certificates are desirable:

- Advanced Cardiac Life Support (ACLS) Instructor
- Pediatric Advanced Life Support (PALS) Instructor

Based on departmental approval, equivalent certification may be accepted in lieu of the above.

California licensure as a registered nurse or physician assistant or certification as an EMT-Paramedic is desirable.

WORKING CONDITIONS

Environmental Conditions:

Office and field environment. Travel from site to site. Exposure to temperature swings from indoors to outdoors; extreme noise of sirens and emergency equipment; working outdoors at emergency scenes with Paramedics and EMTs.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time; traveling to and from sites and attending meetings. May be required to squat, stand, lift and carry equipment (weighing up to 25 pounds) occasionally. May be required to use various office equipment including a computer screen and keyboard.
FIRE DIVISION CHIEF

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

DEFINITION

To manage, direct and coordinate the activities of a major division including Support Services, and Operations and the Fire Prevention Bureau; to coordinate division activities with other divisions and departments; and to provide highly complex staff assistance to the Fire Chief.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Fire Chief.

Exercises direct supervision over lower level division staff.

EXAMPLES OF DUTIES

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

Essential Functions:

Recommend goals and objectives; assist in the development of policies and procedures.

Direct, oversee and participate in the development of the Division work plan; assign work activities, projects and programs; monitor workflow; implement policies and procedures; review and evaluate work products, methods and procedures.

Prepare the Division budget; assist in budget implementation; participate in the forecast of additional funds needed for staffing, equipment, materials, and supplies; administer the approved budget.

Participate in recommending the appointment of personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures; recommend employee terminations.

Direct the development, implementation and coordination of training programs and standards of assigned personnel to learn and maintain technical competency.

Answer questions and provide information to the public; investigate complaints and recommend corrective action as necessary to resolve complaints.

Exhibit "B"
Essential Functions: (Continued)

Respond to emergencies as required.

When assigned to Support Services:

Manage, direct and organize Support Services Division activities, including community emergency preparedness, equipment repair, supply and maintenance, purchasing and budget control, fire station maintenance, mapping and run cards, affirmative action, public information, and other programs as assigned.

When assigned to the Fire Prevention Bureau:

Supervise, direct and organize fire prevention activities, including community emergency preparedness, inspection of residential, commercial, industrial, institutional, public assembly, and public lodging facilities to obtain compliance with all applicable Federal, State and local laws and ordinances; investigation of all fires to determine cause, origin, and damages; investigation of all suspected arson fires to pursue to conclusion; maintenance of records of fire losses, inspections, investigations, fire deaths, and injuries; plan check of building fire suppression and detection systems; inspection and control of hazardous materials; review of annexations and subdivisions; and other programs as assigned.

When assigned to Fire Suppression:

Manage, direct and organize Fire Suppression Division activities, including: Suppression of all fires; abatement of hazardous material incidents; delivery of first responder emergency medical services; department training programs; company fire prevention programs; communications; personnel coordination; fire hydrant maintenance; and other programs as assigned.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Applicable Federal, State and local laws and ordinances and fire safety standards.

Budget preparation and administration, ing procedures and techniques:

Principles and practices of supervision, training and personnel management.

Exhibit "B"
Knowledge of: (Continued)

Modern principles of Fire Department administration.

Modern principles and practices of fire suppression and prevention.

Use and maintenance of fire fighting equipment and apparatus.

Building, electrical, mechanical and fire codes.

Safe work practices.

Effective methods of preparation and presentation of information for and to the public, the City Council, and other community groups.

Technical reports writing procedures and procedures for writing proposals and contracts.

Personal computers and relevant software programs.

Ability to:

Organize, direct and implement a variety of division programs.

Work with and control sensitive, handle delicate and confidential information and matters.

Prepare and administer a division budget.

Select, supervise, train, coach and evaluate assigned staff.

Develop requests for proposals and contracts.

Meet and deal tactfully, and establish and maintain cooperative working relationships with the public, news media, and other governmental agencies.

