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

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

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

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

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

SECTION I. CLASSIFICATIONS AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specifications for the following classifications:

1. Equipment Operator
2. Senior Equipment Operator

Said classifications are being amended to revise the job specifications to better reflect the requirements of the various job classifications, specifically state and federal licensing and certification requirements.
SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 24, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 24th day of January 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: ____________________________

JEAN ZAHRI, City Clerk

APPROVED AS TO FORM:

By: ________________________________

RICHARD RUDNANSKY, Interim City Attorney
EQUIPMENT OPERATOR

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 operate construction, maintenance and transportation equipment including cranes in a variety of maintenance activities including refuse collection, street repair, water and wastewater maintenance and related operations according to required standards; and to perform semi-skilled and skilled maintenance tasks.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from higher level supervisory and management staff.

May exercise functional and technical supervision over lower level maintenance staff.

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

Essential Functions:

Drive and operate construction equipment on routine assignments, including dump trucks, packer trucks, equipment trailers, tractors, vactors, rod-ders, cranes and loaders.

Load and transport heavy construction equipment to and from the work site using a large dump truck and trailer.

Identify equipment needs for each assigned project.

Pick up and transport refuse to the appropriate dumping site.

Operate jackhammer and other construction tools.

Perform minor repairs on equipment and report the need for major repairs; check and adjust fluid level; grease and lubricate moving parts as required.
Essential Functions: (Continued)

Perform additional construction and maintenance tasks such as concrete work, truck driving, asphalt spreading, jackhammering and a variety of repair activities when equipment is not in use.

Provide training to lower level staff in the operation of equipment.

Install traffic cones and barricades as necessary.

Clean and care for tools and equipment.

Perform on-call duties as required.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Operation and maintenance requirements of trucks and less complex power-driven equipment.

Practices, methods, and materials used in construction, maintenance, and sanitation work.

Traffic laws, ordinances, and rules involved in truck and equipment operations.

Safe work practices; working in and around open trenches.

Traffic control on construction sites.

Concrete tools and finishing.

Ability to:

Operate a variety of less complex-driven equipment.

Attach auxiliary pieces of equipment to power-driven equipment.

Locate utilities and understand Underground Service Alert (USA) procedures.
Ability to: (Continued)

Perform a variety of semi-skilled and skilled construction maintenance tasks.

Perform heavy manual labor, including, but not limited to, lifting and carrying 50 to 100 pounds of weight, climbing, bending, stooping, etc.

Understand and follow oral and written instructions.

Work independently or in a crew situation, as assigned.

Work in confined workspaces and follow confined space entry procedures.

Handle contaminated materials and equipment.

Establish and maintain cooperative-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:

Two years of increasingly responsible experience performing maintenance work involving the operation of light and medium size equipment.

Training:

Formal or informal education or training which ensures the ability to read and write at a level necessary for successful job performance.

License or Certificate:

Possession of a valid Class A or Class B Commercial California Driver’s License with specific endorsements, as assigned, is required within 45 days of appointment. Failure to obtain the required license may result in release from probation or termination.

When assigned, possession of a valid crane operators certificate, issued by the National Commission of Crane Operators is required within six months of assignment.
WORKING CONDITIONS

Environmental Conditions:
Field environment; travel from site to site; exposure to inclement weather conditions.

Physical Conditions:
Essential and marginal functions may require maintaining physical condition necessary for walking, standing or moving for prolonged periods of time; operating motorized equipment and vehicles for an entire work shift.
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 operate the most difficult and complex heavy construction, maintenance and transportation equipment in a variety of maintenance activities including excavating, grading, trenching, exposing utilities, loading and related operations according to required standards; and to perform semi-skilled skilled maintenance tasks.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from higher level supervisory and management staff.

Exercises functional and technical supervision over lower level maintenance staff.

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

Essential Functions:

Operate heavy construction equipment such as backhoes, motor graders, large front-end loaders, and cranes for a variety of construction operations involving streets, drainage systems, water lines, sidewalks, curbs and gutters.

May provide lead supervision to a small crew of lower level maintenance staff.

Break out and load asphalt and concrete onto large dump trucks.

Grade and crown City streets, roads and alleys using a motor grader; roll-asphalt asphalt milling machine, excavator and paving machine, when assigned to Streets.

Identify equipment needs for each assigned project.

Perform minor repairs on equipment and report the need for major repairs; check and adjust fluid level; grease and lubricate moving parts as required.
Essential Functions: (Continued)

Perform daily DMV vehicle inspections; document and inspect equipment for safety and wear.

Perform additional construction and maintenance tasks such as concrete work, truck driving, asphalt spreading, jackhammering and a variety of repair activities when equipment is not in use.

Provide training to lower level staff in the operation.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Operation and maintenance requirements of trucks and heavy power-driven equipment.

Practices, methods, and materials used in construction and maintenance work, based on assignment.

Traffic laws, ordinances, and rules involved in truck and heavy equipment operations.

Safe work practices; trench safety and shoring methods.

Working in and around open trenches, traffic, construction equipment and utilities.

Traffic control on construction sites.

Principles of personnel supervision and training.

Ability to:

Operate a variety of complex heavy power-driven equipment.

Locate utilities and be familiar with Underground Service Alert (U.S.A.) procedures.

Perform a variety of semi-skilled and skilled construction and maintenance tasks.
Ability to: (Continued)

Load equipment on tractors for transport.

Learn the geography and street system of the City the area, based on assignment.

When assigned to Water, work with and around hazardous materials specific to water systems and water treatment.

When assigned to Water, perform maintenance repair and installation of water system equipment and machinery.

Read blue prints; participate in construction meetings.

Perform maintenance on assigned equipment in an efficient, safe manner.

Understand and follow oral and written instructions.

Depending on assignment, follow appropriate procedures for handling hazardous materials such as asbestos and chlorine.

Work independently or in a crew situation, as assigned.

Set up and work in construction sites at night, in adverse weather, or in emergencies.

Supervise and train lower level assigned maintenance staff.

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

Occasionally lift up to 100 pounds.

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 increasingly responsible experience performing maintenance work involving the operation of heavy construction equipment.
Training:

Formal or informal education or training which ensures the ability to read and write at a level necessary for successful job performance.

License or Certificate

Possession of, or ability to obtain, an appropriate, a Class B or valid Class A or Class B Commercial California driver's license with specific appropriate endorsements as assigned is required within 45 days of appointment. Failure to obtain the required license may result in release from probation or termination.

When assigned, possession of a valid crane operators certificate, issued by the National Commission of Crane Operators, is required within six months of assignment.

WORKING CONDITIONS:

Environmental Conditions:

Field environment; travel from site to site; exposure to noise, dust grease, smoke, fumes, gases, water and wastewater, and inclement weather conditions.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for heavy or moderate or light lifting, bending, stooping, kneeling, crawling, walking, climbing, standing or sitting for prolonged periods of time; operating motorized equipment and vehicles.

Work Assignment:

Depending on assignment may be subject to overtime and standby work assignments.
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-048

A RESOLUTION ACCEPTING IMPROVEMENTS IN THE VILLAGIO SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AND AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION AND AUTHORIZING RELEASE OF BONDS

WHEREAS, K-D LAND & CATTLE INVESTMENTS, LLC, a California Limited Liability Company, is the subdivider of VILLAGIO SUDIVISION ("SUBDIVISION"), and

WHEREAS, K-D LAND & CATTLE INVESTMENTS, LLC, a California Limited Liability Company, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $579,900.00 and $289,950.00, respectively, and

WHEREAS, K-D LAND & CATTLE INVESTMENTS, LLC, a California Limited Liability Company, has filed a warranty bond in the amount of $57,990.00 to guarantee improvements in the VILLAGIO Subdivision, and

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

WHEREAS, the City Engineer has indicated that it would be in order for the City Council to accept the improvements in said subdivision as complete, and authorize the City Clerk to 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:
1. The improvements in the VILLAGIO Subdivision are hereby accepted and the City Clerk is hereby authorized to record a Notice of Completion for the improvements.

2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $579,900.00 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $289,950.00 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 $57,990.00 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 24th day of January 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, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh, Mayor Ridenour

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By RICHARD RUDNANSKY, Interim City Attorney
A RESOLUTION APPROVING THE FINAL MAP OF THE PLAZA 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 33.3 acres, known as THE PLAZA ("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 6th day of June, 2005, and

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

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

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

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 24th day of January 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
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky, Interim City Attorney
WHEREAS, the State of California has placed limits for receiving reimbursement on grant funded projects administered through the Department of Transportation, and

WHEREAS, unspent funds that exceed the current June 30, 2006 cutoff will expire, and

WHEREAS, if a project is expected to go beyond the time limits specified by the State to conform to the June 30, 2006 expiration date, an extension request for budget authority needs to be submitted, and

WHEREAS, an extension of budget authority must be approved by the State Department of Finance, and

WHEREAS, if approved, the expenditure deadline would be extended to June 30, 2007, and

WHEREAS, the City Council must indicate concurrence with the request,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a request to extend the life of the funds listed in the attached project list is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign the request for said extension.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zehr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN REQUESTS FOR EXTENSION OF BUDGET AUTHORITY

WHEREAS, the State of California has placed limits for receiving reimbursement on grant funded projects administered through the Department of Transportation, and

WHEREAS, unspent funds that exceed the time limits will expire, and

WHEREAS, if a project is expected to go beyond the time limits specified by the State, an extension request for budget authority needs to be submitted, and

WHEREAS, an extension of budget authority must be approved by the State Department of Finance, and

WHEREAS, giving the City Manager authority to sign extensions will allow them to be processed as they are needed,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign requests for extensions of budget authority for grant funded projects administered through the State of California Department of Transportation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January 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
NOES:  Councilmembers:  None
ABSENT:  Councilmembers:  Mayor Ridenour

APPROVED AS TO FORM:

By  
RICHARD RUDNANSKY, Interim City Attorney

ATTEST:  
JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-052

A RESOLUTION ACCEPTING THE BID AND APPROVING A $2,113,090.33 CONTRACT WITH GOODLAND LANDSCAPE CONSTRUCTION, INC., FOR THE PROJECT TITLED “FREEDOM NEIGHBORHOOD PARK”, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT.

WHEREAS, the bids received for “Freedom Neighborhood Park” were opened at 11:00 a.m. on December 13, 2005, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $2,113,090.33 received from Goodland Landscape Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to Goodland Landscape Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of Goodland Landscape Construction, Inc., in the amount of $2,113,090.33, and hereby awards Goodland Landscape Construction, Inc., the contract titled “Freedom Neighborhood Park.”

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January 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
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: ____________________________
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: ________________________________
RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-053

A RESOLUTION AUTHORIZING REIMBURSEMENT IN THE AMOUNT OF $1,040,100 FROM CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) TO THE CITY OF MODESTO'S CAPITAL FACILITIES FEES PROGRAM FOR FUNDS ADVANCED FOR THE CONSTRUCTION OF FREEDOM NEIGHBORHOOD PARK

WHEREAS, the City of Modesto ("City") proposes to build a project entitled "Freedom Neighborhood Park" ("Project") which will be funded through City of Modesto Community Facilities District No. 2004-1 (Village One #2) ("Village One CFD #2") and the City of Modesto's Capital Facilities Fees program ("CFF"), and

WHEREAS, the Project is an authorized facility of the Village One CFD #2, and will be constructed as if it were under the direction and supervision of the Village Once CFD #2, and

WHEREAS, the Village One CFD #2 has programmed $1,040,100 for the Project as a Priority 2 item, and

WHEREAS, on or about November 8, 2005, the City solicited bids for the Project and,

WHEREAS, Goodland Landscape Construction, Inc., was deemed to be low bidder with a bid totaling $2,113,090.33, and

WHEREAS, on January 24, 2006, the City Council awarded a contract to Goodland Landscape Construction, Inc., for construction of the Project, and

WHEREAS, Village One CFD #2 does not yet have monies available to contribute toward this Priority 2 project, and
WHEREAS, Government Code Section 53314.5 provides that the City may appropriate available monies to a revolving fund to be used for the construction of facilities of a community facilities district so long as the community facilities district reimburses the revolving fund within five (5) years, with interest at the current rate per annum received on similar types of investments by the City, and

WHEREAS, Government Code Section 53314.5 further provides that monies may not be disbursed from the revolving fund until the legislative body has established the method by, and term not exceeding five years within, which the community facilities district is to reimburse the fund, and

WHEREAS, the Parks CFF fund is advancing $2,559,701 towards construction of the Project, and

WHEREAS, the City of Modesto is currently receiving a 3.356% rate of return on its investments,

WHEREAS, the Village Once CFD #2 shall reimburse the Parks CFF fund in the amount of $1,040,100, together with interest at the current rate of 3.356% per annum, and

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

1. The project entitled “Freedom Park” (“Project”) will be funded by City of Modesto Community Facilities District No. 2004-1 (Village One #2) and the City of Modesto’s Capital Facilities Fees program (“CFF”).

2. The Project is an authorized facility of the Village One CFD #2, as set forth in Exhibit A to the Rate and Method of Apportionment for Village One CFD #2.
3. Approximately $1,040,100 of the Project is programmed to be funded through the Village One CFD #2 and is designated as a Priority 2 project for which CFD funds are not yet available.

4. The CFF program has been authorized to advance the sum of $2,559,701 to the District for work that is funded through the Village One CFD #2 and designated as Priority 2 work.

5. Within sixty (60) days of the date of this Resolution, the District intends to issue bonds to fund the construction of certain authorized facilities, and intends to use a portion of the bond proceeds to reimburse the CFF program.

6. The Village One CFD #2 shall reimburse the CFF program in the principal amount of $1,040,100 with interest at the rate of 3.356% per annum. Interest shall accrue on the principal amount from the date the first disbursement is made from the appropriate CIP account until the principal amount and all accrued interest has been paid in full.

7. The CFD shall reimburse the CFF program from tax monies within sixty (60) days after Priority 2 funds are available for the Project, or within five (5) years from the date of this Resolution, whichever occurs first. The CFD hereby recognizes and acknowledges that should tax monies not be available for Priority 2 projects within five (5) years after disbursement is made from the appropriate CIP fund, then the CFD shall be required to review and redesignate the priority status for the Priority 2 work to ensure that the reimbursement will occur within the period required by law.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January 2006, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

APPROVED AS TO FORM:

By RICHARD RUDNANSKY, Interim City Attorney

ATTEST: JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-054

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM TO
1) ESTIMATE $70,824 IN ADDITIONAL REVENUE FROM THE 05/06
CONGESTION MANAGEMENT AND AIR QUALITY (CMAQ) GRANT FUNDS;
2) APPROPRIATE $70,824 IN CMAQ GRANT FUNDS TO THE SHARON/MAID
MARIANE ROUNDABOUT ACCOUNT #2300-160-A010; 3) REDUCE PRIMARY
TRAFFIC CONTROL DEVICES PROJECT ACCOUNT # 2370-160-E602-6053 BY
$9,176 AND INCREASE GAS TAX FUND RESERVE ACCOUNT #0700-800-8000-
8003 BY $9,176; 4) APPROPRIATE $9,176 FROM ACCOUNT #0700-800-8000-
8003, THE GAS TAX FUND RESERVE, TO THE SHARON/MAID MARIANE
ROUNDABOUT ACCOUNT #2300-160-A010; AND 5) APPROPRIATE $89,000
FROM ACCOUNT #1350-800-8000-8003, THE PARKS CFF FUND RESERVE, TO
THE FREEDOM NEIGHBORHOOD PARK ACCOUNT #1350-310-Q233

WHEREAS, in October 2002, the Parks, Recreation and Neighborhoods
Department began a project to build a 7-acre neighborhood park located on the corner of
Sharon Avenue and Maid Mariane Lane, and

WHEREAS, construction bids were opened on December 13, 2005, and
Goodland Landscape Construction, Inc., was the low bidder, and

WHEREAS, the Engineer’s estimate and the bids are considered reasonable
whenever any of the bids are within 10% of the Engineer’s estimate, and

WHEREAS, the low bidder was within 11.23% of the Engineer’s estimate but
still considered competitive, and

WHEREAS, staff does not feel that another bid would result in any lower cost for
the work, and

WHEREAS, in order to fully fund construction of the project, the Capital
Improvement Program needs to be amended, and

WHEREAS, $70,824 is available in additional Congestion Management and Air
Quality (CMAQ) funds from the 05/06 grant process, and
WHEREAS, $9,176 is available from the Primary Traffic Control Devices Project Account # 2370-160-E602-6053, and

WHEREAS, $89,000 is available from the Parks CFF Fund Reserve, account #1350-800-8000-8003, and

WHEREAS, expenditures for Freedom Neighborhood Park will be increased to reflect a balanced budget,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby amends the Capital Improvement Program to 1) estimate $70,824 in additional revenue from the 05/06 Congestion Management and Air Quality (CMAQ) Grant Funds; 2) appropriate $70,824 in CMAQ Grant Funds to the Sharon/Maid Marian Roundabout account #2300-160-A010; 3) reduce Primary Traffic Control Devices project account # 2370-160-E602-6053 by $9,176 and increase Gas Tax Fund Reserve account #0700-800-8000-8003 by $9,176; 4) appropriate $9,176 from account #0700-800-8000-8003, the gas tax fund reserve, to the Sharon/Maid Marian Roundabout account #2300-160-A010; and 5) appropriate $89,000 from account #1350-800-8000-8003, the Parks CFF Fund Reserve, to the Freedom Neighborhood Park account #1350-310-Q233.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky
RICHARD RUDNANSKY, Interim City Attorney
A RESOLUTION AMENDING AND RESTATING RESOLUTION NO. 2003-309 AND UPDATING THE 2003 CAPITAL FACILITIES FEES PROGRAM TO INCREASE LAND VALUES FOR PROPERTY ACQUISITION AND TO INCLUDE ADDITIONAL FUNDING FOR RIGHT OF WAY FOR EXPRESSWAYS

WHEREAS, California Government Code Section 66000 et seq., and Modesto Municipal Code Sections 8-1.904 et seq. authorize the City Council, by resolution, to establish a Capital Facilities Fees Program (CFF) for the construction and acquisition of certain public facilities, and

WHEREAS, on June 24, 2003, Council adopted Resolution No. 2003-309 which amended Resolution No. 88-649 as amended and adopted the 2003 CFF for City facilities associated with capital items related to police, fire, parks, transit, streets, air quality, and governmental facilities and, administration of the CFF, and

WHEREAS, the fees collected pursuant to this resolution will be used to finance the public capital facilities identified in the 2003 CFF Update Report adopted June 24, 2003 and on file with the City Clerk and some additional right of way acquisition which is necessary to construct expressways identified in the 2003 CFF Update Report, and

WHEREAS, to accommodate the timely development of expressways throughout the City of Modesto, it is necessary to have funding available to acquire the full right of way for expressways prior to the development of the property, and

WHEREAS, due to market conditions, land values have risen dramatically which will affect the City’s ability to fund the capital facilities outlined in the 2003 CFF Update Report, and
WHEREAS, the Council has asked that any significant increases be presented on an ongoing basis to make certain that development is paying its share, and

WHEREAS, an appraisal documenting typical land values in the City of Modesto and County of Stanislaus has been prepared and City staff have studied the impact of those land values on the City's 2003 CFF, and

WHEREAS, in the Fall of 2005, the City's CFF Administrator prepared a report which documents the impact of current land values on the 2003 CFF and establishes the methodology for adjusting the land values and calculating the additional costs for acquiring all right of way necessary to develop expressways, a copy of which is attached as Exhibit A ("Report"). The Report illustrates, based on an appraiser's opinion, that land values have increased substantially, and

WHEREAS, based on the increases in costs due to increases in land values and the additional funding necessary to acquire full right of way for expressways, the Report proposes that the 2003 CFF should be adjusted to reflect these costs, and

WHEREAS, the Notice of Public Hearing was published in the Modesto Bee on December 1, 2005, and

WHEREAS, the matter was set for public hearing on December 14, 2005, at 5:30 p.m., in the City Council Chambers Basement Level, located at 1010 Tenth Street, at which date and time said hearing was opened and continued to January 10, 2006, and

WHEREAS, the public hearing was opened on January 10, 2006 and was continued to January 24, 2006 at 5:30 p.m. in the City Council Chambers, Basement Level, 1010 10th Street, Modesto, California, at which date and time the duly noticed public hearing of the Council was held, and
WHEREAS, the Council has determined that it is necessary and appropriate to update the 2003 CFF in order to reflect these additional costs, and to amend and restate Resolution No. 2003-309 accordingly, and

WHEREAS, Resolution No. 2003-309 is hereby amended solely with respect to the addition of right of way on expressways to be included as part of the CFF and land values associated with acquisition for the calculation of capital facilities fees, the establishment of a new fee structure to reflect these increased costs, and the reorganization of policies relating to the administration of CFF which have been placed in the “CFF Policies and Procedures” document, adopted by the Council by Resolution 2006-061 on January 24, 2006, and

WHEREAS, Resolution No. 2003-309 is reaffirmed in every other respect and repeated in its entirety herein for the sake of administrative convenience.

NOW, THEREFORE, BE IT RESOLVED by the City Council that Resolution No. 2003-309 is hereby amended and restated, and that the Council hereby finds and determines as follows:

A-1. There is a reasonable relationship between the need for the public facilities designated in the reports and analysis, and in the City’s General Plan and Specific Plans generated in accordance with that plan, and the City’s Capital Improvement Plan, and the impacts of the type of development for which the corresponding fees are charged.

