MODESTO CITY COUNCIL
RESOLUTION NO. 2006-001

A RESOLUTION REAPPOINTING TAMMY SPILLERS TO THE BOARD OF BUILDING APPEALS

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

WHEREAS, the Economic Development Committee met on December 12, 2005, and recommends reappointment of TAMMY SPILLERS to the Board of Building Appeals.

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

SECTION 1. TAMMY SPILLERS is hereby reappointed to the Board of Building Appeals with a term expiration of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Board of Building Appeals, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-002

A RESOLUTION REAPPOINTING BART BARINGER, FRANK C. BOOTS, DAVID BORING AND TOM SLATER TO THE DOWNTOWN IMPROVEMENT DISTRICT ADVISORY BOARD

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

WHEREAS, the Economic Development Committee met on December 12, 2005, and recommends reappointment of BART BARINGER, FRANK C. BOOTS, DAVID BORING and TOM SLATER to the Downtown Improvement District Advisory Board.

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

SECTION 1. BART BARINGER, FRANK C. BOOTS, DAVID BORING and TOM SLATER are hereby reappointed to the Downtown Improvement District Advisory Board with term expirations of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of Downtown Improvement District Advisory Board, and as Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney

ATTEST: Jean Zahr

City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-003

A RESOLUTION AMENDING THE
FISCAL YEAR 2005-2006 ANNUAL BUDGET

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

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

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to
take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the
City of Modesto held on the 3rd 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 votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr

JEAN ZAHR City Clerk

APPROVED AS TO FORM:

By: Richard Rudnanski

INTERIM CITY ATTORNEY
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Glen Carrington
Telephone No.:  ____________________________
Department:  ____________________________
Fund Title:  ____________________________

Council Action Date: ____________________________
Resolution Number: BT
FY: 05-06
Transfer No. ____________________________

<table>
<thead>
<tr>
<th>Fund-Agcy-Org-Object</th>
<th>Appropriation Unit</th>
<th>Current Budget</th>
<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
<th>Description of Object</th>
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| **APPROPRIATIONS** | | | | | |
| FROM 0100-190-1930-5763 | | $124,012 | ($100,000) | $24,012 | |
| TO 1300-190-M168-6040 | | $1,671,430 | | $100,000 | $1,771,430 |

**COMMENTS/JUSTIFICATION**
On 11/1/2005, Council approved the purchase of a tractor for $30,000 to continue construction progress at the Training site. The CIP was reduced by $160,000 and $30,000 was used for the purchase of the tractor and the difference established a PD Maintenance account. PD has determined that $100,000 can be restored to the CIP to fund various projects at the Training Center.

**AUTHORIZATION (check if required) SIGNATURE DATE**

| DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level) | | |
| FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval) | | |
| CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services) | | |

Budget Office Form (Oct 2001) gh
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Gail Clement
Telephone No.: 15538
Department: Public Works
Fund Title: Developer Fund
Council Action Date: 1/3/06
Resolution Number: 
FY: 05-06
Transfer No. 

<table>
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<tr>
<th>Fund-Agcy-Org-Object</th>
<th>Appr Unit</th>
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<td>$20,000</td>
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<td>DEVELOPER CONTRIBUTION</td>
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APPROPRIATIONS

FROM

TO
FY-6180-430-W708-6010 W436 $52,975 $30,000 $82,975 GALAS WATER CAPACITY STUDY

COMMENTS/JUSTIFICATION

This adjustment is to move funds paid by the developer, Modesto Rancho Encantado (a div of Del Valle Capital Corp.), for work to be done for a specific project: Galas Development Unit 2 Hydraulic Impacts Study (3rd Water Capacity Study).