Effectively represent the department before the Council, Council Committees, boards, commissions, public agencies and private groups.

Appear before the City Council, boards, commissions and numerous civic groups representing the Department.

Operate personal computers and software to produce spreadsheets, charts, and graphs for presentations and maintaining statistical data.

Exhibit "B"
Ability to: (Continued)

Establish and maintain cooperative working relationships with those contacted in the course of work.

Communicate clearly and concisely, both orally and in writing.

Make sound decisions in a manner consistent with job duties and departmental or City policies.

EXPERIENCE AND TRAINING GUIDELINES

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

Experience:

One year of increasingly responsible experience comparable to that of a Fire Battalion Chief.

Training:

Equivalent to a Bachelor n Associate of Arts degree from an accredited college or university with major course work in fire science, public administration, business administration or a related field.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California driver's license.

WORKING CONDITIONS

Environmental Conditions:

Office and field environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time; traveling to and from sites, attending meetings and using a personal computer and other office equipment.
MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-114

A RESOLUTION AMENDING EXHIBIT “A” OF RESOLUTION NO. 2005-494 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO CREATE THE CLASSIFICATION OF EMERGENCY MEDICAL SERVICES COORDINATOR AT RANGE 435 ($4,967 - $6,052/MONTH) AND TO DELETE THE CLASSIFICATION OF FIRE MARSHAL FROM RANGE 441 OF THE CLASS RANGE TABLE

WHEREAS, the City Council desires to amend Exhibit “A” of Resolution No. 2005-494, which approved the Class Range Table for Represented Management and Non-Sworn Classes,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2005-494. Resolution No. 2005-494 effective October 4, 2005, is hereby amended as shown on the amended Exhibit “A” entitled “City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes effective February 28, 2006”, which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit “A” establishes the salary range for Emergency Medical Services Coordinator at Range 435 ($4,967 - $6,052 per month) and deletes the Fire Marshal from Range 441 of the Class Range Table.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after February 28, 2006.
The foregoing resolution was introduced in 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 ZAHR City Clerk

APPROVED AS TO FORM:

By: 

RICHARD RUDNANSKY, Interim City Attorney
<table>
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<td>Administrative Office Assistant III (Confidential)</td>
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<td>Police Clerk II (Confidential)</td>
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<td>Senior Administrative Office Assistant (Confidential)</td>
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<td>Systems Technician I</td>
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<td>419</td>
<td>Public Information Technician (Confidential)</td>
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<td>Accountant I (Confidential)</td>
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<td>Employee Benefits Coordinator</td>
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<td>Executive Secretary (Represented)</td>
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<td>Legal Services Technician</td>
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Exhibit "A"
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| 422   | Office Supervisor  
|       | Utility Dispatch Supervisor  
|       | Workers' Compensation Claims Examiner I  
|       | Systems Technician II |
| 423   | Custodian Supervisor  |
| 424   | Assistant Planner  
|       | Buyer  
|       | Police Facilities Coordinator  |
| 425   | Administrative Analyst I  |
| 426   | Supervising Animal Control Officer  
|       | Police Civilian Supervisor  
|       | Stores Manager  
|       | Systems Technician III |
| 427   | Assistant City Clerk/Auditor  
|       | Legal Services Administrator  
|       | Workers' Compensation Claims Examiner II |
| 428   | Accountant II (Represented)  
|       | Senior Buyer  |
| 429   | |
| 430   | Associate Planner  
|       | Community Services Supervisor  
|       | Events Coordinator  
|       | Junior Civil Engineer  
|       | Junior Traffic Engineer  
|       | Senior Crime Analyst  
|       | Software Analyst I  |
| 431   | Administrative Analyst II  
|       | Assistant Risk Manager  
|       | Budget Analyst I  
|       | Personnel Analyst  
|       | Recycling Program Coordinator  |