B-1. There is a reasonable relationship between the fees, uses, and the types of development for which the fee is charged.
C-1. There is a reasonable relationship between the amount of the various fees and the cost of the public facilities or portions of the public facilities attributable to the development and types of development upon which the various fees are imposed.

D-1. The cost estimates set forth in the reports and analysis are reasonable cost estimates for constructing these facilities, and the fees expected to be generated by future development will not exceed the total costs of constructing the public facilities just referenced.

E-1. The 2003 CFF Update Report and analysis establish a linkage or nexus between development in the City’s Annexation Areas (unincorporated area of the City’s General Plan Area) and the need for additional public facilities or improvements to existing public facilities within the City of Modesto as well as within the Annexation Areas. Therefore, the term “development” as used in the preceding four subparagraphs shall include but not be limited to, development in the City’s Annexation Areas that may be approved or allowed by Stanislaus County, prior to the annexation of said Annexation Areas or portions thereof to the City of Modesto. Because of this clearly established nexus, it is the intention of the City Council of the City of Modesto that the fees created by this resolution for streets facilities, air quality facilities, and public transportation facilities be imposed by the County of Stanislaus on development approved of or allowed by the County of Stanislaus in the City’s Annexation Areas area and collected by the City of Modesto, and
BE IT FURTHER RESOLVED that:

A-2. The 2005 Capital Facilities Fees are hereby adopted as shown in Exhibit B, and

B-2. The City Council finds that only projects shown in the adopted 2003 CFF Update Report including the acquisition of all right of way necessary to develop the expressways identified in the 2003 CFF Report, are eligible for receipt of CFF funds and individual projects shall be flexibly budgeted within total dollar limits of the capital programs of the two principal fee components as follows:

a. Fees for Community Facilities, which include Police, Fire, Parks, Government and Administration.

b. Fees for Transportation, which include Streets, Transit and Air Quality.

As long as the overall dollar amounts of the capital programs for these two components are not exceeded, individual eligible projects may vary from the estimates shown in the CFF Update Report, and

C-2. The Council of the City of Modesto establishes the following guidelines for implementation and payment of the 2003 Capital Facilities Fees, so that a development project that is not vested under State law would be subject to the fees in place prior to adoption of Resolution No. 2003-309 on September 1, 2003, if the development project meets any of the following criteria:
a. The development is the subject of a written Development Agreement (as defined by Government Code Section 65864, et seq.) between the City and the proposed developer, if within City limits, or the County, if outside City limits but within the Sphere of Influence, and the Development Agreement expressly vests the project at a specific, pre-September 3, 2003, CFF rate.

b. The development is the subject of a building permit application which has been deemed complete by the City, if within City limits, or the County, if outside City limits but within the City's Sphere of Influence, prior to September 3, 2003; or, for development which is not subject to permit by the City or County, e.g., a hospital, an application equivalent to a building permit application which has been deemed complete by the State permitting agency prior to September 3, 2003.

c. All vesting tentative subdivision and parcel maps for which an application is deemed complete, and approved, prior to September 3, 2003, until the expiration of the map's vesting status, and

D-2 The Council of the City of Modesto establishes the following guidelines for implementation and payment of the 2005 Capital Facilities Fees, so that a development project that is not vested under State law would be
subject to the fees in place prior to January 25, 2006, if the development project meets any of the following criteria:

a. The development is the subject of a written Development Agreement (as defined by Government Code Section 65864, et seq.) between the City and the proposed developer, if within City limits, or the County, if outside City limits but within the Sphere of Influence, and the Development Agreement expressly vests the project at a specific, pre-January 25, 2006, CFF rate.

b. The development is the subject of a building permit application which has been deemed complete by the City, if within City limits, or the County, if outside City limits but within the City’s Sphere of Influence, prior to January 25, 2006; or, for development which is not subject to permit by the City or County, e.g., a hospital, an application equivalent to a building permit application which has been deemed complete by the State permitting agency prior on or before March 25, 2006.

c. All vesting tentative subdivision and parcel maps for which an application is deemed complete, and approved, on or before January 24, 2006, until the expiration of the map’s vesting status, and
E-2. CFF shall be due and payable at the time a building permit is issued, unless otherwise approved by Council resolution, as set forth in Modesto Municipal Code Section 8-1.904, and

F-2. The City Council shall annually review one or more components of the capital program that form the basis of calculating the Capital Facilities Fees. This policy in no way prevents the upward adjustment of fees due to annual inflation, and

G-2. For purposes of the fees the following definitions of land use development categories shall apply. Uses not defined in these definitions shall be charged at rates to be determined by the CFF Administrator using land use determinations and trip generation estimates acceptable to the Administrator.

RESIDENTIAL
  Single Family: Typically single family detached homes on individual lots, such as in residential subdivisions, but could also be in planned developments. Density of development may vary, but is typically ten (10) dwellings per acre or less.

  Multiple Family: Includes multiple family dwelling units of several types, including high and low rise apartments, high and low rise condominiums, and multi-family residential planned unit developments greater than a density of ten (10) units per acre. This category also applies to mobile homes and hotel/motel uses.

  Medium Density: Shall mean duplex or triplex buildings located on a single lot designed for occupancy by two or three families.

  Senior Housing: Includes retirement communities restricted to adults or senior citizens, congregate care facilities, and similar residential uses.

BUSINESS PARK
A master planned campus-like development, with common infrastructure and common design standards, that features employment-intensive uses
and light manufacturing, and possibly service retail, and regional commercial uses. There are two basic types of business parks:

**Business Park – Service**

Within a master-planned Business Park area – a predominantly service-oriented business park that has a high amount of office/commercial uses relative to the industrial/warehousing uses, would characterize a service-oriented business park. Typical uses would include: offices including general office building, corporate headquarters, single tenant office building, office park and research and development uses; service retail, regional commercial and wholesale stores; restaurants; and recreational areas.

**Business Park – Manufacturing**

Within a master-planned Business Park area – a predominantly industrial-oriented business park with low amounts of office/service/retail uses. Typical uses would include: general light industrial uses, manufacturing and/or distribution with associated office, warehouse, research, and related functions, and public facilities/utilities.

**INDUSTRIAL**

Manufacturing/Light Industrial/Industrial Park – facilities in which the primary activity is the production of finished items through manufacture, fabrication, processing, packaging, or treatment of raw materials or parts, except heavy industrial uses. Uses which are considered to be in this category include uses such as those listed below:

1) Electronics assembly, paper products
2) Metal fabricator
3) Bottling plant
4) Cabinet shop
5) Machine shop
6) Sheet-metal shop
7) Welding shop
8) Wholesale shop
9) Printing plant
10) Material testing laboratories manufacturer
11) Food processor, brewery, bakery
12) Recycling facility
13) Burning operations for lumber and wood products
14) Junk handling, processing, storage
15) Landfill, waste products disposal or transfer station
16) Manufacture, fabrication, processing, packaging and treatment of explosives, oil and great products, chemicals and chemical products.

17) Rock crushing

18) Pulp and paper mill

19) Reduction, processing and storage of offal, dead animals, bones or similar materials

20) Septic tank, cesspool servicing

21) Stockyard

22) Tannery

23) Vehicle salvaging, wrecking

Mixed Industrial Uses – when a development proposal contains more than an incidental mixture of uses, the general type of uses should be segregated and treated separately for the purpose of calculating development fees.

WAREHOUSE DISTRIBUTION/HEAVY

Warehouse Distribution – Facilities in which the primary activity is the storage of materials or in which the primary activity is receiving and shipping materials. Use which are considered to be in this category include uses such as those listed below:

1) Freight
2) Warehousing
3) Corporation yard, freight yard
4) Equipment rental yard
5) Moving and storage service
6) Bulk feed storage
7) Lumberyard
8) Sand, gravel, building materials dealer

OFFICE

Medical: Offices and clinics devoted to the practice of medical and dental professions or providing medical or dental services, including pseudo-medical services, but excluding hospitals and nursing homes, which are treated separately.

General: All other types of general and professional offices.

COMMERCIAL

Small Retail (less than 50,000 square feet)

Convenience markets, often with on-site gasoline pumps, usually 24-hours or extended hours.

Fast-food restaurants with or without sit-down facilities and with or without drive-up windows; generally food is ordered and taken
to be consumed outside the restaurant building, although some on-site seating is usually provided.

Sit-down restaurants where food is ordered and consumed in the restaurant, and customers generally stay less than one hour; frequently belong to chains and typically serve breakfast, lunch and dinner. This category also includes all drinking establishments—bars and cocktail lounges—except those in conjunction with low turnover restaurants. The latter are charged the low turnover rate.

Sit-down restaurants which generally have turnover rates of one hour or longer, typically do not serve breakfast, and may or may not serve lunch.

Banks – full service banking institutions with or without drive-up windows.
Savings and Loan institutions, including thrift and credit unions, with or without drive-up windows, which typically offer fewer financial services than banks and are typically smaller in gross floor area than banks. If a given Savings and Loan is 5,000 gross square feet or more, or provides full banking services, it should be treated as a bank.

Other retail includes a wide range of retail and service uses, both free-standing and in shopping centers, including but not limited to supermarkets, drug stores, department stores, general merchandise, building materials or lumber stores, specialty retail stores, discount stores, hardware/paint stores, video arcades, and new car sales. May include uses in small retail category if in a shopping center.

OTHER
Church: Structures primarily designed as a place for public worship.

Day Care and School: An educational, vocational or day care facility.

Hospital: A structure designed for health services, both inpatient and outpatient; that includes surgical care of the sick or injured of the physically ill and/or therapeutic treatment for the mentally ill. Included as an integral part of a hospital or laboratories, outpatient departments, training facilities, central service facilities, and hospital staff offices on the same site. The preceding ancillary uses are considered “professional offices” if located off-site, unless a multi-site campus is covered by a P-D Zone or hospital uses. A
separate set of offices on the same site for physicians is considered “professional offices”.

**Mini-Warehouse:** A personal storage facility not associated with industrial use.

**Nursing Home:** Structures designed for use as a convalescent hospital, or a retirement home, or a twenty-four hour care center for seven or more persons in addition to members of the family.

For purposes of interpreting these definitions, the term “Commercial Use” shall mean those uses designated as permitted or conditional uses in the C-1, C-2 and C-3 Zones of Title 10 of the Modesto Municipal Code.

H-2.  This resolution shall become effective on and after the date of its adoption, and that the fees shall become effective 60 days from the adoption of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

**NOES:** Councilmembers: Olsen

**ABSENT:** Councilmembers: Mayor Ridenour

**ATTEST:**  
JEAN ZAHN, City Clerk

**APPROVED AS TO FORM:**

By  
RICHARD RUDNANSKY, Interim City Attorney
City of Modesto

2005 Land Value Update
To the
2003 Capital Facilities Fees Program

Presented to the
Modesto City Council
January 24, 2006
INTRODUCTION
In an effort to keep pace with market conditions affecting the City’s ability to construct public facilities, the City is endeavoring to update the land values of its Capital Facilities Fee Program, adopted in June of 2003, creating a new program element for the overall CFF program. The intent of this update is to ensure that new development pays for its share of future infrastructure necessary to serve the City of Modesto.

This 2005 Update only accounts for property acquisition costs by adjusting the land values contained in the Adopted 2003 CFF Program as well as account for the cost of forty feet of right of way acquisition on expressways.

BACKGROUND & REASONS FOR RECOMMENDATION
Capital Facilities Fees, CFF, are collected at the time of building permit issuance, and are used to fund capital facilities such as the widening of Pelandale Avenue, construction of parks, and the expansion of the city’s corporation yards to name a few. The collection of Capital Facilities Fees is in accordance with what is known as AB1600, codified in Section 66000 of the California Government Code.

In June 2003, the City Council adopted a comprehensive update of its Capital Facilities Fee Program. The update process was a substantial step in evaluating the City’s anticipated capital infrastructure necessary to support new development. As a result of this intensive study, the fees were increased significantly to reflect the substantial amount of infrastructure necessary for new development. However, because of the significance of the increase, the Council put a “cap” on the fee for all but residential uses so as not to overburden job-creating developments. With the upswing in the real estate market, an increase in the economy, and a growing shortfall of funds to support the capital infrastructure, in December 2004 the Council removed the “cap”.

The 2003 CFF Program contains a significant amount of acreage to be acquired either for the development of parks, right of way for the construction of roads, or land acquisition for the construction of a government building. Those land acquisition costs are the subject of this update. When the 2003 program was put into place, land values on average were assumed to be approximately $124,000 per acre. Within most of the state, and in the Central Valley, land values have increased drastically, resulting in increased costs to the city to purchase the necessary land for city projects. In an effort to reflect this dramatic rise in land value costs, the land values reflected in the 2003 CFF program have been updated. Moreover, the line items for land acquisition have been increased which increase the fees.

In addition, current city policy dictates that for expressways, the first forty feet of right of way is a dedication requirement. This practice, however, has proven to be ineffective to develop the City’s expressways as the City has to wait for a property owner to develop his parcel before the dedication to the City can be made. As a result, the 2005 CFF Update takes property acquisition for right of way on expressways and calculates that as part of this update.

LAND VALUE METHODOLOGY
To evaluate total costs for the construction of projects, the CFF methodology calculates a range for right of way acquisition based on developed or undeveloped status, and includes design, construction, and
administration to determine the total project cost. The total project costs across all areas for consideration of the CFF program are then divided based on use and impact to determine the appropriate fee based on land use. The intent of this update is to strictly address the right of way acquisition of the cost component across all areas of the CFF program.

Buildout of the General Plan assumed a 46% increase in overall population to 371,000. Since the adoption of the 2003 CFF program, the population has increased to 207,634, an increase of 4%. Furthermore, of the $1,254,907,000 in anticipated facility costs outlined in the overall 2003 CFF program, $17,006,323, or 1% has been collected, representing a small fraction of funds available for facilities to be constructed.

Land Value Determination:
Rather than use anecdotal information relating to land values, Cogdill and Giomi, a local appraisal firm, examined completed and pending sales of lands within the city limits, outside and inside the City's sphere, as well as various stages of development and zoning to devise an overall composite of land value. That study is included as Attachment A. Since the valuation made multiple comparisons of lands uses and location, a weighted average was used that encompassed the percentage of buildout left in the sphere of influence by land use type as well as a consideration for developed and undeveloped land. This was done to avoid double counting of areas that have already paid their fees. The resulting per acre cost is $350,000. Attachment B illustrates how the averages were weighted to make the comparisons for the various uses outlined in the appraiser's report.

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Total SOI Acres Available</th>
<th>% of Total</th>
<th>Undeveloped ($/sf) Low</th>
<th>High $</th>
<th>Developed - No Structures ($/sf) Low</th>
<th>High $</th>
<th>Improvements $/sf</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Park</td>
<td>1,963</td>
<td>27%</td>
<td>$2.30</td>
<td>$3.44</td>
<td>$7.30</td>
<td>$8.44</td>
<td>$5.00</td>
</tr>
<tr>
<td>Residential</td>
<td>5,135</td>
<td>70%</td>
<td>$8.03</td>
<td>$11.08</td>
<td>$12.03</td>
<td>$15.08</td>
<td>$4.00</td>
</tr>
<tr>
<td>Commercial</td>
<td>234</td>
<td>3%</td>
<td>$8.00</td>
<td>$12.00</td>
<td>$13.00</td>
<td>$17.00</td>
<td>$5.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>7,332</strong></td>
<td><strong>100%</strong></td>
<td><strong>$6.49</strong></td>
<td><strong>9.06</strong></td>
<td><strong>$10.79</strong></td>
<td><strong>13.36</strong></td>
<td></td>
</tr>
</tbody>
</table>

The 2003 CFF contemplated an average value of land within the sphere. The land value used in the 2003 CFF of $120,000 per acre was low in comparison to the average land value at that time which was approximately $200,000 per acre. Furthermore, the 2005 CFF Update for land valuation selected for
parkland acquisition is the lowest land value calculated in the Weighted Average Comparison for Properties Compared Appraisal Report ($350,000 per acre) as shown above in Table I.

There are multiple factors related to how the cost for a project is derived, including design, acquisition, and construction. This 2005 CFF Update only applies to acquisition. To apply an even methodology that would not over inflate costs, but would specifically look at acquisition, all costs associated with property or right of way were extracted from the inflationary index to avoid double counting. The land value of $350,000 was applied to all acquisition costs. The overall percent increase was then multiplied to the land use category. It should be noted that the CFF Program does include a cost inflationary factor that is applied every July; however the index does not account for real estate costs and is only a construction cost indicator.

Attachment B illustrates the increase in costs by fee components, where the land value is applicable. Parks development and Air mitigation are the two areas where the impact is the most significant. This is due to the fact that a large proportion of those impacts require land acquisition. The most significant increases affect the residential uses, as they are the only uses that have both the parks and roadway components where the significant increases are affected. As noted above, the 2003 CFF Program makes an annual inflation adjustment based on the Engineering News Record which is effective July 1 of every year. Table 2 below summarizes various uses, the existing fee, the fee with adjusted land uses, and the adjusted fee with the 2005 inflation factor and land value increase.

Table 2. Various Uses Outlining Existing Fees and Updated Fees Reflecting Land Value and Inflation Increases.

<table>
<thead>
<tr>
<th>Use</th>
<th>Existing Fee</th>
<th>2005 Updated Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family</td>
<td>$16,085</td>
<td>$19,512/du</td>
</tr>
<tr>
<td>Senior Housing</td>
<td>$8,352</td>
<td>$10,314/du</td>
</tr>
<tr>
<td>Retail &lt;50,000 sf</td>
<td>$16.62/sf</td>
<td>$17.78/sf</td>
</tr>
<tr>
<td>Medical Office</td>
<td>$21.40/sf</td>
<td>$22.89/sf</td>
</tr>
</tbody>
</table>

Attachment C outlines the revised fee per impacted component. Based on the methodology presented in the report, the total fee for a single-family home with an anticipated effective date of March 11 is $19,512.

SUMMARY

Updating the land values to compete with market demand is an integral part of ensuring that the City is adequately collecting the appropriate fees for new development. The intent on addressing this is to ensure that cost extraordinary increases are adjusted so to ensure that developers are paying their fair share. The 2005 Land Value Update is simply updating the estimated land value costs to keep in line with market demands with the intent of having enough funding on hand to purchase land for the betterment of the public.
ATTACHMENT A

Land Value Report from Cogdill and Giomi
September 14, 2004

Amy S. Gedney
CFD Administrative Officer
City of Modesto
1010 Tenth Street, Suite 6100
Modesto, CA 95353

Re: CFF Update - City Wide and Sphere of Influence Land Values

Dear Ms. Gedney:

In response to your request I proceeded with an analysis of the Modesto real estate market to determine values for various types of properties that are within the sphere of influence of the city of Modesto. More particularly I spent a substantial amount of time investigating potential subdivision land prices, paper lot values, industrial land prices, as well as properties that are located along the fringe of the city limits of Modesto that have future development potential for possible business park or residential expansion.

Because of the nature of this assignment and the difficulty in confirming data from potential buyers and sellers, some of the information I obtained is confidential and I have been asked not to disclose the exact location and/or exact details of certain transactions. I am obligated to respect the wishes of these buyers and sellers. I have, however, included some data that has been recorded which will provide certain market trends for properties in the general Modesto area.
The scope of this assignment includes but was not limited to the following:

- A market analysis of potential subdivision properties, both infill properties and also those located within the Village neighborhood of Modesto.

- A search for properties on the fringe of Modesto, particularly around the Kiernan Avenue/Dale Road area, with potential influence from the Kaiser Hospital.

- Large commercial shopping center land sales within the city limits of Modesto.

- Typical infill industrial developed parcels (located in business parks, with utilities available).

Research sources included Comps Inc., other appraisers, real estate brokers, and a local title company’s plant.

There have been several recent offers on a 12 acre infill property. Four developers have been bidding on this property over the last six months. The original offers were at approximately $300,000 per acre, and the last offers (which included some contingent entitlements) was at $6,000,000 or around $500,000 per acre. The entitlements include a certain number of lots, mapping, and other factors that may, or may not, occur. I have been asked not to disclose the location of this parcel.

A recent subdivision acquisition within the Village neighborhood of Modesto was also analyzed. Again, the exact location and all details cannot be disclosed. It is the acquisition of a proposed 24 lot residential subdivision that is currently in escrow for $1,800,000 or about $75,000 per paper lot. Typically there are 4.5 to 5 lots per acre in this area. Adjusting for some entitlements indicates a raw land price (without mapping or entitlements) of approximately $250,000 to $325,000 per acre.
A recent purchase of parcel within the Village area that is slightly under ten acres for $3,687,542 was also analyzed. It is zoned PD and will allow some apartments to be developed on the site. Analysis of this transaction reflects a price per unit of slightly under $16,000 per unit and roughly $381,000 for this small parcel (which has a multi residential use).

A multi residential sale located in Riverbank reflects a price of around $229,000 per acre.

An almond orchard near Faith Home and Hatch Roads, with residential development potential is being negotiated at between the $210,000 to $220,000 per acre range.

There appears to be an extremely strong demand for properties that have residential development potential within the general Modesto area.

Sales that are outside the city limits but have future development potential (within the next three to five years) are also in strong demand. Properties along Kiernan Avenue (between Stoddard Road and Dale Road) that are large blocks of approximately 20 acres in size, are selling for about $100,000 to $150,000 per acre. Again these parcels do not yet have residential zoning, are located in the county and need to complete the entitlement process before development can occur.

Also an analysis of industrial land sales in Modesto city limits indicates that one to three acre parcels in the northern portion of the city, located within business parks, with most utilities available, are commanding between $5.00 to $8.00 per square foot, depending upon size.