AMEND THE FY06 CAPITAL IMPROVEMENT PROGRAM BUDGET

<table>
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<tr>
<th>AUTHORIZATION (check if required)</th>
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<tr>
<td>ADMIN SVC'S OFFICER/ADMIN ANALYST II</td>
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<td>DEPUTY DIRECTOR (Public Works)</td>
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<td>Authorized up to threshold of $50k w/o Director Approval</td>
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<td>CFF/CFD ADMINISTRATOR</td>
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<td>CITY MANAGER</td>
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<td>(Transfers between Budgeted Activities of Departments within Funds)</td>
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<td>(Salary lines movement in or out)</td>
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</tbody>
</table>
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tracie Madison
Telephone No.: 1-5855
Department: Finance/City Manager
Council Action Date: December 15th
Resolution Number: ________________
FY: 05-06
Transfer No.: ________________

Fund Title: 0700 Streets, Traffic and Forestry

<table>
<thead>
<tr>
<th>Fund-Agency-Org-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Description of Object</th>
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</table>

APPROPRIATIONS

FROM

TO

TRANSFERS BETWEEN FUNDS

FROM

| 06-0100-700-4712-7070  | 0100G     | $1,558,731     | ($774,442)       | $784,289       | Transfer to Community Forestry |
| 06-0100-700-4724-7070  | 0100G     | $912,733       | ($587,733)       | $325,000       | Transfer to Curbs, Gutters and Sidewalks |
| 06-0100-700-4612-7070  | 0100G     | $746,831       | $746,831         | $746,831       | Transfer to Street Maintenance |
| 06-0100-700-4380-7070  | 0100G     | $615,344       | $615,344         | $615,344       | Transfer to Annual Slurry |

TO

| 06-0700-700-4712-9010  | 0100G     | $1,558,731     | ($938,529)       | $620,202       | Transfer to Community Forestry |
| 06-0700-700-4724-9010  | 0100G     | $912,733       | ($587,733)       | $325,000       | Transfer to Curbs, Gutters and Sidewalks |
| 06-0700-700-4612-9010  | 0100G     | $746,831       | $746,831         | $746,831       | Transfer to Street Maintenance |
| 06-0700-700-4380-9010  | 0100G     | $615,344       | $615,344         | $615,344       | Transfer to Annual Slurry |

$2,471,464

COMMENTS/JUSTIFICATION

To ensure compliance with the Maintenance of Effort on the Traffic Congestion Relief Funds regarding the Prop 42 funding the City of Modesto receives from the State of California, it is necessary that the General Fund transfer going to the Streets, Traffic and Forestry fund 0700 be reallocated. As part of the agreement governing the funds the state requires the City maintain a certain level of General Fund funding that is expanded on eligible expenditures outlined in the Guidelines Relating to Traffic Congestion Relief Funds. To ensure compliance it is necessary to reduce the General Fund transfer to Community Forestry and Curbs and increase the transfer to Streets Maintenance and Annual Slurry. The total amount of the transfer remains the same.

AUTHORIZED (check if required) SIGNATURE DATE

ADMIN SVCS OFF/ADMIN ANALYST II

DEPUTY DIRECTOR (Public Works Dept)

DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT
(Allocation of Dept Appr to Line-Item Level)

FINANCE DIRECTOR
(Transfers to/from Internal Service Charges)
(All items requiring City Manager's Approval)

CFF/CFD ADMINISTRATOR
(When necessary for CIP)

CITY MANAGER
(Transfers between Budgeted Activities of Departments within Funds)
(Appropriation of Unbudgeted Dept Revenues)
(Transfers into Personnel Services)

PW: AT w/interfund Template 7/28/2005
# REQUEST FOR BUDGET ADJUSTMENT

**Contact Person:** Janice Stewart  
**Telephone No.:** 577-5466  
**Department:** Personnel  
**Fund Title:** General Fund 0100

**DEPARTMENTAL REVENUES**

<table>
<thead>
<tr>
<th>Fund-Agency-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
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**APPROPRIATIONS**

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<th>FROM</th>
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<th>Appr Unit</th>
<th>Increase/Decrease</th>
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<th>Description of Object</th>
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<tr>
<td>0100-800-8000-8003</td>
<td>0100R</td>
<td>($6,330)</td>
<td>($6,330)</td>
<td>General Fund Reserve</td>
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<td>TO</td>
<td>0300C</td>
<td>$89,827</td>
<td>$6,330</td>
<td>$96,157</td>
<td>Services, Prof. &amp; Other</td>
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**COMMENTS/JUSTIFICATION**

The City Council approved $25,000 in funding for Citywide, mandatory harassment training for all supervisors. The actual amount of the training contract exceeded this amount by $6,330.