Exhibit "A"
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| 432   | Communications Specialist  
        Customer Services Supervisor  
        Neighborhood Preservation Supervisor  
        Operations and Maintenance Supervisor  
        Recreation Supervisor II  
        Senior Accountant  
        Water Quality Control Maintenance Supervisor  
        Water Quality Control Operations Supervisor |
| 433   | Organizational Development Specialist |
| 434   | Assistant Civil Engineer  
        Assistant Traffic Engineer  
        Budget Analyst II  
        Environmental Laboratory Supervisor  
        Operations Supervisor  
        Regulatory Compliance Supervisor  
        SCADA Supervisor  
        Senior Community Development Program Specialist  
        Senior Housing Rehabilitation Specialist  
        Software Analyst II  
        Supervising Accountant  
        Systems Engineer I |
| 435   | Business Analyst  
        Cultural Services Manager  
        **Emergency Medical Services Coordinator**  
        Integrated Waste Specialist  
        Management Analyst  
        Senior Personnel Analyst  
        Weed and Seed Program Coordinator |
| 436   | Electrical Supervisor  
        Senior Planner |
| 437   | Exhibit "A"
<table>
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| 438   | Budget Officer  
Events Supervisor  
Fire Business Services Analyst  
Housing Program Supervisor  
Land Surveyor  
Property Agent  
Senior Business Analyst  
Software Analyst III  
Systems Engineer II |
| 439   | Administrative Services Officer  
Community Facilities Districts Administrative Officer |
| 440   | Associate Civil Engineer  
Associate Traffic Engineer  
Transportation Planner |
| 441   | Airport Manager  
Building Maintenance Superintendent  
Fleet Manager  
Housing and Urban Development Manager  
Parks Operations Superintendent  
Parks Planning and Development Manager  
Purchasing Manager  
Recreation Superintendent  
Streets Superintendent  
Urban Forestry Superintendent  
Wastewater Collections Superintendent  
Water Superintendent |
| 442   | Customer Services Division Manager  
Manager of Budget and Financial Analysis  
Software Analyst IV  
Supervising Building Inspector  
Supervising Construction Inspector  
Systems Engineer III |

Exhibit "A"
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<tr>
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| 444   | Deputy Chief Building Official  
        | Principal Planner  
        | Solid Waste Program Manager  
        | Transit Manager |
| 445   | Accounting Division Manager |
| 446   | Water Quality Control Superintendent  
        | Information Technology Unit Manager |
| 447   | Business Development Division Manager  
        | Chief Building Official  
        | Planning Division Manager  
        | Senior Civil Engineer  
        | Traffic Engineer |
| 448   |       |
| 449   |       |
| 450   |       |
| 451   |       |
| 452   |       |
| 453   |       |
| 455   |       |

Exhibit "A"
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-115

A RESOLUTION AUTHORIZING SEVERANCE PAY, HEALTH BENEFITS, INTERVIEW LEAVE AND JOB QUALIFICATIONS FOR EMPLOYEES SUBJECT TO AN AUTHORIZED REDUCTION IN FORCE, SUBJECT TO A SIGNED AGREEMENT WITH GROVER LANDSCAPE SERVICES FOR OUTSOURCING OF THE PARKS LANDSCAPING FUNCTION AND SUBJECT TO INDIVIDUAL EMPLOYEE SETTLEMENT AGREEMENTS, TO SUNSET 120 DAYS AFTER THE INITIAL NOTICES OF LAYOFF TO AFFECTED EMPLOYEES

WHEREAS, by Resolution No. 2005-581 which was adopted November 22, 2005, the City Council directed staff to negotiate a landscape maintenance service agreement with Grover Landscape Services, Inc. for parks, sound walls and public landscaping owned and/or maintained by the City of Modesto, and

WHEREAS, this Council action followed a managed competition process as outlined by Council policy, and

WHEREAS, once this agreement is negotiated, it will result in the reduction of fourteen (14) authorized positions in the classification of Maintenance Worker II in the Parks, Recreation and Neighborhoods Department, and