Sales of shopping center land within the city have indicated prices of from around $8.00 to $12.00 per square foot (land value only), with pad sales within these developments bringing $18.00 to $25.00 per square foot.

Based upon the market study, the concluded values for the various scenarios would be as follows:
Subdivision Land - Within the City (Infill Properties)  
\$350,000 to \$500,000  
Per Acre

Subdivision Land - Within the Village Neighborhood and Other Surrounding Areas of Modesto  
\$250,000 to \$350,000  
Per Acre

Paper Lot Value in Modesto Area  
\$70,000 to \$80,000  
Per Lot

Business Park Development Parcels Located Within the County Near the Proposed Kaiser Hospital (Without Entitlements)  
\$100,000 to \$150,000  
Per Acre

Developed Industrial Parcels  
\$5.00 to \$8.00  
Per Square Foot

R-2 and R-3 (Multi Residential) Parcels (Infill Parcels)  
250,000 to \$380,000  
Per Acre

Shopping Center Land Value  
\$8.00 to \$12.00  
Per Square Foot

More detailed information is located in my office in this particular file and can be provided if so desired. The data is available for inspection if you wish to do so. If you have any questions concerning this analysis or my conclusions of value, feel free to give me a call.
It should be noted that most of the data I analyzed are either pending sales or agreements that have been negotiated within the last six to eight months, and have yet to close escrow. I have specifically been asked not to disclose all of the details of these sales, but have reliable information that confirms the data are good market indications.

Respectfully,

COGDILL & GIOMI

David R. Gionni, MAI, RM
State of California No. AG004978
ATTACHMENT B

% increases by fee component
## Attachment B
### 2005 CFF Program
#### Land Value Cost Increases by Fee Components

<table>
<thead>
<tr>
<th>Capital Cost</th>
<th>Fire</th>
<th>Police</th>
<th>Parks</th>
<th>General Government</th>
<th>Air Mitigation</th>
<th>Streets</th>
<th>Transit</th>
<th>Admin</th>
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<tbody>
<tr>
<td>Existing</td>
<td>$16,766,645</td>
<td>$16,278,363</td>
<td></td>
<td>$12,202,796</td>
<td>$12,536,908</td>
<td></td>
<td></td>
<td>$52,495,978</td>
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<tr>
<td>Future</td>
<td>$21,983,795</td>
<td>$21,371,693</td>
<td></td>
<td>$58,452,026</td>
<td>$61,332,396</td>
<td>$78,408,000</td>
<td>$234,929,276</td>
<td>$913,033,566</td>
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<tr>
<td>2004 Inflation adjustment</td>
<td>$38,720,780</td>
<td>$42,044,056</td>
<td>$126,289,385</td>
<td>$126,058,801</td>
<td>$598,393,000</td>
<td>$688,155,312</td>
<td>$71,754,764</td>
<td>$73,383,804</td>
</tr>
<tr>
<td>% Increase</td>
<td>45.57%</td>
<td>43.28%</td>
<td>48.55%</td>
<td>13.35%</td>
<td>0.93%</td>
<td>168.60%</td>
<td>16.60%</td>
<td>28.82%</td>
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<tr>
<td>Total</td>
<td>$39,456,363</td>
<td>$126,669,073</td>
<td>$516,014,467</td>
<td>$70,118,105</td>
<td>$78,897,752</td>
<td>$851,145,834</td>
<td>$982,068,886</td>
<td></td>
</tr>
</tbody>
</table>

CFF - Allocation Among Project Types (Fire, Police, etc.) - 2003 Update/Land Value Adjustments
Updated: 9/9/05
Created by: A. Gedney
ATTACHMENT C
Fee by component with LV and 2005, 2004 fees
# ATTACHMENT C

## 2005 Land Value Update with 2005 Inflation Adjustment

<table>
<thead>
<tr>
<th>Residential (per unit)</th>
<th>Fire</th>
<th>Police</th>
<th>Parks</th>
<th>General Government</th>
<th>Air Mitigation</th>
<th>Streets</th>
<th>Transit</th>
<th>Admin</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family</td>
<td>$293</td>
<td>2%</td>
<td>$567</td>
<td>4%</td>
<td>3%</td>
<td>$1,876</td>
<td>10%</td>
<td>$9,249</td>
<td>47%</td>
</tr>
<tr>
<td>Multifamily</td>
<td>$179</td>
<td>1%</td>
<td>$547</td>
<td>4%</td>
<td>3%</td>
<td>$1,144</td>
<td>9%</td>
<td>$4,607</td>
<td>51%</td>
</tr>
<tr>
<td>Senior Housing</td>
<td>$179</td>
<td>2%</td>
<td>$547</td>
<td>5%</td>
<td>3%</td>
<td>$1,144</td>
<td>11%</td>
<td>$4,134</td>
<td>40%</td>
</tr>
<tr>
<td>Non-Residential (per 1,000 sq. ft.)</td>
<td>$61</td>
<td>1%</td>
<td>$186</td>
<td>3%</td>
<td>0%</td>
<td>$107</td>
<td>2%</td>
<td>$5,215</td>
<td>91%</td>
</tr>
<tr>
<td>Hotel/Motel</td>
<td>$61</td>
<td>1%</td>
<td>$186</td>
<td>3%</td>
<td>0%</td>
<td>$107</td>
<td>2%</td>
<td>$5,215</td>
<td>91%</td>
</tr>
<tr>
<td>Retail</td>
<td>$72</td>
<td>0%</td>
<td>$222</td>
<td>1%</td>
<td>0%</td>
<td>$127</td>
<td>1%</td>
<td>$10,932</td>
<td>95%</td>
</tr>
<tr>
<td>&lt;50,000</td>
<td>$72</td>
<td>0%</td>
<td>$222</td>
<td>1%</td>
<td>0%</td>
<td>$127</td>
<td>1%</td>
<td>$10,932</td>
<td>95%</td>
</tr>
<tr>
<td>50 - 100,000</td>
<td>$72</td>
<td>1%</td>
<td>$222</td>
<td>2%</td>
<td>0%</td>
<td>$127</td>
<td>1%</td>
<td>$14,022</td>
<td>95%</td>
</tr>
<tr>
<td>100 - 300,000</td>
<td>$72</td>
<td>1%</td>
<td>$222</td>
<td>2%</td>
<td>0%</td>
<td>$127</td>
<td>1%</td>
<td>$11,805</td>
<td>94%</td>
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<tr>
<td>&gt;300,000</td>
<td>$72</td>
<td>1%</td>
<td>$222</td>
<td>2%</td>
<td>0%</td>
<td>$127</td>
<td>1%</td>
<td>$10,999</td>
<td>94%</td>
</tr>
<tr>
<td>Medical Office</td>
<td>$121</td>
<td>1%</td>
<td>$370</td>
<td>2%</td>
<td>0%</td>
<td>$213</td>
<td>1%</td>
<td>$21,038</td>
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<td>General Office</td>
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<tr>
<td>Daycare</td>
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<td>$370</td>
<td>4%</td>
<td>0%</td>
<td>$213</td>
<td>1%</td>
<td>$7,367</td>
<td>89%</td>
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<tr>
<td>Church</td>
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<td>5%</td>
<td>$370</td>
<td>16%</td>
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<td>$213</td>
<td>9%</td>
<td>$1,553</td>
<td>67%</td>
</tr>
<tr>
<td>Nursing Home</td>
<td>$121</td>
<td>4%</td>
<td>$370</td>
<td>12%</td>
<td>0%</td>
<td>$213</td>
<td>7%</td>
<td>$2,281</td>
<td>76%</td>
</tr>
<tr>
<td>Business Park (Service)</td>
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<td>2%</td>
<td>$370</td>
<td>5%</td>
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<td>$213</td>
<td>3%</td>
<td>$6,409</td>
<td>88%</td>
</tr>
<tr>
<td>Business Park (Manufacturing)</td>
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<td>3%</td>
<td>$370</td>
<td>8%</td>
<td>0%</td>
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<td>5%</td>
<td>$3,065</td>
<td>82%</td>
</tr>
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<td>Industrial (Manufacturing)</td>
<td>$52</td>
<td>1%</td>
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<td>4%</td>
<td>0%</td>
<td>$91</td>
<td>2%</td>
<td>$3,001</td>
<td>90%</td>
</tr>
<tr>
<td>Industrial (Warehousing)</td>
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<td>2%</td>
<td>$159</td>
<td>5%</td>
<td>0%</td>
<td>$91</td>
<td>3%</td>
<td>$2,526</td>
<td>87%</td>
</tr>
</tbody>
</table>
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-056

A RESOLUTION AMENDING SECTION 1 AND 2 OF RESOLUTION NO. 85-240 ENTITLED "A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D (371), (ROBERT L. ERICKSON)." (CALIFORNIA EQUITY MANAGEMENT GROUP)

WHEREAS, the City Council, by Ordinance No. 1616-C.S., adopted on May 2, 1977, and which became effective on June 1, 1977, amended Section 18-3-9 of the Zoning Map by rezoning the property located on the south side of Briggsmore Avenue east of Prescott Road, 2000 West Briggsmore Avenue, from Neighborhood Commercial Zone, C-1 to Planned Development Zone, P-D (159), to allow the addition of a Family Amusement Machine Center to be added on site, and

WHEREAS, Modesto City Council Resolution No. 77-435, which was adopted on May 2, 1977, approved the development plan for Planned Development Zone, P-D(159), and

WHEREAS, the City Council, by Ordinance No. 2173-C.S., which was adopted on February, 15, 1983, and which became effective on March 17, 1983, amended Planned Development Zone, P-D (159), to allow an outdoor bicycle race course, and

WHEREAS, Modesto City Council Resolution No. 83-75, which was adopted on February, 15, 1983, approved an amendment to the development plan for Planned Development Zone P-D (159), to allow an outdoor bicycle race course, and

WHEREAS, the City Council, by Ordinance No. 2327-C.S., which was adopted on May 7, 1985, and which became effective on June 6, 1985, amended Section 18-3-9 of the Zoning Map to rezone Planned Development P-D(159), to Planned Development Zone, P-D(371), to allow a mini-storage facility as a permitted use, and
WHEREAS, Modesto City Council Resolution No. 85-240, which was approved on May 7, 1985, approved the development plan for Planned Development Zone, P-D(371),

WHEREAS, the City Council, by Ordinance No. 3388-C.S., which was adopted on April, 26, 2005, and which became effective on May 27, 2005, amended Planned Development Zone, P-D(371), to allow all uses as permitted under the C-2 Zone, and

WHEREAS, Modesto City Council Resolution No. 2005-219, which was adopted on April 26, 2005, approved an amendment to the development plan for Planned Development Zone P-D (371), to expand the list of allowed uses to include all uses allowed under the C-2 Zone, and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(371) was filed by California Equity Management Group on November 4, 2005, to allow the development of a commercial building, on the property located on the south side of West Briggsmore Avenue east of Prescott Road, 2000 West Briggsmore Avenue, and

WHEREAS, after a public hearing held on December 5, 2005, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2005-47, that the amendment to Planned Development Zone P-D (371), as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed amendment to Planned Development Zone P-D(371) is consistent with the Modesto Urban Area General Plan. The General Plan designates this area as “C” (Commercial), and the amendment to allow the development of a commercial building will be consistent with the General Plan land use and intensity.
2. The type of project is described in Chapter II of the Modesto Urban Area General Plan Master EIR (MEIR).

WHEREAS, said matter was set for a public hearing of the City Council to be held on January, 24, 2006, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of California Equity Management Group for an amendment to Planned Development Zone, P-D(371) should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2005-47 and quoted above, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Section 1 and 2 of Modesto City Council Resolution No. 85-240 entitled "A Resolution Approving a Development Plan for Planned Development Zone, P-D(371), (Robert L. Erickson)" is hereby amended to read as follows:

"SECTION 1. DEVELOPMENT PLAN. An amended development plan for Planned Development Zone, P-D(371), is hereby approved subject to the following conditions:

1. All previous conditions and requirements imposed on the site will remain in effect for this new proposal. All conditions of Planned Development Zone P-D(371), as stated in Council Resolution No. 2005-219, not in conflict with this action shall remain in full force and effect.

2. All development shall conform to the plot plan and building elevations titled "Briggsmore Plaza" as amended in red, stamped approved by the Planning Commission on December 5, 2005.
3. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhood Director or designee. Screen landscaping shall be installed along the eastern property line. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

4. Fences or walls shall be constructed prior to occupancy and shall be as follows:

Eight (8) foot-high decorative masonry wall along the eastern property line adjacent to the residential development.

5. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

6. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.

7. Prior to issuance of a building permit the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.

8. Irrigation lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the City Engineer or designee. Easements for irrigation lines to remain shall be dedicated.

9. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee.

10. Trash bins shall be kept in enclosures in accordance with plans approved by the Public Works Director or designee. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community and Economic Development Department Director or designee.

11. Trash enclosures shall be of a size and design to permit the storage and removal of required recyclable material receptacles, or a separate enclosure of the collection for recyclable materials shall be provided as approved by the Public Works Director or designee.

12. Trash cans shall be screened from view from any public street.
13. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building & Development Services all fire hydrants as required by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures.

14. A ten-foot-wide public utility easements, and a six-foot-wide planting easement located within the ten-foot-wide public utility easements, as required by the City Engineer or designee, shall be dedicated along all street frontages.

15. No operations conducted on the premises shall cause an unreasonable amount of noise, odor, dust, mud, smoke, vibration, or electrical interference detectable off the premises. All machinery or equipment shall be soundproofed as required by the Chief Building Official.

16. Prior to the issuance of a building permit, the developer shall submit a plan to provide on-site treatment of storm water, as approved by the Public Works Director or designee. Storm drain improvements shall be constructed in accordance with the approved plans.

17. All signs shall comply with the sign requirements of the C-3 Zone.

18. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys’ fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

19. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

20. Final plans shall show the location of the water mains, backflow preventors, and Fire Department connections.
21. Landscaping along Briggsmore frontage should be situated to maximize observation from the street. It is recommended that hedges be no higher than 36 inches.

22. Parking landscaping will be required to comply with current City Code requirements and provide one shade tree for every eight parking spaces.

23. Developer shall obtain coverage under the General Construction Activity Storm Water Permit (General Construction Permit) issued by the State Water Resources Control Board (SWRCB).
   a. To obtain coverage under the General Permit, a Notice of Intent (NOI) shall be filed with the SWRCB. Submit one copy of the NOI to Development Services, when filed.
   b. The General Construction Permit requires the developer to prepare and carry out a Stormwater Pollution Prevention Plan (SWPPP) for the project. Submit one copy of the SWPPP to Development Services, Storm water, for review.

24. Trash enclosures for the project shall be bermed to prevent storm water run-off and graded to drain to adjacent landscape areas.

25. Provide treatment (grass swale, vegetative strip, or other approved proprietary stormwater treatment device) to remove pollutants from first ½” of stormwater runoff from parking lot and other impervious areas. Roof run-off shall be routed directly to landscaped areas and will not require treatment.

26. Provide owner signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Development Services, Stormwater for recording. This shall be done prior to obtaining a Grading Permit

27. The final plans need to show utilities for off-site and any proposed connections. All Storm drainage shall be retained on site, and shall follow the New Development Guidelines for Storm Water.

In addition, the following recommended conditions of approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

28. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be
effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

29. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

30. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

31. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.

32. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

33. Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

34. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

35. Suspend excavation and grading activity when winds exceed 20 mph.

36. The City’s Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the “loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine.”

The Noise Ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):
A. A hammer or any other device or implement used to pound or strike an object.

B. An impact wrench or other tool or equipment powered by compressed air.

C. A hand-powered saw.

D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.
H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers’ recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

37. If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K.

38. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.”

“SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone P-D(371):

All development shall start construction on or before December 5, 2007, completion to be by December 5, 2008.”

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.”
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:  

APPROVED AS TO FORM:

By:  

RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-057

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN
THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN
AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT
(SCH NO. 1999082041): AMENDING PLANNED DEVELOPMENT ZONE P-D
(371), PROPERTY LOCATED AT 2000 WEST BRIGGSMORE AVENUE
(CALIFORNIA EQUITY MANAGEMENT GROUP)

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

WHEREAS, California Equity Management Group has proposed an amendment to
Planned Development Zone P-D(371) to allow the development of a new commercial
building at 2000 West Briggsmore Avenue, and

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

WHEREAS, the City’s Community and Economic Development Department by
Environmental Assessment Initial Study EA/C&ED No. 2005-38 ("Initial Study")
reviewed the proposed amendment to P-D(371) to determine whether the project is within
the scope of the project covered by the Modesto Urban Area General Plan Master EIR
("Master EIR"), and made the determination that the proposed project will have no
additional significant effect on the environment that was not identified in the Master EIR,
and further, that no or new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, the Planning Commission, by Resolution No. 2005-47 recommended to the City Council approval of the application of California Equity Management Group to amend Planned Development Zone, P-D(371), for the property located on the south side of west Briggsmore Avenue east of Prescott Road, to allow the development of a new commercial building on site as set forth in said Resolution No. 2005-47, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on January, 24, 2006, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to P-D(371), a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The proposed Plan Development Amendment is consistent with the Modesto Urban Area General Plan. The General Plan designates this area as “C,” Commercial, and the amendment to allow a new commercial building will be consistent with the General Plan land use and intensity.

2. The type of project is described in Chapter II of the Modesto Urban Area General Plan Master EIR (MEIR).

3. All applicable policies, regulations, and mitigation measures identified in the MEIR have been applied to the project or otherwise made conditions of approval of the project.
4. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

5. Based on the Initial Study, the City of Modesto finds and determines:
   a. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b. No new or additional mitigation measures or alternatives are required.

6. The Initial Study, Environmental Assessment No. EA/C&ED 2005-38, provides the substantial evidence to support finding numbers 2-5 noted above.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 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
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
EXHIBIT A

Initial Study

EA/C&ED No. 2005-38
City of Modesto

Finding of Conformance to
General Plan Master EIR:

Initial Study C&ED No. (2005-38)

For the proposed:

PDA - Planned Development Amendment for P-D (371)

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

11/15/05
I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the Planned Development Project is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and
2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: Briggsmore Plaza, Planned Development Amendment to P-D (371)
B. Address or Location: 2000 W. Briggsmore Avenue
C. Applicant: California Equity Management Group, P.O. Box 1747, Modesto, CA. 95353
D. City Contact Person: Daniel De La O

Project Manager: Daniel De La O
Department: Community and Economic Development Department
Phone Number: (209) 577-5257
E-mail address: ddelao@modestogov.com

E. Current General Plan Designation(s): "C" Commercial Land Use
F. Current Zoning Classification(s): P-D (371), Planned Development

G. Surrounding Land Uses: North: Commercial (C-3 Commercial)
   South: Commercial (Both C-1 & C-3 Commercial)
   East: Residential Units (R-2 Residential)
   West: Commercial (C-1 Commercial)
H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

The proposed project will involve an amendment to the existing Planned Development Zone P-D (371). In April 2005 the Council approved an amendment to P-D (371) that expanded the existing uses to include retail commercial uses (C-2 uses) on the site (#P-PDA-04-009). The applicant is now proposing to renovate the existing Roller King skating rink building (28,800 sq. ft. in size) and add a new 7,784 sq. ft. building on the property. Both buildings will be designated for retail commercial businesses and additional parking & landscaping will be added on the site.

I. Other Public Agencies Whose Approval is Required:
None.

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X Within the Scope - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

D. Based on the Initial Study, the City of Modesto finds and determines:
   a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b) No new or additional mitigation measures or alternatives are required.

E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. Mitigated Negative Declaration Required - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.
B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. **Focused EIR Required**- On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

---

Project Manager

Assistant Planner

Date
4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

(1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR. X

(2) City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. X

(3) Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR). X

(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources. X

(5) The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan. X

(6) Development within the project will comply with all mitigation measures identified in the General Plan Master EIR. X

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

(1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project. X

(2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings: X

(3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified. X
IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a notice of conformity after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the "Baseline Developed Area":

Effect: Increased traffic will result in certain roadway segments operating at LOS "D" or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of a LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.
Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

DISCUSSION:
This is an application to facilitate the development of a commercial building within an existing commercial site. The proposed project is compatible with the existing surrounding mix use of commercial development located along this area of Briggsmore Avenue. All City Departments including the Engineering and Transportation Department reviewed the proposed project for impacts and compliance to City regulations. The factors considered in making the determination that the project will have a new significant effect on the roadways is based on the peak hour trips generated by the project. If a project exceeds the peak hour trips contribution further studies are required. The Traffic Division Staff reviewed the proposal to add the new building on site. The square footage, uses, and layout of the site were analyzed. The Traffic Division indicated that the project would not generate traffic impacts to the adjacent roadways in excess of what was assumed under the Master EIR. No traffic study or site access study was required for this project.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, Mitigation Measures Applied to Project.

c. Project-Specific Effects

Section V-1. B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

YES NO

(1) Does the project contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway’s peak hour or the development’s peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR. □ X

Note:
If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also
exceeds the Master EIR’s traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

YES NO

(2)  Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).  □  X

(3)  Result in inadequate emergency access. □  X

(4)  Result in inadequate parking capacity. □  X

DISCUSSION:

(1)  Engineering and Transportation Staff reviewed the proposed project and have the following comments:

A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR.  No traffic study is required.
B. A site access study is not required for this project.

(2)  The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards.

(3)  Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4)  The project has been evaluated for compliance to the City of Modesto Parking regulations. The parking area will be located adjacent to the existing and proposed building. The project will provide a total of 122 spaces meeting the minimum requirement of 122 parking spaces. The design and layout of the proposed parking area will comply with both City standards and ADA (Americans with Disability Act) standards.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected City traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area.  This is a significant and unavoidable impact.