**AUTHORIZATION (check if required)**

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<td>CITY MANAGER</td>
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(Allocation of Dept Appr to Line-Item Level)  
(Transfers to/from Internal Service Charges)  
(All items requiring City Manager's Approval)  
(Transfers between Budgeted Activities of Departments within Funds)  
(Appropriation of Unbudgeted Dept Revenues)  
(Salary lines movement in or out)
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Bob Quintella
Telephone No.: 577-6444
Department: Parks, Recreation & Neighborhoods
Fund Title: General Fund/Golf Fund

Council Action Date: Resolution Number: 

FY: 05-06
Transfer No. 

<table>
<thead>
<tr>
<th>Fund-Agency-Object</th>
<th>Appr. Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Description of Object</th>
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</table>

**APPROPRIATIONS**

FROM

| 0100-800-8000-8003 | 0100R | ($38,000) | ($38,000) | General Fund Reserve |

TO

| 6600-330-P391-6040 | P391 | $38,000 | $38,000 | Golf Primary CIP |

**TRANSFERS**

FROM

| 0100-700-P391-766Q | P391G | $38,000 | $38,000 | transfer to the Golf CIP Fund |

TO

| 6600-330-P391-9660 | | $38,000 | $38,000 | transfer from the General Fund |

**COMMENTS/JUSTIFICATION**

At the November 22, 2005 Council meeting, the City Council approved an increase of the $50,000 supplemental budget request to $88,000 (an increase of $38,000) for funding of the City Golf Course primary CIP. Since Council wanted to restore the total allocation of $100,000 for golf improvements that was revoked earlier in the calendar year and $12,000 was previously approved for a Muni roof repair, the amount of $88,000 was approved.

**AUTHORIZATION**

(Allocation of Dept Appr to Line-Item Level)

<table>
<thead>
<tr>
<th>Department Director or Authorized Assistant</th>
<th>Signature</th>
<th>Date</th>
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<td>Quintella</td>
<td>12/5/05</td>
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</table>

(Transfers to/from Internal Service Charges)

(All items requiring City Manager's Approval)

DEC - 5 2005
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Amy Gedney  
Telephone No.: Ext. 15501  
Department: Office of the City Manager  
Council Action Date: 12-6-05  
Resolution Number: N/A  
FY: 05-06  
Transfer No.: __________

Fund Title:  
CFF - Streets (Improvements/ROW)  
CFF - Air Quality (Improvements/ROW)

<table>
<thead>
<tr>
<th>Fund-Agnt-Obj-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
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**DEPARTMENTAL REVENUES**

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TOTAL

| APPROPRIATIONS | | | | | |
| FROM | | | | | |
| 1410-800-8000-8003 | | | | | |
| 1430-800-8000-8003 | | | | | |
| TOTAL | | | | | |

| TO | | | | | |
| 1410-430-H476-6030 | | | | | |
| 1430-430-6030 | | | | | |
| H402 | | | | | |
| H402 | | | | | |
| TOTAL | | | | | |

TOTAL: $1,326,367

**COMMENTS/JUSTIFICATION**

Adjust budget for William Lyon Homes CFF ROW reimbursement (submitted to City Council on 12/6/05)  
No General Fund impact.  
* 1410: appropriation from reserves  
* 1430: create a new CIP and appropriate $132,823 from reserves

**AUTHORIZATION (check if required)**

<table>
<thead>
<tr>
<th>DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)</th>
<th>SIGNATURE</th>
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<td>12/6/05</td>
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<tr>
<th>FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)</th>
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<th>CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)</th>
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MODESTO CITY COUNCIL
RESOLUTION NO. 2006-004