WHEREAS, this reduction in force may result in the layoff of current, regular City employees, and

WHEREAS, current Personnel Rules and the Modesto City Employees’ Association Implementation Document of 2005-2007 provide that employees who are laid off receive only those benefits to which any departing employee would be entitled, and

WHEREAS, City staff is recommending to the Council that laid off employees should receive Severance Pay equivalent to a minimum of four (4) weeks of the
employee's salary and City health contribution upon the effective date of the layoff and thereby provide a limited cash payment to assist the laid off employee who is faced with loss of job and income, and

WHEREAS, City staff is recommending that in addition, employees with six (6) or more full years of service are eligible for additional severance as follows: severance pay in the amount of one (1) week of salary for each complete year of service in excess of five (5) full years of service, to a maximum of four (4) additional weeks, and

WHEREAS, City staff is also recommending that employees who are notified of pending lay off should receive Interview Leave which would provide paid leave time for employees to seek other employment prior to their date of layoff, and

WHEREAS, City staff is recommending that where 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, and

WHEREAS, 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) and,

WHEREAS, any accommodation reached will be consistent with state and federal guidelines, and

WHEREAS, each employee who receives a notice of layoff and who elects to accept severance benefits upon layoff shall enter into a settlement agreement with the City, which includes the employees written release in favor of the City.
NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Eligibility for Benefits: City employees who are laid off due to an authorized reduction in force as a result of the outsourcing agreement signed with Grover Landscape Services, Inc. shall be eligible to receive severance benefits subject to the terms and conditions as set forth below. All severance benefit entitlements shall be in addition to any other benefits to which the employee would otherwise be entitled pursuant to the City’s Personnel Rules or appropriate Memorandum of Understanding. The City Manager is authorized to postpone an employee’s date of layoff or demotion for up to ninety (90) days, at his discretion, if deemed necessary to meet the needs of the City.

SECTION 2. Eligibility for One Hundred and Sixty (160) Work Hours of Severance Pay: All non-sworn employees in regular positions in the classified service who are laid off due to a reduction in force shall be entitled to receive upon separation from service, severance pay equivalent to One Hundred Sixty (160) work hours. Severance pay shall be calculated based upon the employee’s regular base pay, excluding acting pay, assignment pay, shift differential, or other special pays.

SECTION 3. Eligibility for Additional Severance Pay: All non-sworn employees in regular positions in the classified service who are laid off due to a reduction in force and who have six (6) or more complete years of continuous service are eligible for additional severance pay as follows:
A. Severance pay equivalent to forty (40) work hours of salary for each completed year of service in excess of five (5) completed years of service, up to a maximum of one hundred and sixty (160) work hours. Additional severance pay shall be calculated based upon the employee’s regular base pay, excluding acting pay, assignment pay, shift differential, or other special pays.

SECTION 4. Severance Pay Options: At the time of separation, an employee may elect to receive severance pay in a lump sum payment or in the form of a contribution to the employee’s deferred compensation plan or a combination thereof subject to all appropriate IRS regulations and limitations.

SECTION 5. Eligibility for Health Contribution: Employees who receive severance pay shall also be eligible to receive the City’s contribution to health, dental and vision premiums for a period of four (4) to eight (8) weeks following layoff. The amount of this contribution shall be the same as that provided to 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 (4-8 weeks depending on years of service). The contribution shall be paid directly to the insurance carriers.

SECTION 6. Eligibility for Counseling Benefit: Employees who receive severance pay shall also be eligible for an extension of the City’s Employee Assistance Program (EAP) benefit for a period of six (6) months from date of layoff. Said benefit shall provide for a maximum of six (6) EAP visits per family.

SECTION 7. Eligibility for Interview Leave: All non-sworn employees in regular positions in the classified service who are provided notice by his/her Department
Director that the employee may be laid off due to a reduction in force shall be entitled, prior to separation, to a maximum of fifteen (15) work hours of paid leave time for purposes of participating in employment interviews or examinations with any other employer.