Effect: Projected City traffic levels will result in increased ROG and NOX levels in the project area.  This is a significant and unavoidable impact.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-less significant unless:

YES NO

(1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines. ☐ X

(2) The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD. ☐ X

(3) The project does not comply with the air quality policies of the Modesto Urban Area General Plan. ☐ X

(4) The project would expose sensitive receptors to substantial pollutant concentrations. ☐ X

(5) The project would create objectionable odors affecting a substantial number of people. ☐ X

DISCUSSION:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).

(3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).
(4) The project is not a significant contributor to pollution levels in that it involves only a building addition for an existing commercial site. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measures listed above.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City's Noise Significance Standards.

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
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</thead>
<tbody>
<tr>
<td>(1) The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.</td>
<td>X</td>
<td></td>
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<tr>
<td>(2) The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.</td>
<td>X</td>
<td></td>
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<tr>
<td>(3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>X</td>
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</tbody>
</table>
(4) The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

DISCUSSION:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the conditions of approval for the project.

(3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

DISCUSSION:
The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project site and the surrounding property are located within a fully developed urbanized area.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project
Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
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<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>□</td>
<td>X</td>
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<tr>
<td>(2) The project will directly result in the development of land outside the March 2003 planning area boundaries.</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>(3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>(4) The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.</td>
<td>□</td>
<td>X</td>
</tr>
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DISCUSSION:

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanization.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR
The Master EIR identified the following significant environmental impacts relative to water supply:

**Effect:** Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. *This is a less-than-significant impact.*

**Effect:** Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. *Consequently, the potential environmental impacts of the Urban Area General Plan are considered less-than-significant.*

**Effect:** During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. *This is a significant and unavoidable cumulative impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

**DISCUSSION:**

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

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<td>X</td>
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The project is inconsistent with the Modesto Urban Area General Plan.

Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.
DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. As a result, this impact would be less-than-significant.

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. This is a less-than-significant impact.

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects
Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. X

(2) The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments.

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no indication that there is insufficient capacity to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City’s contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:
DISCUSSION:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. ☐ X

(2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species. ☐ X

(3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. ☐ X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential
impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

**Effect:** The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR.

**DISCUSSION:**

Mitigation Measures applicable to this project include: AH-8, Master EIR.

**c. Project-Specific Effects**

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>☐ X</td>
</tr>
<tr>
<td>(2) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.</td>
<td>☐ X</td>
</tr>
</tbody>
</table>

**DISCUSSION:**

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.
9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

**Effect:** The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less-than-significant.

**Effect:** The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. *This cumulative impact is considered significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8.

**DISCUSSION:**

Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>The project is inconsistent with the Modesto Urban Area General Plan.</td>
</tr>
</tbody>
</table>
The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.

Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.

DISCUSSION:

1. The project is consistent with the Modesto Urban Area General Plan "C" (Commercial Land Use) designation in both land use and intensity.

2. The project will meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City as required by the above-listed mitigation measures.

3. The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

**Effect:** Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less-than-significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

**Effect:** The potential impacts of the project on surface-water quality are considered less-than-significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

**Effect:** The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules...
have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into the conditions of approval.

DISCUSSION:

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>The project is inconsistent with the Modesto Urban Area General Plan.</td>
</tr>
<tr>
<td>(2)</td>
<td>The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.</td>
</tr>
<tr>
<td>(3)</td>
<td>The project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.</td>
</tr>
<tr>
<td>(4)</td>
<td>The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.</td>
</tr>
</tbody>
</table>

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "C" (Commercial Land Use) designation in both land use and intensity.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.
(3) Mitigation Measures as called for by FWQ-14 will be applied to the project so that the project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

**Effect:** Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. *Impacts on parks and open space will be less-than-significant.*

**Effect:** The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. *This impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project, are listed in Section IV, Mitigation Applied to Project:

**DISCUSSION:**

There are no mitigation measures applicable to this project. It is not on or adjacent to any park sites, nor is it near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td>□</td>
</tr>
</tbody>
</table>

(1) The project is inconsistent with the Modesto Urban Area General Plan.
DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "C" (Commercial Land Use) designation in both land use and intensity. There are no mitigation measures applicable to this project.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:
(1) The project is inconsistent with the Modesto Urban Area General Plan.  
(2) The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less-than-significant.

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

City of Modesto Finding of Conformance
General Plan Master EIR

Initial Study
EA/C&ED No. 2006-34
10/25/05
(1) The project is inconsistent with the Modesto Urban Area General Plan.  

(2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan “C” (Commercial Land Use) designation in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less-than-significant.

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This impact would be less-than-significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project, are listed in Section IV, Mitigation Measures Applied to Project:
DISCUSSION:
No mitigation measures are applicable to this project.

c. Project-Specific Effects
Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. X

(2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan “C” (Commercial Land Use) designation in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: New development projects would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. New projects will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. The impact would be less-than-significant at such time as the Fink Road Landfill expansion is approved.

Effect: New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-15-5 and V-15-6 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>☐ X</td>
</tr>
<tr>
<td>(2) The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.</td>
<td>☐ X</td>
</tr>
</tbody>
</table>

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan “C” (Commercial Land Use) designation in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less-than-significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project
The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

**DISCUSSION:**

No mitigation measures are applicable to this project.

**c. Project-Specific Effects**

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<p>| | |</p>
<table>
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<tbody>
<tr>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>X</td>
</tr>
<tr>
<td>(2) The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.</td>
<td>X</td>
</tr>
<tr>
<td>(3) The project contains a contaminated site not identified as of March 2003.</td>
<td>X</td>
</tr>
<tr>
<td>(4) The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.</td>
<td>X</td>
</tr>
<tr>
<td>(5) The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.</td>
<td>X</td>
</tr>
</tbody>
</table>

**DISCUSSION:**

(1) The project is consistent with the Modesto Urban Area General Plan “C” (Commercial Land Use) designation in both land use and intensity.
(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less-than-significant.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less-than-significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

1. The project is inconsistent with the Modesto Urban Area General Plan. ☐ X
2. The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. ☐ X

DISCUSSION:

1. The project is consistent with the General Plan in both land use and intensity.
2. The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less-than-significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:
No mitigation measures are applicable to this project.

c. Project-Specific Effects
Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td></td>
</tr>
</tbody>
</table>

**DISCUSSION:**

(1) The project is consistent with the Modesto Urban Area General Plan “C” (Commercial Land Use) designation in both land use and intensity.

19. **PLANNING AND LAND USE**

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

**a. Project-Specific Effects**

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>(2) The project includes a substantive amendment to the Modesto Urban Area General Plan.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>(3) The project would physically divide an established community</td>
<td></td>
</tr>
</tbody>
</table>

**Discussion:**

(1) The project is consistent with the Modesto Urban Area General Plan “C” (Commercial Land Use) designation in both land use and intensity.

(2) No amendment to the General Plan is required by this project.

(3) The project is infill development that will not divide an established community.
20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. ☐ X

(2) The project would have a substantial adverse effect on a scenic vista. ☐ X

(3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings. ☐ X

(4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area. ☐ X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area. The existing site conforms to current City regulations regarding night glare to surrounding residences. These requirements shall remain in effect.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures (also contained in Section III, "Global List") shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project.
Traffic and Circulation Measures:
N/A

Air Quality Measures:
1. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

2. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

3. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

4. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. *(the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.)* *(Use of blower devices is expressly forbidden.)*

5. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

6. Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

7. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

8. Suspend excavation and grading activity when winds exceed 20 mph.

Noise Measures:
1. The City’s noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the “loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine.”

The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

A. A hammer, or any other device or implement used to pound or strike an object.

B. An impact wrench, or other tool or equipment powered by compressed air.

C. A hand-powered saw.
D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

Agricultural Land Measures:

N/A

Water Supply Measures:

N/A

Sanitary Sewer Service Measures:

N/A

Sensitive Wildlife and Plant Habitat Measures:

N/A

Archaeological or Historic Sites Measures:

1. If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K.
Storm Drainage Measures:

1. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Flooding and Water Quality Measures:

1. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Parks and Open Space Measures:

N/A

Schools Measures:

N/A

Police Services:

N/A

Fire Services:

N/A

Generation of Solid Waste

N/A

Generation of Hazardous Materials

N/A

Potential for Landslides and Seismic Activity

N/A

Energy

N/A

Planning and Land Use

N/A

Aesthetics

N/A

B. New or Additional Mitigation Measures or Alternatives Required
Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: None.
A RESOLUTION CONDITIONALLY VACATING AND ABANDONING A PORTION OF THE SHARON AVENUE RIGHT-OF-WAY AT THE CLAUS ROAD INTERSECTION (WILLIAM LYON HOMES)

WHEREAS, William Lyon Homes have filed an application to vacate and abandon a 118 foot long portion of the Sharon Avenue right-of-way, located at the Claus Road Intersection ("Proposed Abandonment"), and

WHEREAS, Streets and Highways Code Section 8320 et seq. prescribes the procedures to vacate and abandon public rights-of-way, and

WHEREAS, a title report was submitted by William Lyon Homes with the abandonment request which shows that fee title to the property underlying the proposed abandonment belongs to the adjacent land owners who are proponents of the abandonment, and

WHEREAS, the Proposed Abandonment has been referred to affected City departments and local utility companies, and no objection to the Proposed Abandonment has been received, and

WHEREAS, no utilities exist in the portion of Sharon Avenue right-of-way to be abandoned, and

WHEREAS, Government Code Section 65402(a) requires that prior to abandoning a public right-of-way, the Planning Commission shall make a determination as to whether the abandonment is consistent with the General Plan, and

WHEREAS, a hearing was held by the Planning Commission on December 5, 2005, in the Tenth Street Chambers, located at 1010 Tenth Street, Modesto, California, at
which hearing both oral and documentary was received and considered regarding the
proposed vacation and abandonment, and

WHEREAS, by Planning Commission Resolution No. 2005-49, the Planning
Commission rendered a report finding that the Proposed Abandonment is in conformance
with the Modesto Urban Area General Plan and recommended that the Council vacate
and abandon the portion of Sharon Avenue right-of-way, and

WHEREAS, a duly noticed public hearing was held by the Council of the City of
Modesto on Tuesday, January 24, 2006, at 5:30 p.m., in the Tenth Street Place Chambers
located at 1010 Tenth Street, Modesto, California, at which time all persons interested in
or objecting to the Proposed Abandonment were afforded the opportunity to appear, and

WHEREAS, three notices were posted at the site of the proposed right-of-way
abandonment for two successive weeks prior to the hearing, and notice was published in
the Modesto Bee for two successive weeks prior to the hearing, per Streets & Highways
Code sections 8323 and 8332, respectively, and,

WHEREAS, all things and acts necessary to be done as required by the State of
California Streets and Highways Code, Section 8300 through 8363: Public Streets,
Highways and Service Easements Vacation Law, in order to vacate and abandon the
subject right-of-way have been done and accomplished, and

WHEREAS, the Proposed Abandonment should be conditioned on the
construction of needed improvements and the reservation of the necessary utility
easements to ensure that the abandoned right-of-way functions in a manner which is not
detrimental to the public health, safety and welfare, and
NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto finds and determines as follows:

1. That the portion of Sharon Avenue to be abandoned is unnecessary for present or future pedestrian or vehicular use.

2. That Environmental Assessment No. EA C&ED 2005-39 determined that the potential environmental effects of the subdivision are adequately addressed within the context of the previously adopted Village One Program EIR.

3. That the vacation and abandonment of the 118 foot long portion of Sharon Avenue right-of-way at the Claus Road intersection, is in conformance with the City of Modesto General Plan.

BE IT FURTHER RESOLVED that the Council hereby orders and declares the vacation and abandonment of a 118 foot long portion of the Sharon Avenue right-of-way, located at the Claus Road intersection, subject to the following conditions:

1. The applicants shall secure and construct the following improvements six months from the date of City Council approval of the abandonment or upon acceptance of the Floyd Avenue improvements to the satisfaction of the Engineering and Transportation Director:

   a. Construction of curb, gutter and sidewalk along the western side of the abandoned portion of Sharon Avenue which incorporates part of the church property to the south and Lot No. 34 of the “Falling Leaf Subdivision” to the north. This includes the construction of the driveway serving the Church site for access as show on the “Falling Leaf Improvement Plans.”

   b. Demolition and removal of the pavement and concrete of the abandon Sharon Avenue to the edge of Claus Road.

   c. The closure of the 118 foot portion of Sharon Avenue shall be in accordance with the City approved improvement plans and to the satisfaction of the Engineering and Transportation Director.
2. The abandonment of Sharon Avenue shall not become effective until the completion of the extension and improvements of Floyd Avenue to connect to Claus Road, to the satisfaction of the City Engineer and acceptance of the Floyd Avenue improvements by the City Council.

Said right-of-way to be vacated and abandoned is more particularly described in Exhibit "A" attached hereto, and by this reference made a part hereof as though set forth in full herein.

BE IT FURTHER RESOLVED that in the event two (2) years lapse from the date of conditional approval without the required conditions having been fulfilled, the conditional right-of-way abandonment shall expire and Sharon Avenue shall remain as public right-of-way.

BE IT FURTHER RESOLVED that the City Clerk shall not record this Resolution of abandonment until conditions 1 through 2 above have been fully satisfied to the satisfaction of the City’s Community and Economic Director. Within ten (10) working days after said conditions have been fully satisfied, the City Clerk shall cause a certified copy of this Resolution, attested under seal of the City, to be recorded in the Office of the County Recorder of Stanislaus County.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: RICHARD R. RUDNANSKY, Interim City Attorney
Exhibit "A"
EXHIBIT ‘A’

All that certain real property, situate in the East ¼ of Section 13, Township 3 South, Range 9 East, Mount Diablo Meridian, City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

COMMENCING at the East ¼ corner of said Section 13, said corner being marked with a 2" Iron Pipe with a brass disk in a monument well; thence along the East-West ¼ section line South 89°51’27” West, a distance of 120.29 feet to the TRUE POINT OF BEGINNING of this description; thence leaving said ¼ section line, South 04°41’02” East, a distance of 30.09 feet to a point, which is 30.00 feet distant at right angles with said ¼ section line; thence parallel with said ¼ section line, South 89°51’27” West, a distance of 118.48 feet to the beginning of a non-tangent curve concave to the West having a radius of 40.00 feet, to which beginning a radial line bears South 41°33’08” East; thence 60.75 feet northeasterly and northwesterly along said curve through a central angle of 87°01’16” to the beginning of a reverse curve concave to the northeast having a radius of 40.00 feet, to which beginning a radial line bears North 51°25’36” East; thence 6.20 feet northwesterly along said curve through a central angle of 08°53’01” to a point which is 30.00 feet distant at right angles from said ¼ section line; thence along a non-tangent line and parallel with said ¼ section line, North 89°51’27” East, a distance of 112.30 feet; thence South 04°41’02” East, a distance of 30.09 feet to the Point of Beginning.

SUBJECT TO all easements and/or rights of way of record.

Containing 6,400 square feet (0.15 Acres) more or less.

Rien Groenewoud, P.L.S. 6946
License expiration date: 09-30-2005

LICENCED LAND SURVEYOR
RIEN GROENEWoud
No. 6946
Exp. 9-30-2005
STATE OF CALIFORNIA
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-059

A RESOLUTION FINDING THAT THE POTENTIAL ENVIRONMENTAL IMPACTS OF THE FOLLOWING PROJECT HAVE BEEN ADEQUATELY ADDRESSED BY THE VILLAGE ONE SPECIFIC PLAN PROGRAM EIR (SCH NO. 90020181): CONDITIONAL VACATION AND ABANDONMENT OF A PORTION OF SHARON AVENUE RIGHT-OF-WAY AT THE CLAUS ROAD INTERSECTION (WILLIAM LYON HOMES)

WHEREAS, on September 9, 1990, the City Council of the City of Modesto certified the Final Program Environmental Impact Report (SCH# 90020181) for the Village One Specific Plan, and

WHEREAS, William Lyon Homes has proposed that a 118 foot portion of Sharon Avenue at the Claus Road intersection be vacated and abandoned by the City, and

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

WHEREAS, the City’s Community and Economic Development Department by Environmental Assessment Initial Study EA/C&ED No. 2005-39 (“Initial Study”) reviewed the proposed abandonment to Sharon Avenue to determine whether the project is within the scope of the project covered by the Village One Program Environmental Impact Report (Program EIR), and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the EIR, and further, that no or new additional mitigation measures or alternatives are
required, and that, therefore, the proposed project is within the scope of the project covered by the Program EIR, and

WHEREAS, the Planning Commission, by Resolution No. 2005-49 recommended to the City Council approval of the application of William Lyon Homes to abandon a portion of Sharon Avenue, for the street section located at the Claus Road intersection, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on January 24, 2006, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed vacation and abandonment of a portion of Sharon Avenue, a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The proposed street abandonment, together with the provisions for its design and improvements, is consistent with the City of Modesto General Plan, Village One Specific Plan and Precise Plan No. 24.

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

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

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

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

a. one or more significant effects which is not discussed in the Village One Program EIR

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

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

d. mitigation measures or alternatives which are considerably different from those analyzed in the Village One Program EIR, would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative

6. The Initial Study, Environmental Assessment No. EA/C&ED 2005-39, provides the substantial evidence to support findings 2-5, above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of determination with the Stanislaus County Clerk within five (5) business days after adoption of this Resolution, pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
RICHARD RUDNANSKY, Interim City Attorney
Exhibit "A"

EA/C&ED No. 2005-39
Determination:
Project Within the Scope of the
Village One Specific Plan
Program Environmental Impact Report for the

Sharon Avenue-Street Abandonment As Part of the
Falling Leaf Subdivision Project

Prepared for:

City of Modesto
P.O. Box 642
Modesto, CA 95353
Contact: Daniel De La O
(209) 577-5267

Prepared By:

City of Modesto
Community and Economic Development Department
(209) 577-5267

Date:
11/14/2005
I. PURPOSE

This written checklist, pursuant to CEQA Guidelines Section 15168 (C) (4), serves to make a determination where subsequent activities of a Program EIR involve site-specific operations, based on evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR. Based on a review of the project and Section 15162(a), this determination would permit the lead agency (City of Modesto) to approve the activity as being within the scope of the project covered by the Program EIR. This determination includes whether any new environmental document is required beyond the adopted Village One Specific Plan Program EIR (SCH# 90020181) for the Sharon Avenue Street Abandonment (project).

The 1994 Supplemental EIR that amended and superseded the 1990 Program EIR is the document reviewed for projects within the Village One Specific Plan area. A summary of significant impacts and their mitigation measures from the 1994 Supplemental EIR is attached as Exhibit “A.” Where appropriate those feasible mitigation measures developed in the Supplement to the program EIR shall be incorporated into the proposed project.

II. PROJECT INFORMATION

1. Project Title: Sharon Avenue-Street Abandonment

2. Lead Agency Name and Address: City of Modesto

3. Contact Person and Phone Number: Daniel De La O, Assistant Planner
   City of Modesto Community & Economic Development Department (209) 577-5267

4. Project Location: Sharon Avenue is Generally Located in Northeast Modesto at the Clause Road and Sharon Avenue Intersection.
5. Project Sponsor's Name and Address: William Lyon Homes
   2603 Camino Ramon, Suite 150
   San Ramon, Ca. 94583

6. General Plan Designation: The General Plan land use designation for the
   project site is: Village Residential (VR). The proposed project is consistent with this
   designation.

7. Zoning: Specific Plan Holding Zone (SP-O)

8. Description of Project: Pursuant to the adopted Village One Specific Plan, and Precise
   Plan No. 24, the project applicant proposes the vacation and abandonment of a 118 feet
   portion of Sharon Avenue at the Clause Road intersection. The proposed abandonment of
   this section of street is a requirement as part of the Falling Leaf Subdivision project, which
   was previously approved by the Planning Commission in January 2005 under Resolution
   2005-05. The project was conditioned to close this portion of the street in conjunction with
   the Floyd avenue improvements (to the north) and the development of the subdivision.
   The closure is consistent with the Village One Specific Plan Circulation

9. Surrounding Land Uses and Setting: The Village One Specific Plan Area is over half
   built, as planned and approved by the 1990 Village One Specific Plan. The project area is
   bounded by an existing ranchette and a vacant parcel designated for business park on the
   east, a vacant parcel designated for village residential to the south, an existing single-
   family subdivision to the west, and a vacant parcel to the north which is the site of the
   previously approved “Falling Leaf” subdivision.

10. Other Public Agencies whose Approval Is Required: None.

III. DETERMINATION:

Based on the analysis contained in this document, staff finds that pursuant to Guidelines
Section 15182 the following is true for the proposed project:

(1) As per Sections 15168(c) and 15182 of the California Environmental Quality Act
("CEQA") Guidelines, this Project is within the scope of the projects covered by
the Village One Program EIR, as amended by the 1994 Supplemental EIR and

Written Checklist
Village One Specific Plan Program Environmental Impact Report

Initial Study
C&ED No. 2005-39
November 14, 2005
the 2003 Addendum to the EIR ("Program EIR") and no new environmental document or findings are required by CEQA, and

(2) There are no substantial changes proposed in the project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Village One Program EIR, as amended by the 1994 Supplemental EIR are required, and

(3) No substantial changes have occurred with respect to the circumstances under which the project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Village One Program EIR, as amended by the 1994 Supplemental EIR are required, and

(4) There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Village One Program EIR, as amended by the 1994 Supplemental EIR, was adopted which shows any of the following:
   a. one or more significant effects which is not discussed in the Village One Program EIR, as amended by the 1994 Supplemental EIR; or,
   b. significant effects which were previously examined will be substantially more severe than previously shown; or,
   c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or,
   d. mitigation measures or alternatives which are considerably different from those analyzed in the Village One Program EIR, as amended by the 1994 Supplemental EIR, would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.
IV. PROJECT EVALUATION:

The following written Checklist based on Appendix G of the CEQA Guidelines serves to document the evaluation of the site and activity of the proposed project pursuant to CEQA Guidelines Section 15168 (c) (4) to determine whether the environmental effects of the operation were covered in the Program EIR.

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation Incorporated</th>
<th>Less-than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
</table>

I. AESTHETICS. Would the project:

a. Have a substantial adverse effect on a scenic vista?

b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?

c. Substantially degrade the existing visual character or quality of the site and its surroundings?

d. Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?

Aesthetic and visual impacts are analyzed on pages III-100 through III-101 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that as the Specific Plan area is developed, it will eliminate views of the valley and the distant mountains from adjacent areas and reduce the area’s visual open space. However, the program EIR found the effects of build out of Village One on scenic vistas to be less than significant because views from the project area are minimal. The proposed street abandonment would not change the extent or nature of construction in the Specific Plan area, or cause any other changes in the project area. Impacts on scenic vistas would therefore remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR found that there are no scenic resources in the project area, and that development within the Specific Plan area would therefore not result in significant impacts on scenic resources. This
finding would not be affected by the proposed street abandonment project. There would be no impact. \textit{No mitigation is required.}

c. The Village One Specific Plan program EIR found that the development within the Specific Plan area would have a less-than-significant impact on the visual character of the area. The project only involves the closure of a portion of Sharon Avenue in conjunction with the development of the previously approved Falling Leaf subdivision. The project would not substantially degrade the existing visual character or quality of the site and its surroundings. For this reason, impacts on the visual character of the area would remain the same as those identified in the program EIR. There would be no additional impact. \textit{No mitigation is required.}

d. The proposed abandonment is consistent with the Village One Specific Plan and Precise Plan No. 24. For this reason, impacts associated with additional light and glare would remain the same as those identified in the program EIR. There would be no additional impact. \textit{No mitigation is required.}

\begin{table}[h]
\centering
\begin{tabular}{|c|c|c|c|}
\hline
Potentially & Less than & Less-than- & No \tabularnewline
Significant & Significant & Significant & Impact \tabularnewline
Impact & with & Impact & Impact \tabularnewline
& Mitigation & & \tabularnewline
& Incorporated & & \tabularnewline
\hline
\end{tabular}
\end{table}

\section*{II. AGRICULTURAL RESOURCES.}
In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation. Would the project:

\begin{itemize}
\item[a.] Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? \checkmark
\item[b.] Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract? \checkmark
\item[c.] Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use? \checkmark
\end{itemize}
Impacts on agricultural resources are analyzed on pages III-80 through III-94 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that land designated as Prime Farmland would be lost as a result of development in the Village One Specific Plan area. This impact was determined to be significant and not mitigable. The project would not affect this finding because the proposal involves the closure of an existing street and the adjacent area would remain the same. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR presented information showing that any Williamson Act contracts in the Village One Specific Plan area would be automatically cancelled on annexation of the land to the City of Modesto, which has occurred, or would expire within 10 years of the time the original program EIR was prepared. The last Williamson Act contract covering land in the Village One Specific Plan area expired in 2001. There are no lands in the project area under Williamson Act contract. The Village One Specific Plan area has also been rezoned consistent with the specific plan, and no lands in the project area are now zoned for agricultural use. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR identified a potential land use conflict between new residential uses in the specific plan area and adjacent agricultural uses. Such conflicts can lead to conversion of adjacent farmlands to other uses. The program EIR proposed mitigation measures for this potential impact that would reduce the impact’s significance, although the EIR noted that the mitigation measure might not fully mitigate the impact. No additional mitigation measures are available for this impact. This finding would not be affected by the proposed project because the proposal involves only a street closure and the adjacent land uses would remain the same. There would be no additional impact. No mitigation is required.

III. AIR QUALITY. When available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a. Conflict with or obstruct implementation of the applicable air quality plan? □ □ □ ☑
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

- ☑
- ☐
- ☑
- ☐
- ☑

c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a nonattainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?

- ☐
- ☐
- ☐
- ☑

d. Expose sensitive receptors to substantial pollutant concentrations?

- ☐
- ☐
- ☑
- ☑

e. Create objectionable odors affecting a substantial number of people?

- ☐
- ☐
- ☑
- ☑

Impacts on air quality are analyzed on pages III-45 through III-54 of the 1994 Supplement.

Responses to Checklist Questions

a. / b. The Village One Specific Plan program EIR found that air pollution from project-related construction traffic and fireplaces & wood stoves in planned residential areas would violate air quality standards and contribute to an existing air quality violation. Construction traffic emissions would contribute to violation of the state and federal 8-hour carbon monoxide (CO) and particulate matter (PM10) standards and the federal ozone standard in the Modesto Urban Area and the San Joaquin Valley Air Basin. Urban traffic pollution would contribute to violations of the state ozone, CO, and PM10 standards in the Modesto Urban Area and San Joaquin Valley Air Basin. Residential pollution would contribute to violations of the pollutant standard index in the Modesto Urban Area. Partial mitigation for these impacts is included in the program EIR (Mitigation Measures 3–5), and the City of Modesto adopted a statement of overriding consideration for each impact. The proposed project would not change the amount of development and construction in the project area, no trips are generated by the abandonment and the types of land uses would not change. There would be no additional impact. *No mitigation is required.*

c. The Village One Specific Plan program EIR found that air pollutant emissions associated with traffic at buildout of Village One would exacerbate the existing ozone, PM10, and CO violations in the Modesto area and cause a significant cumulative impact. Partial mitigation for these emissions is included in the program EIR (Mitigation Measures 4.5.3[a] and 4.5.3[b]), and the City of Modesto made a statement of overriding consideration for each impact. The proposed project would not change the amount of traffic associated with buildout of Village One or the types of land uses. There would be no additional impact. *No mitigation is required.*
d. The Village One Specific Plan program EIR found that PM10 generated during construction would aggravate the respiratory problems of people living and working nearby, therefore exposing sensitive receptors in the area to pollutant concentrations and causing a significant impact. However, the program EIR outlines mitigation measures that will be implemented to reduce the impact to an acceptable level (Mitigation Measure 40). The proposed abandonment would not change the level of construction emissions. There would be no additional impact. \textit{No additional mitigation is required.}

e. The proposed street abandonment would not create odors. There would be no impact. \textit{No mitigation is required.}

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
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<th>Less-than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
</table>

IV. BIOLOGICAL RESOURCES. Would the project:

a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? ☐ ☐ ☐ ☑

b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? ☐ ☐ ☐ ☑

c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means? ☐ ☐ ☐ ☑

d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? ☐ ☐ ☐ ☑

e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? ☐ ☐ ☐ ☑
f. Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan?

Impacts on biological resources are analyzed on pages III-68 through III-79 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that the build out could result in the loss of foraging habitat for Swainson’s Hawk, a state-listed threatened species, but found that mitigation measures identified in the program EIR would reduce the impact to a less-than-significant level. The project applicant hired a qualified biologist to survey the project site in order to determine whether the project site contains foraging habitat for the Swainson’s Hawk. The Biologist determined that there would be no additional impact. No additional mitigation is required. (Swanson’s Hawk Foraging Habitat Survey Village One Precise Plan No. 23 and 24, prepared by Rosemary Laird, URS Corporation. April 5, 2004).

b. The Village One Specific Plan program EIR did not find that any riparian habitat or other designated sensitive natural community was present in the project area, and so found that the project would have a less-than-significant impact. The proposed street abandonment would not change the boundaries of the Specific Plan area. There would be no impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would result in the loss of lands that might be classified as wetlands by the U.S. Army Corps of Engineers but that, with mitigation, the impact would be less than significant. The proposed project would not change the Specific Plan area boundaries or the areas that would be disturbed. There would be no additional impact. No mitigation is required.

d. The Village One Specific Plan program EIR did not identify any migratory corridors in the project area, nor did it find that the project would interfere with the movement of any species. The proposed project would not change the Specific Plan area boundaries. There would be no impact. No mitigation is required.

e. / f. No local biological resource protection policies, ordinances, habitat conservation plans, or natural community conservation plans apply to the Village One Specific Plan area. There would be no impact. No mitigation is required.
V. CULTURAL RESOURCES. Would the project:

a. Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5? ☐ ☐ ☐ ☑

b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5? ☐ ☐ ☐ ☑

c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? ☐ ☐ ☐ ☑

d. Disturb any human remains, including those interred outside of formal cemeteries? ☐ ☐ ☐ ☑

Responses to Checklist Questions

a.-d. Impacts on cultural resources resulting from the buildout of Village One (e.g., from construction of associated infrastructure) are addressed in the Opportunities/Constraints Report prepared for the Modesto Planning Commission (December 1, 1989). The report concluded that there are no known historic, archaeological, or paleontological resources in the Village One Specific Plan area. Based on the results of this report, (Cultural and Historic Resources Report, page 3) it was determined that the likelihood that the proposed residential development would change or disturb human remains or significant historic, archaeological, or paleontological resources was low.

The proposed project would not change the locations or types of construction in the project area nor the boundaries of the project area. The street abandonment will not result in effects on scattered existing structures. A Cultural Resources Assessment was prepared to determine if any of these affected structures are considered historic resources. No historic structures are located within the project area boundaries. Therefore, no mitigation measures are necessary.

Since no archaeological, or paleontological resources were found in the previous document to be located in the project area, and since the proposed project would not have a significant impact on historic structures, there would be no impact. No mitigation is required.
VI. GEOLOGY AND SOILS. Would the project:

a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

   - Potentially Significant Impact
   - Less than Significant Impact
   - Less-than-Significant Impact
   - No Impact

2. Strong seismic ground shaking?

3. Seismic-related ground failure, including liquefaction?

4. Landslides?

b. Result in substantial soil erosion or the loss of topsoil?

c. Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?

d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?

Impacts associated with geology and soils are analyzed on pages III-105 through III-108 of the 1994 Supplement.
Responses to Checklist Questions

a.-d. The program EIR, as supplemented, found that the project area is not subject to geologic or soil-related hazards that cannot be adequately mitigated through the implementation of existing city regulations, such as the building code. No significant impacts were identified, and no mitigation measures were required. The proposed project would not change the locations or types of construction in the project area nor the boundaries of the project area. There would be no additional impact. No mitigation is required.

e. The Village One Specific Plan included provisions for the project to be served by public sewers. No septic tanks or alternative wastewater systems were proposed. The proposed project would not change the proposed method of wastewater disposal. There would be no impact. No mitigation is required.

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VII. HAZARDS AND HAZARDOUS MATERIALS.
Would the project:

a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

c. Emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

d. Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

e. Be located within an airport land use plan area or, where such a plan has not been adopted, be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the area?
project area?

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f. Be located within the vicinity of a private airstrip and result in a safety hazard for people residing or working in the project area?

- No mitigation is required.

Potentially Less than Less-than-Significant Significant Impact

Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

- No mitigation is required.

Exposure people or structures to a significant risk of loss, injury, or death involving wild land fires, including where wild lands are adjacent to urbanized areas or where residences are intermixed with wild lands?

- No mitigation is required.

Impacts associated with hazards and hazardous materials are analyzed on pages III-80 through III-94 and III-109 through III-119 of the 1994 Supplement.

Responses to Checklist Questions

a.–c. The Village One Specific Plan does not allow any land uses that would use hazardous materials. The proposed street abandonment would not change land uses contemplated by the Specific Plan. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR, as supplemented, found no hazardous materials were stored at or near the project site. No significant impacts were identified, and no mitigation measures were required. There would be no additional impact. No mitigation is required.

e. The Village One Specific Plan area is not located in an airport land use plan area or within 2 miles of a public airport. There would be no impact. No mitigation is required.

f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located to the east of the Village One Specific Plan area. However, take-offs and landings were found to take place parallel to and outside the Specific Plan area boundaries, and flight patterns are generally situated to the east of the Specific Plan area. There would be no additional impact. No mitigation is required.
Since the adoption of the Village One Specific Plan, the Modesto General Plan has been updated to include development of Village One consistent with the specific plan. City emergency plans are developed with the assumption that the Village One Specific Plan will be implemented. The proposed project would not change construction, land use, or other physical attributes of the Right-of-Way Acquisition. There would be no additional impact. No mitigation is required.

The project site is located in an area of the City of Modesto planned for buildout of an urban neighborhood. Approximately 50% of the project area remains undeveloped, with a covering of dry brush and vegetation. The potential for wildland fires is low, and this potential will decrease further as buildout continues. There would be no additional impact. No mitigation is required.

### VIII. HYDROLOGY AND WATER QUALITY

Would the project:

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<td>Violate any water quality standards or waste discharge requirements?</td>
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<td>b</td>
<td>Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?</td>
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<td>Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or offsite?</td>
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<td>Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or</td>
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amount of surface runoff in a manner that would result in flooding onsite or offsite?

e. Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?

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f. Otherwise substantially degrade water quality?

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Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

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Place within a 100-year flood hazard area structures that would impede or redirect flood flows?

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Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?

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Contribute to inundation by seiche, tsunami, or mudflow?

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Impacts associated with hydrology are analyzed on pages III-109 through III-119 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR did not find that development would violate any water quality standards or waste discharge requirements. The proposed project is consistent with the Village One Specific Plan, so there would be no additional impacts. **No mitigation is required.**

b. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area might interfere with local groundwater recharge. The project involves the abandonment of a portion of a street and as part of the conditions to approve the proposal all existing non-pervious surface will be

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removed. Therefore, there would be no additional impact. *No mitigation is required.*

c.-e. The Village One Specific Plan program EIR found that development will substantially alter the existing drainage pattern of the area but, because the project involves the abandonment of street and no development, it will not result in any erosion impacts. The proposed project would not change the amount of impervious surface or the proposed storm drain facilities. There would be no additional impact. *No mitigation is required.*

f. The Village One Specific Plan program EIR did not find that development would substantially degrade water quality. The proposed project would not change water use or discharge associated with the buildout of the Village One Specific Plan area. There would be no additional impact. *No mitigation is required.*

g.-i. According to the Village One Specific Plan program EIR, the project site is not situated in a 100-year flood hazard area or downstream from a levee or dam. There would be no impact. *No mitigation is required.*

j. The project site is located in a flat, inland area not susceptible to seiche, tsunami, or mudflow. There would be no impact. *No mitigation is required.*

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**IX. LAND USE AND PLANNING.** Would the project:

a. Physically divide an established community? ☐ ☐ ☐ ☐

b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? ☐ ☐ ☐ ☐

c. Conflict with any applicable habitat conservation plan or natural community conservation plan? ☐ ☐ ☐ ☐

Impacts associated with land use and planning are analyzed on pages III-80 through III-94 of the 1994 Supplement.
Responses to Checklist Questions

a. The proposed project would not result in any physical changes to the environment beyond those described in the Village One Specific Plan. The Village One area would continue to be developed as a planned community; therefore, the project would not divide an established community. There would be no impact, and no mitigation is required.

b., c. The Village One Specific Plan has been adopted by the City of Modesto and has been incorporated into the Modesto General Plan. The proposed project would be consistent with the Village One Specific Plan. There are no other applicable land use or conservation plans for the project area. There would be no impact. No mitigation is required.

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X. MINERAL RESOURCES. Would the project:

a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? ☐ ☐ ☐ ☑

b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan? ☐ ☐ ☐ ☐

Responses to Checklist Questions

a., b. No known mineral resources or important recovery sites are located in the Village One Specific Plan Area. There would be no impact. No mitigation is required.
XI. **NOISE.** Would the project:

c. Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? ☐ ☐ ☐ ☑

d. Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? ☐ ☐ ☐ ☑

e. Be located within an airport land use plan area, or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels? ☐ ☐ ☐ ☑

f. Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels? ☐ ☐ ☐ ☑

Impacts associated with noise are analyzed on pages III-55 through III-67 of the 1994 Supplement.

**Responses to Checklist Questions**

a., c. The Village One Specific Plan program EIR found that proposed residential housing in the project area would be exposed to noise levels exceeding general plan thresholds, but mitigation measures were incorporated to reduce the impact to a less-than-significant level. The proposed project would not change project-related noise-generating activities. There would be no additional impact. *No mitigation is required.*

b. The Village One Specific Plan program EIR found that the buildout of Village One would not expose people to, or generate excessive, ground borne vibration or ground borne noise levels. There would be no impact. *No mitigation is required.*

d. The Village One Specific Plan program EIR found that construction of the proposed project would result in a substantial temporary increase in ambient noise levels for residential housing. However, mitigation measures were incorporated into the program EIR to reduce the impact to a less-than-significant level. The proposed project would not change construction activities. There would be no additional impact. *No mitigation is required.*
e. The Village One Specific Plan program EIR found that the Village One Specific Plan area is not located in an airport land use plan area or within 2 miles of a public airport. There would be no impact. *No mitigation is required.*

f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located east of the Village One Specific Plan area. However, take-offs and landings take place parallel to and outside the Specific Plan boundaries, and flight patterns are generally situated east of the project area. There would be no additional impact. *No mitigation is required.*

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**XII. POPULATION AND HOUSING.** Would the project:

a. Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?

b. Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?

c. Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?

Impacts on population and housing are analyzed on pages III-95 through III-99 of the 1994 Supplement.

**Responses to Checklist Questions**

a.–c. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would not result in significant adverse impacts on population and housing units. *No mitigation is required.*
XIII. **PUBLIC SERVICES.** Would the project:

a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or a need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:

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<td>Fire protection?</td>
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<td>Police protection?</td>
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<td>Schools?</td>
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Impacts on public services are analyzed on pages III-120 through III-158 of the 1994 Supplement.

**Responses to Checklist Questions**

a. The Village One Specific Plan program EIR found that the only significant impact that buildout of the Village One Specific Plan area would have on public services would be in the areas of fire protection and law enforcement. Mitigation measures were identified in the program EIR to reduce the level of this impact to a less-than-significant level. No other significant impacts on public services were identified. The proposed project would not change the provision of public services. There would be no additional impact. *No mitigation is required.*

XIV. **RECREATION.** Would the project:

a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? [☑]

b. Include recreational facilities or require the... [☑]
construction or expansion of recreational facilities that might have an adverse physical effect on the environment?

Impacts on recreation are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a., b. No significant impacts on recreation were identified in the program EIR. The proposed project would not change the provision of parks and recreation facilities. There would be no additional impact. *No mitigation is required.*

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**XV. TRANSPORTATION/TRAFFIC.** Would the project:

a. Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?

b. Cause, either individually or cumulatively, exceedance of a LOS standard established by the county congestion management agency for designated roads or highways?

c. Result in a change in air traffic patterns, including an increase in traffic levels or a change in location that results in substantial safety risks?

d. Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

e. Result in inadequate emergency access?

f. Result in inadequate parking capacity?

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g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

Impacts on transportation and traffic are analyzed on pages III-40 – III-44 of the 1994 Supplement.

Responses to Checklist Questions

a., b. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system and would affect level of service at several intersections. Mitigation measures identified in the program EIR were identified to reduce impacts to a less-than-significant level for all intersections except the Briggsmore Avenue/Oakdale Avenue intersection. For that intersection, the impact was determined to be significant and not mitigable. The City of Modesto made a statement of overriding considerations for that impact at the time it certified the 1994 Supplement. The proposed abandonment will not itself generate additional traffic but will result in a modified circulation pattern. However, the proposed pattern is consistent with the Circulation diagram as specified in the Village One Specific Plan. The circulation pattern and the street closure are also consistent with Specific Plan No. 24. Therefore, the proposed project would not alter traffic patterns in the Specific Plan area or result in additional trips. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR did not find that the buildout of the Village One Specific Plan area would result in a change in air traffic patterns. The proposed project does not include any elements that would affect air traffic patterns. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area included any hazardous design features or increased any incompatible uses for roads in the project area. The proposed project would not change roadway design or land uses. There would be no impact. No mitigation is required.

e. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area would result in inadequate emergency access in the Specific Plan area. The Specific Plan includes provision of adequate roadways to serve the Village One development. The abandonment does not eliminate points of entry to the existing or proposed developments. The street closure will not interfere with adequate emergency access, and will not interfere with emergency access to adjacent areas. Therefore, the impact on emergency service access is less than significant. There would be no additional impact. No mitigation is required.
f. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area would result in inadequate parking capacity in the Specific Plan area. The provision of parking, consistent with zoning requirements for the proposed project, is included in the project design. There would be no impact. *No mitigation is required.*

g. The proposed project does not include any changes related to transportation policies, and would have no impact. *No mitigation is required.*

<table>
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<tr>
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<th>Less than Significant with Mitigation Incorporated</th>
<th>Less-than-Significant Impact</th>
<th>No Impact</th>
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<td>Less than Significant with Mitigation Incorporated</td>
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**XVI. UTILITIES AND SERVICE SYSTEMS.**

Would the project:

a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed?

e. Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?

f. Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?
g. Comply with federal, state, and local statutes and regulations related to solid waste?