Authorized interview leave shall be subject to prior written approval of the employee’s supervisor and with consideration for the needs of the City. Written verification of scheduled interviews or examinations may be required by the employee’s supervisor. Interview leave in excess of fifteen (15) work hours may be granted with the prior written approval of the employee’s Department Director. Interview leave shall not be subject to cash out or conversion to any other benefit.

SECTION 8. 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.

SECTION 9. Voluntary Layoff: The City Manager may authorize any employee in a regular position in the classified service who volunteers to be laid off, and is in the classification or the approved bumping chain of a position authorized for layoff, to be laid off, with all rights to receive severance pay, health contributions and interview leave as provided herein.

SECTION 10. Written Release: Each eligible employee who receives a notice of layoff and elects to take advantage of the severance benefits upon layoff, which are authorized by this resolution, shall execute a settlement agreement with the City, which
includes a written release in favor of the City and an acknowledgment by their Employee Association representative, in a form approved the City Attorney. The City Manager is hereby authorized to execute said settlement agreements.

SECTION 11. Agreement with MCEA: Prior to execution of any settlement agreements as set forth in Section 10, above, the City shall execute an agreement with the Modesto City Employees' Association in a form approved by the City Attorney, agreeing to the provision of severance benefits as authorized herein.

SECTION 12. Term: Severance benefits, as set forth in this Resolution shall terminate effective 120 days after the initial notices of layoff to affected employees, unless extended by resolution of the Modesto City Council.

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 Zahr, City Clerk

APPROVED AS TO FORM:

By: 

RICHARD RUDENSKY, Interim City Attorney

02/28/06/Personnel/R. Renwick/Item 15 6 2006-115
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-116


WHEREAS, on May 3, 2005, Council approved the City's applications for Congestion Mitigation and Air Quality (CMAQ) grant funding, and

WHEREAS, CMAQ funds are awarded to the City by StanCOG and are dispersed both competitively and based upon population, and

WHEREAS, the City received notification of its fiscal year 2005-2006 CMAQ award, which totals $5,094,781, and

WHEREAS, the City's matching share for the CMAQ projects is $584,377 all of which is currently budgeted within the existing CIP, and

WHEREAS, the Economic Development Committee (EDC) at its February 13, 2006, meeting reviewed the CMAQ projects and recommended that City Council approve the projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2005-2006 Annual Budget to recognize and appropriate new Congestion Mitigation and Air Quality (CMAQ) grant revenues of $4,510,404,

BE IT FURTHER REVOLVED that the Council hereby authorizes the Finance Director 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 28th day of February 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-117

A RESOLUTION AMENDING THE 2005-2006 CAPITAL IMPROVEMENT PROGRAM (CIP) TO INCLUDE CMAQ-FUNDED CIP PROJECTS

WHEREAS, on May 3, 2005, Council approved the City’s applications for Congestion Mitigation and Air Quality (CMAQ) grant funding, including competitive projects submitted for funding, and

WHEREAS, CMAQ funds may be used to fund up to 88.53% of covered project costs, and

WHEREAS, the Economic Development Committee (EDC) at its February 13, 2006, meeting reviewed the CMAQ projects and recommended Council approval, and

WHEREAS, acceptance and appropriation of the CMAQ funding requires amending the City’s CIP to include the CMAQ projects, and

WHEREAS, the new projects are classified as secondary projects and fall beneath primary projects already approved by Council, and

WHEREAS, primary projects serve as the budgetary control device within the CIP, and

WHEREAS, secondary projects are related projects, which fall beneath the primary project category, and

WHEREAS, the City Manager has authority to move funds between secondary projects within a single primary project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the 2005-2006 Capital Improvement Program (CIP) to include CMAQ-funded CIP projects and authorizes the City Manager to move funds...
between secondary projects within a single primary project to include CMAQ-funded CIP projects.

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 Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 

RICHARD RUDMANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006–118

A RESOLUTION APPROVING A NEW FIVE-YEAR LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE CALIFORNIA CENTRAL VALLEY SQUADRON OF THE COMMEMORATIVE AIR FORCE (CAF) FOR AIRPORT HANGAR NO. 1 AT THE ESTABLISHED ANNUAL RATE OF $17,172.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

WHEREAS, the Airport Hangar No. 1, one of the oldest aircraft storage hangars in California, is currently vacant, and

WHEREAS, the California Central Valley Squadron of the Commemorative Air Force (CAF) has been a tenant at Modesto City-County Airport for the past 18 years, and

WHEREAS, the CAF wishes to lease all of Airport Hangar No. 1 for use as an air museum and as a hub for their local CAF activities while preserving and maintaining the Hangar in its historic 1928 condition, and

WHEREAS, the CAF presented a bid package containing financial information and references for review and was subsequently determined to be the preferred lessee for Hangar No. 1, and

WHEREAS, the lease agreement is expected to provide revenues of approximately $17,172.00 a year to the Airport Enterprise Fund Revenue Account No. 6310-440-5412-4413, and

WHEREAS, on December 21, 2005 the Airport Advisory Committee unanimously agreed with staff’s recommendation to lease Hangar No. 1 to the CAF, and

WHEREAS, the Economic Development Committee, at its February 13, 2006 meeting, approved the prospective lease of Hangar No. 1 to the CAF,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year Airport Lease Agreement between the City of Modesto and the Commemorative Air Force (CAF) for the use of Hangar No. 1.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute the Airport Lease Agreement on behalf of the City.

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

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-119

A RESOLUTION APPROVING AN EXTENSION OF THE AIRPORT GROUND LEASE AGREEMENT FOR HANGAR NO. 7 BETWEEN THE CITY OF MODESTO AND JAMES C. SORENSEN FOR AN ADDITIONAL 15- YEAR PERIOD AT THE ESTABLISHED ANNUAL RATE OF $828.00 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LEASE AGREEMENT ON BEHALF OF THE CITY

WHEREAS, the City of Modesto entered into a 20-year ground lease with James C. Sorenson in 1982 for development of an airport hangar (now known as Hangar No. 7), and

WHEREAS, the original 20-year lease has been in a holdover status since February 2002, and

WHEREAS, James C. Sorensen has requested a lease extension for a period of an additional 15 years, and

WHEREAS, in recent years the City has granted 35-year leases to other ground lease tenants for development of land parcels with aircraft hangars, and

WHEREAS, Hangar No. 7 is the home of an air museum which displays classic aircraft and is a frequent venue for airport hospitality functions and school tours, and

WHEREAS, the lease agreement is expected to continue providing annual revenues of $828.00 to the Airport Enterprise Fund Revenue Account 6310-440-5412-6201, and

WHEREAS, the Economic Development Committee, at its February 13, 2006 meeting, recommended approval of this ground lease extension.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an extension of the Airport Ground Lease Agreement for Hangar No. 7 between the City of Modesto and James C. Sorensen for an additional 15-year period at the established annual rate of $828.00.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Airport Ground Lease Agreement on behalf of the City.

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

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST:  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-120

A RESOLUTION REJECTING THE TWO BIDS FOR THE PROJECT TITLED “SHADE STRUCTURES FOR MODESTO PARKS” AND AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT AT A FUTURE DATE

WHEREAS, the bids received for Shade Structures for Modesto Parks 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, during the bid evaluation process staff determined that the two bids for the project unreasonably exceeded the consultant architect’s estimate. Therefore, staff recommends the bids be rejected and staff be allowed to re-advertise the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the two bids received for “Shade Structures for Modesto Parks,” opened in the office of the City Clerk on January 17, 2006, are hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project at a future date.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February 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, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By
RICHARD RUDNANSKY, Interim City Attorney

ATTEST: JHAN ZAHR City Clerk