Impacts on utilities and service systems are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a. The City provides sewer services to the Village One area. All wastewater would be directed to city wastewater treatment facilities. No wastewater discharges would occur in the project area. The proposed project would not increase the amount of wastewater that will be generated at buildout of the Specific Plan area. There would be no additional impact. No mitigation is required.

b., e. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed to accommodate buildout of the Village One Specific Plan area. The EIR found that, with mitigation, there would be no significant impact on water or wastewater infrastructure. There would be no additional impact as a result of the proposed project. No mitigation is required.

c. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed in order to accommodate buildout of the Village One Specific Plan area. The EIR found that, with mitigation, there would be no significant impact on stormwater drainage facilities. An update to the Storm Drainage Master Plan has been prepared and is under consideration by the City. An addendum to the Village One program EIR for the Storm Drainage Master Plan has also been prepared and is under consideration by the City. The project would not result in any additional impacts or the need for any additional mitigation beyond that assessed in the Addendum to the Village One Program EIR for the Storm Drainage Master Plan.

d. The Village One Specific Plan program EIR found that, with mitigation, the effects of buildout of the Village One Specific Plan area on water supply would be less than significant. There would be no additional impact resulting from the proposed project. No mitigation is required.

f., g. The Village One Specific Plan program EIR found that the area’s landfills have sufficient permitted capacity to accommodate the project’s solid waste disposal needs. The proposed project would not result in any physical changes in the environment or the generation of any additional solid waste. There would be no impact. No mitigation is required.
XVII. MANDATORY FINDINGS OF SIGNIFICANCE.

a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

b. Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)

c. Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?

Cumulative impacts are analyzed on page III-161 of the 1994 Supplement.

Responses to Checklist Questions

a. As described above, the proposed project would not result in any significant impacts on the environment over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.

b. As described above, the proposed project would not result in any significant impacts, either on a project or on cumulative level, over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.

c. As described above, the proposed project would not result in any significant impacts affecting humans over and above those associated with implementation.
V. MITIGATION APPLIED TO PROJECT

The following mitigation measures developed in the 1994 Village One Specific Plan Supplement to the Program EIR are appropriate to the project and will be incorporated into the project. Therefore, the environmental effects of the project were covered by the program EIR.

1. "Construction noise is regulated by the City's Noise Ordinance, Section 4.9 - 103. Construction noise is generally permitted during the hours of 7:00 am to 9:00 pm. To avoid complaints from nearby residents, and possible citations, the full text of the ordinance should be reviewed by builders prior to construction. City construction projects will be monitored by Construction Inspection for conformance with the City's Noise Ordinance."

2. During construction activities, Building Inspection Division shall verify that contractors observe the requirements of City of Modesto Standard Specification 2.07(A)(5), Dust Control, and when necessary, Regulation VIII of the San Joaquin Valley Unified Air Pollution Control District to control the generation of PM 10 from construction related dust and emissions.
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-060

A RESOLUTION ADOPTING A REVISED SCHEDULE OF MAXIMUM RATES AND CHARGES FOR THE COLLECTION OF GARBAGE IN THE CITY OF MODESTO, AND RESCINDING RESOLUTION NO. 2005-337

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

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

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

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

WHEREAS, the City’s garbage collection companies have requested a mid-year adjustment in the maximum rates due to unanticipated and significant increases in the price of fuel, and

WHEREAS, the City has conducted an analysis of this request for a mid-year adjustment to the base maximum rates using the audited financial statements provided by the garbage haulers, supplemental data provided by the garbage haulers, and fuel price
information and forecast prices developed by the United States Department of Energy, and

WHEREAS, new maximum rates have been calculated based on a 2% adjustment to the base maximum rates for these fuel cost increases, and a recommendation for a new maximum rate schedule has been developed, and

WHEREAS, this mid-year adjustment to the maximum rates will be re-evaluated in conjunction with all other factors that influence the maximum rates, and

WHEREAS, the Economic Development Committee met on January 9, 2006, and supported the recommendation to approve a 2% mid-year adjustment to the maximum rate schedule for City solid waste collection services due to fuel price increases, and

WHEREAS, a report dated January 10, 2006, from the Parks, Recreation and Neighborhoods Department, a copy of which is on file in the office of the City Clerk, sets forth said recommendations, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on January 24, 2006 in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:
1. That it hereby approves the Maximum Charges for Garbage Service as attached hereto, marked Exhibit “I” and incorporated herein by reference. Said Maximum Charges for Garbage Service includes twice-a-year bulky item pickup for residential customers and all other residential services as stipulated in the Service Agreements and shall become effective on February 1, 2006, and shall remain in effect until revised by Council.

BE IT FURTHER RESOLVED that any person who has prepaid garbage service charges for residential garbage service shall be entitled to receive garbage service for the balance of said prepaid period at the prepaid rates.

BE IT FURTHER RESOLVED that Resolution No. 2005-337 is hereby rescinded, effective February 1, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahrt
JEAN ZAHR City Clerk

APPROVED AS TO FORM:

By RICHARD RUDNANSKY, Interim City Attorney
MAXIMUM CHARGES FOR GARBAGE SERVICE

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

Standard service shall include one, 96-gallon container for garbage/recyclables, one, 96-gallon container for green waste, blue bag recycling, a countertop container for kitchen scraps, drop-off of old TV and computer tubes, and two bulky item collections per year by appointment. Customer may opt for smaller containers; however, maximum rates apply.

The maximum rate for new sign ups for service or change in service which occur after July 1, 1996, shall be charged $19.30 per month regardless of size of container. The maximum rate for each additional garbage container shall be $14.40 per month.

The maximum rate for customers with 60 gallon containers who subscribed to service at an address prior to July 1, 1996 and who have not changed their service address shall be $16.30. The maximum rate for each additional garbage container shall be $14.40 per month.

The above maximum standard container rate shall apply for service when containers are placed in a location set forth in Section 5-5.11 of the Municipal Code.

DETACHABLE CONTAINERS
Number of Collections Per Week

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<th>Container Size</th>
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<th>3</th>
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DETACHABLE CONTAINER RENTAL RATES ARE INCLUDED IN ABOVE SCHEDULE

Detachable container size
Monthly rental rate
Weekly rental of Detachable Containers

1 CY to 6 CY
$10.00
Shall not exceed the rate for 1 pickup per week for each size container
DROP BOX CONTAINERS

Pick up charge - $195.15 per pick up
Rental - $0.85 per day up to 7 day maximum rental
$3.00 per day additional for boxes kept 7 or more days without servicing
$10 per day additional for boxes kept 21 or more days without servicing

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

COMPACTORS

Front Loader Type:

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<tr>
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Roll-Off Type:

6 CY to 40 CY $195.15 per pickup
Washing of compactor at the request of customer $30.00
Disposal Charge: Actual charge to be paid by customer

EXTRA PICKUPS

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

SPECIAL SERVICE CONDITIONS

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

DETACHABLE CONTAINER ONLY REPLACEMENT AND CLEANING SERVICE

<table>
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<tr>
<th>Size</th>
<th>1 CY</th>
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<th>2 CY</th>
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<th>4 CY</th>
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<td>$15.40</td>
<td>$20.24</td>
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NOTATIONS

1. The above maximum residential rates include the $0.10 per month per household recycling fee payable to the City by the garbage company. In addition to garbage, maximum residential rates also include twice-a-year bulky item pickup, blue bag recycling, green waste collection, food waste containers, cathode ray tube drop-off, and illegal dumping removal from streets and alleys.

2. Pursuant to Section 11-6.16(c)(2) of the Modesto Municipal Code, the garbage company may require a deposit equivalent to two (2) months service charge from customers prior to beginning service.

12/27/05
Ms. Jocelyn Reed, Solid Waste Program Manager
City of Modesto Solid Waste Management
P.O. Box 642
Modesto, CA 95353

Re: Request for Rate Increase due to Fuel Price Increases

Jocelyn:

As I am sure you aware, diesel fuel prices have skyrocketed. Prices have continued to increase at an alarming rate in the past several months. Due to those increases, and their impact on our business, we are requesting your consideration of a rate increase.

The most current financial report that you have received from us covers the fiscal year ending June 30, 2004. Those statements were the basis for the rate review process that you completed and used to set our current rates. I have prepared an analysis of our fuel cost increases since those statements were completed. Included you will find a detail listing of the diesel portion of our fuel payments from July 2003 through August 2005. We went back as far as July 2003 to provide a perspective of where fuel costs were for the fiscal year that you have been working with. The detail includes the fiscal year ended June 30, 2005 purchases and the purchases so far in this fiscal year. The average price per gallon of diesel increased 25.95% from fiscal year ended June 30, 2004 to fiscal year ended June 30, 2005. With the recent accelerated increases we are now experiencing prices that reflect an increase of 69.51% over those of fiscal year ended June 30, 2004. In dollars, the impact for City of Modesto services at the most recent price is approximately $255,000.00 more than those reflected in the last financial statements that you have. I have also included a worksheet that reflects the dollar impacts based on the fiscal year ended June 30, 2004.

Your assistance in this matter would be greatly appreciated. In the years that I have worked for Gilton we have not been faced with a situation quite like this one. The impact of this issue obviously goes further than just the City of Modesto. So you can imagine the magnitude of the problem on the whole company. I am very concerned with the implications that this situation is creating for our Company. If there is more information that I can provide to help you in your analysis please let me know. Please consider this request at your earliest convenience. Each day, as prices increase, the problem becomes more critical. My e-mail address is bobp@gilton.com and my phone number is (209) 573-6248.

Sincerely,

Robert Pritchard, CPA
Controller
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TOTAL $PG
NUMBER OF PAYMENTS 24
AVERAGE PRICE FOR THE YEAR 1.8588
AVE. PRICE FY05 2.3411
PERCENT INCREASE FY04 TO FY05 25.95%

PRICE ON AUGUST 31 3.1508
PERCENT INCREASE FY04 TO 8/05 69.51%

AVERAGE PRICE FOR THE YEAR 2.34109
PERCENT INCREASE FY05 TO 8/05 34.59%

PERCENT INCREASE FY04 TO FY05 25.95%

PERCENT INCREASE FY04 TO 8/05 69.51%
CITY OF MODESTO
IMPACT OF FUEL COSTS

FUEL EXPENSE PER AUDITED FINANCIAL STATEMENTS FOR THE FY 6/30/04

$1,002,602.85

FUEL EXPENSE AS REPORTED ON CITY OF MODESTO OPERATING EXPENSE SUMMARY

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</tr>
<tr>
<td>Container Service</td>
<td>$90,430.00</td>
</tr>
<tr>
<td>Drop Box Service</td>
<td>$45,266.00</td>
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Total: $366,479.00

PERCENT OF TOTAL FUEL EXPENSE REPORTED ON CITY OF MODESTO

36.55%

PERCENT INCREASE IN FUEL EXPENSE FROM FY2004 TO FY2005

25.95%

PERCENT INCREASE IN FUEL EXPENSE FROM FY2004 TO AUG 2005

69.51%

PROJECTED INCREASE IN FUEL EXPENSE

FUEL EXPENSE AS REPORTED ON CITY OF MODESTO OPERATING EXPENSE SUMMARY

<table>
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<tr>
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<th>FY2004</th>
<th>FY2005</th>
<th>Total</th>
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<tbody>
<tr>
<td>Residential Service</td>
<td>$230,783.00</td>
<td>$290,671.19</td>
<td>$361,454.19</td>
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<td>$90,430.00</td>
<td>$113,896.59</td>
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<td>Drop Box Service</td>
<td>$45,266.00</td>
<td>$57,012.53</td>
<td>$102,278.53</td>
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Total: $647,078.21

PERCENT INCREASE FY2004 TO FY2005

25.95%

PERCENT INCREASE FY2004 TO AUG 2005

69.51%

PROJECTED FUEL EXPENSE

<table>
<thead>
<tr>
<th>Service</th>
<th>FY2004</th>
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Total: $647,078.21

PROJECTED FUEL EXPENSE

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Total: $647,078.21
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TOTAL $PG: 44,611
NUMBER OF PAYMENTS: 24
AVERAGE PRICE FOR THE YEAR: 1.8588
AVERAGE PRICE FOR THE YEAR: 2.3411
PERCENT INCREASE FY04 TO FY05: 25.95%
AVERAGE PRICE THRU 11/30/05: 2.9622
PERCENT INCREASE FY04 TO 11/05: 59.36%

TOTAL $PG: 56,1862
NUMBER OF PAYMENTS: 24
AVERAGE PRICE FOR THE YEAR: 2.3411
AVERAGE PRICE FOR THE YEAR: 2.9622
PERCENT INCREASE FY04 TO FY05: 25.95%
AVERAGE PRICE THRU 11/30/05: 2.9622
PERCENT INCREASE FY04 TO 11/05: 59.36%

TOTAL $PG: 29,621
NUMBER OF PAYMENTS: 10
AVERAGE PRICE FOR THE YEAR: 2.9622
AVERAGE PRICE FOR THE YEAR: 2.9622
PERCENT INCREASE FY04 TO FY05: 25.95%
AVERAGE PRICE THRU 11/30/05: 2.9622
PERCENT INCREASE FY04 TO 11/05: 59.36%
November 22, 2005

Jocelyn Reed, Solid Waste Program Manager
City of Modesto
Department of Parks and Recreation
PO Box 642
Modesto, CA 95353

RE: Diesel Fuel Costs

Dear Ms. Reed:

Soaring fuel costs have put an unexpected burden on the cost of providing garbage service to the residents of Modesto. In accordance with Section f. (2) of the Service Agreement dated November 1, 1997, Modesto Disposal does hereby request a rate adjustment to cover these costs, retroactive to the beginning of the 2004-2005 fiscal year.

Attached is a spreadsheet showing Modesto Disposal’s fuel cost increases for calendar years 2004 and 2005, by month, using the monthly data available. It also shows City of Modesto fiscal year fuel costs from our audited financials. Lastly, it projects the cost of diesel fuel through the next fiscal year.

The spreadsheet shows that diesel costs in the City of Modesto have increased by $80,478, year over year, from the last fiscal year audited financials to the present fiscal year. I have used two methods for projecting fuel costs forward. The first is the percentage increase used to obtain the $80,478 difference between fiscal years, projected forward. The second is the price per gallon increase from January 2005 to October 2005, projected forward. The latter projects an increased cost of $194,834 for the 2005-2006 fiscal year and should be the more accurate of the two methods, since it contains more recent trend data. I am requesting that both of these numbers be considered in the rate adjustment.

Modesto Disposal appreciates your consideration of this unanticipated rate adjustment proposal. If you need clarification of any of the data on the attached spreadsheet, please contact me. As always, I am just a phone call away.

Sincerely,

Thomas Clark
District Manager
Modesto Disposal
## Diesel Fuel Usage and Cost

### 2004

<table>
<thead>
<tr>
<th></th>
<th>Gallons</th>
<th>PPG</th>
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<td></td>
</tr>
<tr>
<td>March</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>April</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>May</td>
<td>30,401</td>
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<td>22,712</td>
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<td>30,174</td>
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<td>30,072</td>
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<td>Sept</td>
<td>30,077</td>
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### 2005

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### Calendar Year PPG

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<tr>
<td>Average PPG 2004</td>
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<td>Variance 04/05 PPG</td>
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<td>05 Increase (Jan-Oct)</td>
<td>$1.00%</td>
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### Fiscal Year

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### Projections

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### CITY OF MODESTO ONLY FY 05-06

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December 12, 2005

CITY OF MODESTO
MS. JOCELYN REED
SOLID WASTE PROGRAM MANAGER
1010 TENTH STREET
MODESTO, CA 95354

DEAR JOCELYN:

BERTOLOTTI MODESTO DISPOSAL, INC. REQUESTS A REVIEW OF THE RESIDENTIAL, COMMERCIAL,
AND DROP BOX RATES DUE TO THE EXTRAORDINARY INCREASE IN FUEL THAT WE HAVE
BEEN EXPERIENCING FOR THE LAST YEAR. ATTACHED IS SPREADSHEET SHOWING THE PRICE
PER GALLON WE HAVE BEEN PAYING FOR THE LAST 2 YEARS.
BERT AND I APPRECIATE YOUR UNDERSTANDING IN THIS MATTER.

SINCERELY

[Signature]
STEPHEN T. HOLLOWAY
GENERAL MANAGER
BERTOLOTTI DISPOSAL, INC.
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</tbody>
</table>

**Average:**
- **July:** 180000, 305530.3, 0.68785138
- **August:** 205830, 415936.59, 2.17025836
- **September:** 88770, 255070.99, 2.87138165
# Weekly Retail On-Highway Diesel Prices

Dollars per gallon, including all taxes

<table>
<thead>
<tr>
<th></th>
<th>12/26/2005</th>
<th>1/2/2006</th>
<th>1/9/2006</th>
<th>Change from week ago</th>
<th>Change from year ago</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S.</td>
<td>2.448</td>
<td>2.442</td>
<td>2.485</td>
<td>0.043</td>
<td>0.551</td>
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<tr>
<td>East Coast</td>
<td>2.481</td>
<td>2.481</td>
<td>2.528</td>
<td>0.047</td>
<td>0.529</td>
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<tr>
<td>New England</td>
<td>2.643</td>
<td>2.645</td>
<td>2.676</td>
<td>0.031</td>
<td>0.513</td>
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<tr>
<td>Central Atlantic</td>
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<td>2.590</td>
<td>2.626</td>
<td>0.036</td>
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<td>Lower Atlantic</td>
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<td>2.420</td>
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<tr>
<td>Midwest</td>
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<td>2.412</td>
<td>2.451</td>
<td>0.039</td>
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<tr>
<td>Gulf Coast</td>
<td>2.421</td>
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<td>2.453</td>
<td>0.039</td>
<td>0.577</td>
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<tr>
<td>Rocky Mountain</td>
<td>2.410</td>
<td>2.392</td>
<td>2.421</td>
<td>0.029</td>
<td>0.544</td>
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<tr>
<td>West Coast</td>
<td>2.523</td>
<td>2.519</td>
<td>2.577</td>
<td>0.058</td>
<td>0.604</td>
</tr>
<tr>
<td>California</td>
<td>2.543</td>
<td>2.538</td>
<td>2.601</td>
<td>0.063</td>
<td>0.587</td>
</tr>
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</table>

Graphs of U.S. and all Regions

http://tonto.eia.doe.gov/oog/info/wohd恽printer_friendly_version.asp

1/11/2006
### Stanislaus County

#### Garbage Rates and Programs

<table>
<thead>
<tr>
<th>City</th>
<th>Monthly rate</th>
<th>Garbage Size</th>
<th>Recycling Size</th>
<th>Yard Waste Size</th>
<th>Bulky Item</th>
<th>Curbside Oil</th>
<th>Misc.</th>
<th>Hauler</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ceres</td>
<td>$19.50</td>
<td>96</td>
<td>96-bi-monthly</td>
<td>No</td>
<td>2x per yr</td>
<td>no</td>
<td>No</td>
<td>Bertolotti Disposal</td>
</tr>
<tr>
<td>Hughson</td>
<td>$28.14</td>
<td>96</td>
<td>96-bi-monthly</td>
<td>96-bi-monthly</td>
<td>1x per yr</td>
<td>Yes</td>
<td>No</td>
<td>WM</td>
</tr>
<tr>
<td>Modesto (proposed)</td>
<td>$19.50</td>
<td>96</td>
<td>blue bags</td>
<td>96</td>
<td>2x per yr</td>
<td>Yes</td>
<td>Food Waste, CRT's, Illegal Dumping, Tire Collection, cell phone collection</td>
<td>WM, BDS, GSW</td>
</tr>
<tr>
<td>Newman</td>
<td>$16.33</td>
<td>96</td>
<td>96</td>
<td>No</td>
<td>2-drop offs per yr</td>
<td>no</td>
<td>3 month leaf &amp; limb prog.</td>
<td>BDS</td>
</tr>
<tr>
<td>Oakdale</td>
<td>$13.61</td>
<td>96</td>
<td>96</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>no</td>
<td>GSW</td>
</tr>
<tr>
<td>Patterson</td>
<td>$19.06</td>
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<td>96</td>
<td>2x per yr</td>
<td>no</td>
<td>pruned refuse collection</td>
<td>WM</td>
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<tr>
<td>Riverbank</td>
<td>$16.01</td>
<td>96</td>
<td>96-bi-monthly</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Gilton</td>
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<tr>
<td>Stanislaus County (Bert)*</td>
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<td>Drop off $10 fee</td>
<td>Yes</td>
<td>No</td>
<td>Bertolotti Disposal</td>
</tr>
<tr>
<td>Stanislaus County (GSW)*</td>
<td>$19.12</td>
<td>96</td>
<td>bins</td>
<td>No</td>
<td>Drop off $10 fee</td>
<td>Yes</td>
<td>No</td>
<td>GSW</td>
</tr>
<tr>
<td>Stanislaus County (Tur Scv.)*</td>
<td>$19.32</td>
<td>96</td>
<td>bins</td>
<td>No</td>
<td>Drop off $10 fee</td>
<td>Yes</td>
<td>No</td>
<td>Turlock Scavenger</td>
</tr>
<tr>
<td>Stanislaus County (WM)*</td>
<td>$18.60</td>
<td>96</td>
<td>bins</td>
<td>No</td>
<td>Drop off $10 fee</td>
<td>Yes</td>
<td>No</td>
<td>WM</td>
</tr>
<tr>
<td>Turlock</td>
<td>$38.10</td>
<td>96</td>
<td>64</td>
<td>96</td>
<td>2x per yr</td>
<td>No</td>
<td>No</td>
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<tr>
<td>Waterford</td>
<td>$15.64</td>
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<td>bins</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>WM</td>
</tr>
</tbody>
</table>

| Minimum                  | $13.61       |
| Median                   | $19.12       |
| Maximum                  | $38.10       |
| Average                  | $20.17       |

*effective 1/1/06
WHEREAS, the City Council of the City of Modesto has adopted Modesto Municipal Code Sections 8-1.904 et seq. creating and establishing the authority for imposing and charging Capital Facilities Fees (CFF), and

WHEREAS, since the inception of the CFF Program, multiple fee rate programs and policies relating to the administration of CFF have been established, and


WHEREAS, the City has been utilizing administrative guidelines to manage the CFF Program; however, these guidelines have not been formally adopted by the Council, and

WHEREAS, it would be beneficial and efficient for the administration of the CFF program to combine the policies mentioned above and the informal administrative guidelines into one document, called CFF Policies and Procedures.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts Policies and Procedures for the Capital Facilities Fees Program, a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference.

BE IT FURTHER RESOLVED that Resolution Nos. 99-32, 99-385, 2003-309, 2004-527 and 2005-391 are hereby amended and superceded solely with respect to the relocation and revision of any policy which has been incorporated into the attached

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney
EXHIBIT “A”

City of Modesto
Capital Facilities Fees
Policies and Procedures
City of Modesto

Capital Facilities Fees

Policies and Procedures
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1.00 INTRODUCTION

The following policies and procedures ("Policies and Procedures") are for the administration of Capital Facilities Fees, ("CFF"), which are established to mitigate the impacts of new development as outlined in §66000 of the California Government Code. These fees may be used for the purchase, construction, expansion, rehabilitation, or acquisition of public facilities, and must be consistent with the adopted fee program, which is updated every five years.

The CFF Program is updated every five years. As a result, Resolution 2003-309 approved a comprehensive update of the CFF Program whereby new schedules and rates applicable to development were established. These policies and procedures have been developed to govern the administration of the CFF Program.

2.00 DEFINITIONS

The intent and meaning of the terms that are used shall be as defined in these CFF Policies and Procedures except as specifically noted, revised, or added.

A. BUILDING INSPECTION - shall mean the Building Inspection Division of the Community and Economic Development Department for the City of Modesto.

B. BUSINESS PARK LAND USE - shall mean a master planned campus-like development, with common infrastructure and common design standards that features employment-intensive uses and light manufacturing, possible service retail, and regional commercial uses.

1. Service - shall mean a predominantly service-oriented business park that has a high amount of office/commercial uses relative to the industrial/warehousing uses. Typical uses would include: office including general office building, corporate headquarters, single tenant office building, office park and research development uses; service retail, regional commercial and wholesale stores; restaurants; and recreational areas.

2. Manufacturing - shall mean a predominantly industrial-oriented business park with low amounts of office/service/retail uses. Typical uses would include: general light industrial uses, manufacturing and/or distribution with associated office, warehouse, research, and related functions, and public facilities/utilities.

C. CFF ADMINISTRATOR - person or persons appointed by the City Manager responsible for the management of the Capital Facilities Fee Program.

D. CFF REVIEW COMMITTEE - shall mean a committee comprised of city staff from the following departments or divisions of the City of Modesto: CFF Administrator,
City Attorney’s Office, Planning, Building, Finance, Parks, Recreation and Neighborhoods, and Public Works as appointed by the City Manager.

E. **CHIEF BUILDING OFFICIAL** – The Chief Building Official of the City of Modesto.

F. **CITY** – shall mean the City of Modesto.

G. **CITY ATTORNEY** – The City Attorney of the City of Modesto or his or her designee.

H. **CITY ENGINEER** – The City Engineer of the City of Modesto or his or her designee.

I. **CITY MANAGER** – The City Manager of the City of Modesto or his or her designee.

J. **COMMERCIAL** – as used in this section, shall mean any of the following small retail (less than 50,000 square feet):

1. Convenience markets, often with on-site gasoline pumps, usually 24-hours or extended hours.

2. Fast-food restaurants with or without sit-down facilities and with or without drive-up windows; generally food is ordered and taken to be consumed outside the restaurant building, although some on-site seating is usually provided.

3. Sit-down restaurants where food is ordered and consumed in the restaurant and customers generally stay less than one hour; frequently belonging to chains and typically serve breakfast, lunch and dinner. This category also includes all drinking establishments such as bars and cocktail lounges, except those in conjunction with low turnover restaurant. The later are charged the low turnover rate.

4. Sit down restaurants, which generally have turnover rates of one hour or longer, typically do not serve breakfast, and may or may not serve lunch.

5. Banks – full service banking institutions with or without drive-up windows.

6. Savings and Loan institutions, including thrift and credit unions, with or without drive-up windows, which typically offer fewer financial services than banks and are typically smaller in gross floor area than banks. If a given Savings and Loan is 5,000 gross feet or more, or provides full banking services, it should be treated as a bank.

7. Other retail includes a wide range of retail service uses, both free-standing and in shopping centers, including but not limited to supermarkets, drug stores, department stores, general merchandise, building materials or lumber stores,
specialty retail stores, discount stores, hardware/paint stores, video arcades, and new car sales. May include uses in small retail category if in a shopping center.

K. DEVELOPMENT PROJECT – shall mean any project undertaken for the purpose of development. Development projects include projects involving the issuance of a permit for construction or reconstruction, but not a permit to operate.

L. DEVELOPMENT SERVICES – shall mean the Development Services division of the Public Works Department, City of Modesto.

M. FACILITIES or PUBLIC FACILITIES – shall mean any of the following:

1. Public buildings, including park, recreation, police, fire, and administrative buildings.

2. Facilities for the storage, treatment, and distribution of nonagricultural water.

3. Facilities for the collection, treatment, reclamation, and disposal of sewage.

4. Facilities for the collection and disposal of storm waters and for flood control purposes.

5. Facilities for the generation of electricity and the distribution of gas and electricity, facilities for the distribution of information including radio and communication like, towers, and satellite dishes.

6. Transportation and transit facilities, including but not limited to streets and supporting improvements, roads, overpasses, bridges, harbors, ports, airports, parkways and related facilities.

7. Parks and recreation facilities, including bike trails, public landscape areas and community centers.


N. FEE – shall mean a monetary exaction other than a tax or special assessment, whether established for a broad class of projects by legislation of general applicability or imposed on a specific project on an ad-hoc basis, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, but does not include fees specified in §66477, fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements adopted pursuant to Article 2.5 (commencing with §65864) of Chapter 4, or fees collected pursuant to agreements with redevelopment agencies which provide for their development of property in furtherance or for the benefit of a development project for which a redevelopment plan has been adopted pursuant to the Community

CFF Policies and Procedures Final 1-10-06

O. **IMPROVEMENTS** – See FACILITIES.

P. **INDUSTRIAL LAND USE** – as used in this section, shall mean any of the following:

1. Manufacturing/Light Industrial/Industrial Park:
   - Electronics assembly, paper products
   - Metal fabricator
   - Bottling plant
   - Cabinet shop
   - Machine shop
   - Sheet-metal shop
   - Welding shop
   - Wholesale shop
   - Printing plant
   - Material testing labors manufacturer
   - Food processor, brewery, bakery
   - Recycling facility
   - Burning operations for lumber and wood products
   - Junk handling, processing storage
   - Landfill, waste products disposal or transfer station
   - Manufacture, fabrication, processing, packaging and treatment of explosives, oil and great products, chemicals and chemical products.
   - Rock crushing
   - Pulp and paper mill
   - Reduction, processing and storage of offal, dead animals, bones or similar materials
   - Septic tank, cesspool services
   - Stockyard
   - Tannery
   - Vehicle salvaging, wrecking

2. Mixed Industrial Uses – when a development proposal contains more than an incidental mixture of uses, the general type of uses should be segregated and treated separately for the purpose of calculating development fees.

Q. **VERY LOW and LOW INCOME HOUSING** – shall mean housing at rents affordable to households earning sixty percent (60%) or eighty percent (80%), respectively, or less of the Area Median Income as determined from time to time by the United States Department of Housing and Urban Development.

R. **OFFICE LAND USE** – as used in this section, shall mean any of the following:
1. Medical Office – shall mean offices and clinics devoted to the practice of medical and dental professions or providing medical or dental services, including pseudo-medical services, but excluding hospitals and nursing homes, which are treated separately.

2. General Office – shall mean all other types of general and professional offices.

S. OTHER COMMERCIAL LAND USE – as used in this section, shall mean any of the following:

1. Church – Structures primarily designed or used as a place of public worship.

2. Daycare and School – An educational, vocational or daycare facility.

3. Hospital – A structure designed for health services, both inpatient and outpatient; that includes surgical care of the sick or injured of the physically ill and/or therapeutic treatment for the mentally ill. Included as an integral part of a hospital or laboratories, outpatient departments, training facilities, central services facilities, and hospital staff offices on the same site. The preceding ancillary uses are considered “professional offices” if located “off-site” unless a multi-site campus is covered by a P-D Zone or hospital uses. A separate set of offices on the same site for physicians is considered “professional offices.”

4. Mini-Warehouse – A personal storage facility not associated with industrial uses.

5. Nursing Home – Structures designed for use as a convalescent hospital, or a retirement home, or a twenty-four hour care center for seven or more persons in addition to members of the family.

T. PUBLIC FACILITIES – see FACILITIES.

U. RESIDENTIAL LAND USE – as used in this section, shall mean any of the following:

1. Single-Family – shall mean single family detached homes on individual lots, such as in residential subdivision, but could also be in planned developments. Density of development may vary, but is typically ten (10) dwellings per acre or less.

2. Multiple-Family – shall mean multiple family dwelling units of several types, including high and low rise apartments, high and low rise condominiums, and multi-family residential planned unit developments greater than a density of ten (10) units per acre. The category also applies to mobile homes and hotel/motel uses.

3. Medium Density – shall mean duplex or triplex buildings located on a single lot designed for occupancy by two or three families.
4. Senior Housing – shall mean retirement communities restricted to adults or senior citizens, congregate care facilities, and similar residential uses.

V. WAREHOUSE DISTRIBUTION/HEAVY LAND USE – shall mean facilities in which the primary activity is the storage of materials or in which the primary activity is receiving and shipping materials. Use which are considered to be in this category include uses such as those listed below:

- Freight
- Warehousing
- Corporation yard, freight yard
- Equipment rental yard
- Moving and storage service
- Bulk feed storage
- Lumberyard

3.0 ADMINISTRATION

Overall administration and oversight of the CFF Program shall reside with the person or persons designated as CFF Administrator(s), as determined by the City Manager. The CFF Administrator(s) shall have the responsibility of ensuring that all issues relating to CFF are managed in accordance with applicable rules and regulations.

A. CFF REVIEW COMMITTEE

The CFF Review Committee, appointed by the City Manager, is hereby established to review policy matters related to the CFF Program in the event of appeals regarding fees, the administration of the CFF Program, and other issues that may arise as a result of the implementation of the CFF Program.

B. ANNUAL REPORT

As required by §66006 of the Government Code, each year an annual report will be prepared and made available to the public within 180 days after the last day of each fiscal year. The report shall contain the following information:

1. A description of the type of fee in the account or fund.
2. The amount of the fee.
3. The beginning and ending balance of the account or fund.
4. The amount of the fees collected and the interest earned.
5. An identification of each public facility on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

6. An identification of an approximate date by which the construction of the public facility will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public facility, as identified in paragraph (2) of subdivision (a) of §66001, and the public facility remains incomplete.

7. A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan.

8. The amount of refunds made pursuant to subdivision (e) of §66001 of the Government Code and any allocations pursuant to subdivision (f) of §66001.

C. INFLATIONARY ADJUSTMENTS

1. Timing of Adjustments
   In an effort to ensure that the fees collected are adequate for inflation, an annual inflation adjustment shall be applied each year to the CFF. The CFF rates for all land use categories shall be administratively adjusted annually to account for inflation.

   All fees shall be automatically adjusted annually for inflation by the City's Director of Public Works or designee. The annual inflation adjustment shall be the annual change in the San Francisco Bay Area Engineering News Record ("ENR") Construction Cost Index through the month of December of the year preceding each inflation adjustment. The inflation adjustment shall be made and become effective on or about July 1st of each year. The Director of Public Works or designee is hereby authorized and directed to administratively to make the inflation adjustments annually.

2. Notification of Inflationary Adjustment
   The City will provide at least one meeting with stakeholders and other interested parties at least 60 days in advance of the effective date of the inflationary adjustment.

   While an administrative function, the automatic inflationary adjustment shall be submitted to the Council for their information. The item should be scheduled to allow for sufficient time for the increase to become effective at the beginning of the fiscal year or the programmed effective date of the fee increase if a particular fee has a start date that is different than the commencement of the fiscal year.
D. CALCULATION AND COLLECTION OF FEES

Fees are due and payable at the time of building permit issuance. Building Inspection will calculate the fee based on the type of permit being issued and the definition of the fee that relates to that type of permit. Listed below are applications of fees based on circumstances where the fee category has not been explicitly detailed in the CFF Program, but where there is an analysis of how the fee is applied, exemptions of CFF, and deferrals of CFF.

1. CFF Policies for undefined uses:

   a. Recreation Buildings:
      For residential projects, the CFF on a dwelling unit or room basis are deemed adequate for ancillary recreation buildings that are oriented primarily to the residential development such as:
      - Mobile home park clubhouse.
      - Cabana, weight room, lounge, activity building for a single-family subdivision, apartment or condo complex.

      For non-residential projects, CFF shall be based on the closest comparables. For example:

      | Facility                                         | Capital Facilities Fees          |
      |-------------------------------------------------|----------------------------------|
      | Church multipurpose room or gym                  | Church rate                      |
      | Gym for private school that also has a church    | Daycare rate                     |
      | Racquetball courts (freestanding or part of a recreation facility like the YMCA or SOS Club) | Commercial rate                  |
      | Locker rooms, showers, etc., with health club    | Commercial rate or equivalent    |

   b. Multi-Use Buildings:
      Multi-Use Buildings are handled on a case-by-case basis.

   c. Temporary Trailers:
      - A maximum term of two (2) years is used to define “temporary” use of trailers.
      - Construction trailers are administratively exempt from CFF.
      - All other temporary trailers are not exempt and pay full CFF. However, if an applicant who paid CFF on a temporary trailer removes that temporary trailer from a given site within five (5) years of payment of CFF, that applicant can apply in writing and be reimbursed for the entire CFF paid including average interest generated by City accounts less 2.5% CFF administrative fees.
• The deadline for receipt of written application for rebate by the City Building Inspection is six (6) years from the payment of CFF.

d. Roof Structures – Erecting, Enclosing or Replacing w/BUILDINGS:
i. When an open area exists and a roof structure is to be added, 50% of the total CFF shall be charged. When one (1) or more sides are added, 100% of CFF shall be applied.
   - The roof provides shelter and is an enhancement of a business activity. Police surveillance and fire suppression can be provided more easily in an open structure without walls.
   - Once one (1) or more walls are added, it is basically a completed building and warrants full CFF.

ii. Canopy Construction
   • 50% CFF if the canopy is enclosed on one (1) or two (2) sides with walls.
   • 100% if canopy is enclosed on three (3) or four (4) sides with walls.

2. Exemptions:

Capital Facilities Fees established by these policies shall not be imposed on any of the following:
a. Canopied and Enclosed Truck Loading Bays.

b. Parking Garages.

c. Restaurant Outdoor Dining Patios - Weather conditions limit outside dining areas to seasonal use; therefore, the patio dining area shall not be considered in determining square footage and parking requirements, provided they are not enclosed.

d. Any Low or Very Low Income housing units constructed or expanded by the Housing Authority of the County of Stanislaus or any entity in which the Housing Authority is a major partner.

Any Low or Very Low Income or special needs housing, constructed or expanded by any other person or entity. The term of the exemption would be the term of the period deemed low income.

For a single-family affordable housing unit constructed by any person or entity, as used in this subparagraph, the term “single-family affordable housing unit” shall mean a single-family home purchased by a homebuyer earning sixty percent (60%) or less of the Area Median Income as determined from time to time by the United State Department of Housing and Urban Development to be used by the homebuyer as its principle
place of residence. The homebuyer would be granted a full CFF exemption provided there is not a resale or refinance for ten (10) years. If a resale or refinance should occur within the ten (10) year period, the full CFF exemption would be due, with no interest thereon.

The exemption authorized by this subparagraph may be granted by the City Council on a case-by-case basis after a public hearing. The public hearing shall focus on whether or not the unit to be constructed would be a single-family affordable housing unit. If approved by the City Council, the benefit of the CFF exemption would be transferred to the homebuyer at the time of purchase. The homebuyer would be required to sign a CFF exemption agreement, promissory note, and City trust deed to secure the note, as prepared by the City Attorney.

e. The term for the CFF exemption would be the term of the period deemed low income.

f. For each use listed above for which the fee is calculated on the basis of the total number of square feet of building space, the area of public or private garages shall not be included in the area of building space for the purpose of calculating the CFF for that use. As used herein, the term "public parking garage" and the term "private parking garage" shall mean the same as those terms are defined in the Uniform Building Code.

g. Any alteration or addition to a residential structure, except to the extent that additional dwelling units are created.

h. For new developments, when a structure is demolished and new structures are built, an exemption is appropriate for the structure that was destroyed provided:
   i. Any replacement or reconstruction of a residential structure that has been destroyed or demolished, provided that the building permit for reconstruction is obtained within two (2) years after the building was destroyed or demolished except to the extent that additional units are created. Replacement or reconstruction limited to residential use only.
   ii. Any replacement or reconstruction of a non-residential including multi-family structure that has been destroyed or demolished, unless the replacement or reconstruction increases the square footage of the structure, ten percent (10%) or more, changes the use of the structure to a higher density category, or will result in the generation of additional peak hour trip ends.
   
i. Any replacement of an existing residential or non-residential structure that has been or will be vacated due to the fact that the title to the property has been acquired by a public entity through eminent domain proceedings or
the threat of such proceedings provided that the building permit for the replacement structure or structures is applied for within two (2) years after the transfer of title or within two (2) years after the property has been vacated, whichever occurs last. The exemption granted by this subparagraph shall not apply to the replacement of a non-residential structure to the extent it adds additional square feet, the use is devoted to a higher density category, or results in the generation of additional peak hour trip ends or to the replacement of a residential structure to the extent additional units are created.

j. Maximum Number of CFF Exemptions for Residential Projects – 2% Cap:
The total number of residential CFF exemptions shall not exceed two percent (2%) of the total CFF Program housing units.

Staff reports for requests for exemptions shall indicate the cumulative inventory of exempt units and the percent of anticipated total exempt units at build out. The staff report shall also provide a comparison of cumulative CFF exempt units to total units built since 1989. During recessions and other times of low production of market-rate housing, it is acknowledged that the cumulative, exempt units may exceed two percent (2%) or the total units built.

k. Such other exemptions as the City Council may establish by Resolution from time to time.

l. Process for the Authorization of an Exemption:
   i. Exemption application must be completed.
   ii. Notice of a Public Hearing shall be filed.
   iii. The Exemption may be authorized by the City Council on a case-by-case basis after a public hearing. The public hearing shall focus on whether or not the units to be constructed or expanded are in fact "low income".
   iv. The term for the CFF exemption would be the term of the period deemed low income and would require affordability covenants as per §10-3.202 of the Modesto Municipal Code.
   v. Once exemption is approved an agreement with the City shall be signed and CFF shall be secured by a Deed of Trust.

3. Deferral Qualifications:

Rather than paying CFF at the time a building permit is issued, the developer of a "qualified project" may elect to defer payment of all or a portion of those fees as hereinafter set forth. The purpose of this procedure is to specify the steps involved in this process, and the responsibilities of various City departments.
a. **Category “A”** qualified projects shall include any non-residential project (except industrial/warehouse projects but including hotel/motel projects) on one (1) parcel of land or a group of contiguous parcels under the same ownership for which CFF exceed $150,000.00. Category “A” qualified projects shall also include any industrial/warehouse projects on one (1) parcel of land or a group of contiguous parcels under the same ownership for which CFF exceeds $50,000.00.

The property owner and/or developer in the case of “Category ‘A’ qualified projects” may enter into Deferred Payment Agreement with the City to pay ten percent (10%) of those fees at the time the building permit is issued with the remaining ninety percent (90%) to be paid in equal installments over the next ten (10) years (or less at the property owner’s option).

b. **Category “B”** qualified projects shall include any non-residential project (except industrial/warehouse projects but including hotel/motel projects) on one (1) parcel of land or a group of contiguous parcels under the same ownership for which CFF is more than $25,000.00 but less than $150,000.00. Category “B” qualified projects shall also include industrial warehouse projects on one (1) parcel of land or a group of contiguous parcels under the same ownership for which CFF is more than $25,000.00 but less than $50,000.00.

The property owner and/or developer in the case of “Category B qualified projects” may enter into a Deferred Payment Agreement with the City to pay twenty percent (20%) of those fees at the time the building permit is issued with the remaining eighty percent (80%) to be paid in equal installments over the next five (5) years (or less at the property owner’s option).

c. **Other Projects,** which may be designated by the City Council as “qualified projects,” are privately constructed projects on the City/Council Airport where the CFF exceeds $5,000.00.

d. In all cases of Category A, B, and Other Projects, the unpaid balance of the fees will be subject to interest and collection charges. The annual interest rate shall be equal to the Wall Street Journal Prime Rate adjusted thereafter semi-annually every July and January. Adequate security acceptable to the City in the form of an irrevocable letter of credit in an amount sufficient to secure both principal and interest shall be provided for the duration of the deferral. The terms and conditions of the deferral shall be set forth in an agreement which shall also provide that the unpaid balance of the fee shall be due and payable on the sale or the transfer to the property. As an alternative to providing the irrevocable letter of credit, the agreement may, at the option of the property owner/developer, authorize the City to lien the property and collect the balance of the CFF due through property tax assessment.
e. For those projects where a mitigated negative declaration or an Environmental Impact Report (EIR) has been certified, no CFF deferral shall be allowed to the extent that one (1) or more of the mitigation measures consists of payment of CFF or construction or installation of a public improvement, the cost of which, subject to funding availability, may be eligible for reimbursement of CFF.

f. Rather than paying CFF at the time the building permit is issued for the construction of a single-family affordable housing unit, the developer may elect to defer payment of all or a portion of those fees on the following:
   i. Any single-family affordable housing unit constructed by any person or entity. As used in this subparagraph and the preceding subparagraph, the term “single-family affordable housing unit” shall mean a single-family home purchased by a homebuyer earning between sixty-one percent (61%) and eighty percent (80%) Area Median Income as determined from time to time by the United States Department of Housing and Urban Development to be used by the homebuyer as its principal place of residence.
   ii. The homebuyer may be granted a CFF deferral for up to five (5) years, with payments of principle and interest to begin in year six (6). Interest will not accrue during the deferral period, and the CFF would be paid over a ten (10) year period with five percent (5%) interest rate on the unpaid balance. The deferral authorized by this subparagraph may be granted by the City Council on a case-by-case basis after a public hearing. The public hearing shall focus on whether or not the unit to be constructed would be constructed as an affordable housing unit. If approved by the City Council, the benefit of the CFF deferral shall be transferred to the qualified homebuyer at the time of purchase. The homebuyer is required to sign a CFF deferral agreement, promissory note, and City trust deed to secure the note, as prepared by the City Attorney. If a resale or refinance should occur within the ten (10) year period, the remaining unpaid balance of the CFF, including interest, shall immediately become due and payable on the sale, transfer or refinancing of the Property.

4. Processing of Requests for Deferrals:
   a. The CFF Administrator will complete the deferral agreement and will either obtain the letter of credit or file a lien for the total amount due. The original agreement and letter of credit or lien will be kept on file in the City Clerk’s office, with copies to Accounts Receivable.
   b. The developer will take copies of the completed documents to Building Inspection. No permits will be issued until all required documents are
received and approved by the CFF Administrator and City Attorney's office and the down payment has been collected.

5. Once the Payment has been received:

   a. Building Inspection will enter either ten percent (10%) or twenty percent (20%) of the total CFF on the permit, since this is the actual cash down payment due. The ten percent (10%) or twenty percent (20%) must be split to each CFF in the appropriate ratio.

   b. A copy of the paid permit will be sent to Accounts Receivable.

6. Annual Installments:

   a. Letter of Credit on File – Accounts Receivable will send a reminder bill eleven (11) months after the permit is issued. The due date of the first installment will be one (1) year from the original permit date.

   b. If the Lien is Filed – The first installment will be added to the tax roll in August of the fiscal year after the permit is issued. Interest will be calculated from the original permit date through November 1st of the first installment year.

   Example 1: Permit is issued on May 30, 2005. Finance will prorate interest from May 30 through November 1, 2005, and will cause the first principal and interest installment to be added to the tax roll in August 2005. The tax bill received in November 2005 will include the first installment.

   Example 2: Permit is issued in August 1, 2005. Finance will prorate interest from August 1, 2005 through November 1, 2006, and will cause the first principal and interest installment to be added to the tax roll in August 2006. The tax bill received will include the first installment.

   c. In the event that the developer does not pay annual installments, Accounts Receivable shall contact the CFF Administrator, and 1) if a Letter of Credit is on file, the necessary amount will be drawn, and 2) if the property is liened, the City will receive its share upon the sale or transfer of the property.

7. Review & Appeal Process:

   In the event of a dispute of what fee shall be applied to the permitted use, the CFF Administrator shall present the dispute to the CFF Review Committee who then shall make a final determination. The CFF Administrator shall send a written statement of decision and the grounds therefore.
In the event that the applicant disagrees with the CFF Review Committee’s determination, the applicant may choose to make his case to the review committee or may make his case to the City Council according to the appeal rights outlined in the Modesto Municipal Code Section 1.4. The CFF Administrator shall present the basis for the dispute to the Council whereby the Council will make the final determination.

4.0 EXACTION POLICIES FOR CFF-RELATED IMPROVEMENTS AND REIMBURSEMENTS

A. RESIDENTIAL STREETS

Those residential and collector required by new development shall be dedicated and improved to City Standard Specifications, as those may be amended from time to time, by the abutting developer.

B. EXPRESSWAYS

With respect to expressways, expressway improvements or rights of way shall be dedicated as required by conditions of approval but developer shall be reimbursed the cost of said improvements and rights of way with CFF funds, subject to limitations of available CFF funding. All reimbursements shall be detailed in advance of construction or dedication in a reimbursement agreement in accordance with the municipal code.

Exceptions: 1) where interim improvements are required to facilitate current development pending future expressway improvement, such interim improvements shall be provided by the abutting developer 2) where extra facilities are required specifically for the particular development at hand (e.g. deceleration/acceleration lanes, slip ramps), such extra facilities shall be provided by and at the expense of the developer without reimbursement.

C. ARTERIAL/MAJOR COLLECTOR STREETS

When a developer is required to dedicate and improve more than 40 feet of arterial street or major collector street as measured from the new property line on each side of the street towards the centerline, the cost of right of way and improvements in excess of 40 feet shall be reimbursed to the developer with CFF funds, provided funding for said improvements are included in the CFF Program and subject to availability of CFF funds. All reimbursements shall be detailed in advance of construction or dedication in a reimbursement agreement in accordance with the municipal code.

With respect to existing streets, where at least 40 feet of dedication and improvements have previously been made (measured from the existing property line up to the street centerline), any additional dedication and improvements shall be subject to
appropriate reimbursement to the developer. On existing streets, if the street has not previously been improved to applicable City Standard Specifications, only dedication or improvements in excess of 40 feet (measured from the new property line towards the street centerline) will be subject to appropriate reimbursement.

Exception: where extra facilities are required specifically for the particular development at hand (e.g. deceleration/acceleration lanes, slip ramps), such extra facilities shall be provided by and at the expense of the developer without reimbursement.

5.0 PRIORITY POLICIES

Within each category of fees collected for capital projects, there are competing demands for the use of those funds by multiple projects listed in the program. As a result, below are guiding policies used to establish priorities for the construction of the projects identified in the City’s Capital Improvement Program. The following principles will be applied for transportation related construction priorities:

A. PRIORITY PRINCIPLES


2. Legal Obligations:
   a. Projects must be included in the program to use CFF funding.
   b. Honor all commitments in existing executed agreements.

3. Maximize Traffic Benefits For Dollars Spent:
   a. Phase projects to maximize traffic benefits per unit cost.
   b. Utilize lower cost traffic improvements such as restriping and signal modifications where possible.
   c. Project amenities will follow later.

4. Economic Development:
   a. Projects to complement high priority economic development.

5. Segment Completion:
   a. Projects that complete segments of previously phased work.

B. PRIORITY TRANSPORTATION CORRIDORS

The following corridors are of high priority for programming projects:

1. East-West Priority Corridors:
   a. Pelandale Avenue
   b. Briggsmore Avenue
2. North-South Priority Corridors:
   a. Carpenter Road
   b. Claus Road

6.0 REIMBURSEMENTS

Prior to the commencement of any work that is to be reimbursed, an agreement between the developer and the City must be approved per §8-3.102 of the Modesto Municipal Code.

A. AGREEMENTS

Prior to the issuance of a construction permit, and prior to recording of a final map for dedication, the developer will be required to enter into all necessary agreements in a form provided by the City and consistent with these Policies and Procedures. These agreements may include, but not be limited to:

- Reimbursement Agreement
- Land Dedication Agreement (where required)
- Development Agreement
- Other agreements (as required)

It is the obligation of the developer, landowner, and/or the developer’s engineer to submit a request to the CFF Administrator for reimbursement. The request shall include: 1) engineer’s estimate on reimbursement amount 2) all exhibits relating to the improvements or right of way including the plat and, where applicable, closure calculations. Requests will not be granted if the dedication has already been made, or the improvements have been started.

Developer may also be reimbursed for design costs incurred prior to the execution of a Reimbursement Agreement for completed and accepted, City-funded facilities as determined and approved by the CFF Administrator and the City’s Engineer.

Prior to execution of any such agreements, the agreements shall be reviewed and approved by the CFF Administrator and the City Attorney. Other consultants may also review them, as the City believes are appropriate.

B. TIMING & PAYMENT OF AGREEMENTS

The planning contained in the City's annually adopted Capital Improvement Program shall guide the amount and the schedule of reimbursements to be paid from CFF funds to reimburse developers for advances in cash which are determined by the City to benefit CFF eligible improvements. All such reimbursements shall be made pursuant to a written reimbursement agreement ("RA"), which must be executed, by both the City and the developer prior to the start of any potentially reimbursable work by the developer.
A RA will be required where development occurs fronting a planned CFF project, or which requires CFF work off-site, and all such work shall be done by developer advances, subject to reimbursement pursuant to the RA. RA's in an amount less than that stated in Modesto Municipal Code §8-3.102 as it currently reads, or as it may be amended in the future, may be approved by the City Manager alone. The rate of reimbursement specified in an RA shall be the amount of the actual cost of the developer advanced project, subject to documentation and approval by City staff and not to exceed the City Engineer’s estimate of the cost of the project as stated in the RA.

With respect to timing of reimbursement, the CFF Administrator shall determine the fiscal year or years in which funds will become available in the appropriate CFF fund for reimbursement, and such years or dates shall be specified in the RA. Reimbursement shall actually be paid from the relevant CFF fund, pursuant to the provisions of any RA, and pursuant to the timing and rate provisions contained in the RA.

C. PAYMENT OF AGREEMENTS

Payment of a Reimbursement Agreement shall correspond to the CFF Update that the developer paid CFF, regardless of length of time. The corresponding inflation adjustment shall also apply to the payment of the agreement.

The CFF Administrator will be the initial contact for developers wishing to commence or process an RA in order to provide advances to CFF eligible projects.

7.0 BIDDING PROCESS, PREVAILING WAGES, and LICENSES

No permits shall be issued and no work shall commence until the developer and the CFF Administrator have executed a Reimbursement Agreement for the improvements to be constructed.

A. REIMBURSEMENT FOR WORK LESS THAN $300,000

In retaining construction contractors for work which is reimbursable by the City of Modesto and where a Reimbursement Agreement (or other similar agreement) with the City is less than $300,000.00, the developer shall abide by the following bid process:

1. Three Competitive Bids:

   The developer shall provide three (3) competitive bids. If the developer desires to award to a contractor other than the low bidder, a written request must be submitted to the City. The City may allow this if the developer can provide adequate justification.
2. Licensing:

The developer shall make sure that all contractors and subcontractors are licensed in accordance with §7000 through §7145 inclusive, of the California Business and Professions Code and maintain adequate insurance for any work or services performed. Developer, its contractors and subcontractors shall have and maintain a City business license during the term of any agreement.

3. Payment of Prevailing Wages:

In accordance with California Labor Code §1770, developer shall require the payment of prevailing wages based on the rates determined by the California Director of Industrial Relations. Unless otherwise directed by the City, developer’s construction schedule shall provide adequate time for completion of the work such that no holiday or overtime labor shall be required. The City shall not reimburse developer for any labor costs which exceed the normal and customary straight time rates as described in the City of Modesto General Provisions, §4.19, for the work performed unless the City authorizes the use of overtime or legal holiday time, in advance and in writing.

The developer shall maintain certified payroll records for all labor costs incurred on all City reimbursable work for a minimum period of four (4) years from the issuance of the Notice of Completion. Said payroll records shall be made available to the City or any state regulatory agency for review, audit, inspection or copying upon request.

4. Indemnification:

Developer shall indemnify and hold the City harmless for ensuring that the project is bid and constructed in accordance with City standards, and in compliance with all applicable local, state and federal laws. Developer shall also indemnify and hold the City harmless for any damages, claims or actions arising out of said construction activities in a form approved by the City Attorney and the Risk Manager.

5. Overtime, Change Orders:

The City shall retain the right to be in attendance to inspect all bids and change orders. Any extra work or charges during construction for which reimbursement is sought shall be justified and documented. Except in the case of an emergency, any such charges shall be approved by the City in advance and in writing. In the case of an emergency, any such charges may be authorized by the City if the developer provides adequate justification that an emergency existed and that the extra work or charges incurred were reasonable. Said justification shall be provided within a reasonable time after the emergency ends and prior to reimbursement for any such charges.
8.0 COMPLETION AND ACCEPTANCE OF WORK

The completion and acceptance of work for reimbursement will follow Chapter 4, Title 4 of the Modesto Municipal Code.
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-062

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2005-485
TO REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN
CLASSES TO ESTABLISH A SALARY RANGE FOR ENVIRONMENTAL
REVIEW SPECIALIST AT SALARY RANGE 132

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution
No. 2005-485, which approved the Class Range Table for General Non-Sworn Classes,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2005-485. Exhibit "A"
entitled "City of Modesto Class Range Table General Non-Sworn Classes Effective
September 27, 2005," attached to Resolution No. 2005-485, is hereby amended as shown
on the amended Exhibit "A" entitled "City of Modesto Class Range Table General Non-
Sworn Classes Effective January 24, 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 Environmental Review Specialist at range 132.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and
after January 24, 2006.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 24th day of January 2006, by Councilmember Hawn, who
moved its adoption, which motion being duly seconded by Councilmember Olsen, was
upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahm
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky, Interim City Attorney
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| 107   | Administrative Office Assistant II  
          Custodian II  
          Police Clerk I |
| 108   | |
| 109   | Customer Services Account Clerk I |
| 110   | Security Officer  
          Maintenance Worker I |
| 111   | Account Clerk  
          Administrative Office Assistant III  
          Customer Services Account Clerk II  
          Police Clerk II |
| 112   | |
| 113   | Administrative Technician  
          Computer Operator  
          Drafting and Graphics Technician |
| 114   | Animal Control Officer I  
          Electrical Technician I  
          Equipment Service Technician  
          Evidence and Property Specialist  
          Maintenance Worker II  
          Production Technician  
          Storeskeeper |

Exhibit "A"
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| 115   | Accounting Technician  
|       | Administrative Services Technician I  
|       | Code Enforcement Officer I  
|       | Community Service Officer I  
|       | Customer Services Account Clerk III  
|       | Senior Administrative Office Assistant  
|       | Wastewater Treatment Plant Attendant |
| 116   | Equipment Operator  
|       | Fire Prevention Technician I  
|       | Motor Sweeper Operator  
|       | Traffic Operations Technician  
|       | Used Oil Coordinator  
|       | Wastewater Collection System Operator  
|       | Water Distribution System Operator |
| 117   | Electrical Technician II |
| 118   | Customer Services Accounting Technician  
|       | Fleet Procurement Specialist  
|       | Parking Lot Maintenance Crewleader  
|       | Parks Crewleader  
|       | Recreation Coordinator  
|       | Senior Storeskeeper  
|       | Tree Trimmer |
| 119   | Administrative Services Technician II  
|       | Animal Control Officer II  
|       | Assistant Buyer  
|       | Building Maintenance Mechanic  
|       | Civil Engineering Technician I  
|       | Code Enforcement Officer II  
|       | Community Service Officer II  
|       | Maintenance Mechanic – Parks  
|       | Maintenance Mechanic – Pumps  
|       | Public Information Technician  
|       | Wastewater Treatment Plant Operator |

Exhibit "A"
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| 120   | Accountant I  
       | Assistant Electrician  
       | Equipment Mechanic  
       | Fire Prevention Technician II  
       | Laboratory Analyst I  
       | Senior Equipment Operator  
       | Traffic Painter Crewleader  
       | Water Resource Specialist I  
       | Welder/Fabricator |
| 121   | Wastewater Treatment Plant Relief Operator |
| 122   | Heavy Equipment Mechanic  
       | Cross Connection Specialist  
       | Fire Equipment Mechanic  
       | Law Enforcement Academy Recruit  
       | Tree Trimmer Crewleader  
       | Water Conservation Specialist |
| 123   | Airport Maintenance Crewleader  
       | Civil Engineering Technician II  
       | Identification Technician I  
       | Maintenance Mechanic Crewleader -- Parks |
| 124   | Community Development Program Specialist I  
       | Environmental Compliance Inspector I  
       | Equipment Mechanic Crewleader  
       | Laboratory Analyst II  
       | Operation and Maintenance Crewleader  
       | Planning Assistant  
       | Plant Mechanic  
       | Water Resource Specialist II |
| 125   | Crime Analyst |
| 126   | Building Inspector I  
       | Electrician  
       | Heavy Equipment Mechanic Crewleader  
       | Housing Financial Specialist  
<pre><code>   | Housing Rehabilitation Specialist I |
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| 127   | Civil Engineering Assistant  
Identification Technician II  
Senior Fire Equipment Mechanic |
| 128   | Community Development Program Specialist II  
Environmental Compliance Inspector II  
Instrument Repair Technician  
Senior Wastewater Treatment Plant Operator |
| 129   | Building Inspector II  
Construction Inspector  
Housing Rehabilitation Specialist II  
Project Coordinator |
| 130   | Senior Civil Engineering Assistant |
| 131   | Environmental Review Specialist  
Senior Environmental Compliance Inspector |
| 132   | Deputy Fire Marshal  
Plan Review Engineer  
Senior Building Inspector  
Senior Construction Inspector |

Exhibit "A"
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-063

A RESOLUTION AMENDING EXHIBIT “A” OF RESOLUTION NO. 2005-494
TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES

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

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2005-494, Exhibit “A”
entitled, “City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective October 4, 2005” attached to Resolution No. 2005-494 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 January 24, 2006”, which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit “A” amends the Class Range Table as follows:

1. Amends Transit Manager from Range 441 to 444

2. Amends Senior Community Development Program Specialist from Range 431 to 434

3. Amends Solid Waste Program Manager from Range 441 to 444 concurrent with changes in management oversight of compost operations

4. Deletes Events Supervisor I, Range 430

5. Deletes Events Supervisor II, Range 434

01/24/06/CMO/1 Ray/Item 25 1 2006-063
6. Deletes Purchasing Supervisor, Range 438
7. Establishes Purchasing Manager at Range 441 (new classification)
8. Establishes Supervising Accountant at Range 438 (new classification)
9. Establishes Fire Business Services Analyst at Range 438 (new classification)
10. Establishes Events Coordinator at Range 430 (new classification)
11. Establishes Events Supervisor at Range 434 (new classification)

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 24, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 24th day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Keating

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney
CITY OF MODESTO  
CLASS RANGE TABLE  
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
Effective January 24, 2006

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| 407   | Administrative Clerk II (Confidential)  
       | Administrative Office Assistant II (Confidential)  |
| 408   |       |
| 409   |       |
| 410   |       |
| 411   | Administrative Office Assistant III (Confidential)  
       | Police Clerk II (Confidential) |
| 412   |       |
| 413   | Administrative Technician (Confidential)  |
| 414   |       |
| 415   | Senior Administrative Office Assistant (Confidential)  
       | Secretary |
| 416   |       |
| 417   |       |
| 418   | Legal Secretary  
       | Systems Technician I |
| 419   | Public Information Technician (Confidential) |
| 420   | Accountant I (Confidential)  
       | Deputy City Clerk  
       | Employee Benefits Coordinator  
       | Executive Secretary (Represented)  
       | Legal Services Technician |
| 421   |       |

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  
         Integrated Waste Specialist  
         Management Analyst  
         Senior Personnel Analyst  
         Weed and Seed Program Coordinator |
| 436   | Electrical Supervisor  
         Senior Planner |
<p>| 437   | |</p>
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<th>RANGE</th>
<th>TITLE</th>
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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  
|       | Fire Marshal  
|       | 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 |
| 443   |  |
| 444   | Deputy Chief Building Official  
|       | Principal Planner |

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

Exhibit "A"
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-064

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION 2005-603
WHICH AMENDED THE CLASS RANGE TABLE FOR UNREPRESENTED
MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES EFFECTIVE
DECEMBER 27, 2005, TO ESTABLISH A SALARY RANGE FOR SENIOR
AUDITOR AT RANGE 2434 AND EQUAL OPPORTUNITY ANALYST AT
RANGE 2431 AND TO DELETE THE CLASSIFICATION OF ACCOUNTANT II
– CITY CLERK'S OFFICE AT RANGE 2428 FROM THE CLASS RANGE
TABLE

WHEREAS, the City Council desires to amend Exhibit “A” of Resolution No.
2005-603 which amended the Class Range Table for Unrepresented Management and
Confidential Employees including Charter Officers and Executives, effective December
27, 2005,

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

SECTION 1. AMENDMENT OF RESOLUTION NO.2005-603.

Exhibit "A" entitled "City of Modesto Class Range Table, Unrepresented
Management and Confidential Non-sworn Classes, Effective December 27, 2005,"
attached to Resolution No.2005-603, is hereby amended as shown on the amended
Exhibit "A" entitled, "City of Modesto Class Range Table, Unrepresented Management
and Confidential Non-sworn Classes, Effective January 24, 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 Senior Auditor at Range 2434 and Equal
Opportunity Analyst at Range 2431 and deletes the classification of Accountant II – City
Clerk’s Office from the Class Range Table.
SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 24, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Keating

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
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<tr>
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<td>Executive Secretary – Personnel and City Manager’s Offices</td>
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<td>2425</td>
<td>Executive Assistant Paralegal</td>
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<td>Deputy Director - Recreation and Neighborhoods</td>
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<td>2451</td>
<td>Assistant City Attorney</td>
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