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACTS FOR THE PURCHASE OF REPLACEMENT PATROL URBAN RIFLES, SWAT RIFLES AND RIFLE ACCESSORIES FOR THE POLICE DEPARTMENT, CATEGORIZED IN TWO (2) EQUIPMENT GROUPS TO THE FOLLOWING COMPANIES, GROUP 1 – TACTICAL WEAPONS USA, APTOS, CA, FOR $66,358 AND GROUP 2 – ADAMSON POLICE PRODUCTS, HAYWARD, CA, FOR $5,264, FOR A TOTAL PRICE OF $71,622

WHEREAS, the rifles currently used in the Urban Rifle Program and SWAT are weapons that were obtained from the military give away program (with the exception of five (5) SWAT M16 rifles that were purchased in the late 1970’s), and

WHEREAS, the department armory conducted safety inspections on all of the urban and SWAT rifles and found that fifty-percent (50%) failed the safety inspections, and

WHEREAS, the rifles that did pass inspection passed by a marginal amount indicating that they most likely will not pass at the next safety inspection (once several more rounds are fired through them), and

WHEREAS, the reason for the extremely high rate of failure is the age of the weapons and the wear from continual use, and

WHEREAS, after discussing the situation with the department armory, weapons experts and users, there was universal agreement that the most prudent course of action would be to replace the aging and failing weapons, rather than attempting to repair them, and

WHEREAS, although repair may be less expensive in the short term, it is not the most cost effective means in the long term, and
WHEREAS, this has been experienced over the years with the SWAT rifles, and

WHEREAS, the current Police Department weapons could have been replaced several times for the money spent on repairs over the years, and

WHEREAS, the full replacement package is recommended as a prudent fiscal response to the weapon failure situation, and

WHEREAS, there is clearly a demonstrated need for these weapons in modern law enforcement, and

WHEREAS, taking a posture of lower cost, short-term repairs, still leaves the Police Department with 25-35 year old weapons prone to failure and more expensive repairs in the future, and

WHEREAS, on September 27, 2005, by Resolution No. 2005-476 Council approved authorizing the Purchasing Supervisor to formally solicit bids for the purchase of patrol urban rifles, SWAT rifles and rifle accessories for the Police Department, and

WHEREAS, the Purchasing Division solicited Request for Bid (RFB) No. 0506-07 for the purchase of Colt brand (requested by the Police Department), patrol urban rifles, SWAT rifles and rifle accessories to seven (7) companies, (there are no wholesale distributors of Colt brand rifles in Modesto), posted the bid on the City’s web site, and formally advertised as required by law, and

WHEREAS, all seven (7) companies chose to respond, and

WHEREAS, per RFB specification language bidders are required to furnish two (2) signed original bid documents and that failure to do so will result in disqualification, and

WHEREAS, one (1) bidder submitted only one signed original bid document, and
WHEREAS, based on not submitting the required number of signed original bid
documents their bid was deemed to be non-responsive and could not be selected for
consideration, and

WHEREAS, based on being the lowest responsive and responsible bidders, City
staff recommends the award of Bid No. 0506-07 and contracts for the purchase of
replacement patrol rifles, SWAT rifles and rifle accessories for the Police Department,
categorized in two (2) equipment groups to the following companies, Group 1 – Tactical
Weapons USA, Aptos, CA, for $66,358 and Group 2 – Adamson Police Products,
Hayward, CA, for $5,264, for a total price of $71,622,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby awards Bid No. 0506-07 and contracts for the purchase of replacement
patrol rifles, SWAT rifles and rifle accessories for the Police Department, categorized in
two (2) equipment groups to the following companies, Group 1 – Tactical Weapons
USA, Aptos, CA, for $66,358 and Group 2 – Adamson Police Products, Hayward, CA,
for $5,264, for a total price of $71,622.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby
authorized to issue purchase orders for the purchase of replacement patrol rifles, SWAT
rifles and rifle accessories for the Police Department, categorized in two (2) equipment
groups to the following companies Group 1 – Tactical Weapons USA, Aptos, CA, for
$66,358 and Group 2 – Adamson Police Products, Hayward, CA, for $5,264, for a total
price of $71,622.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-005

A RESOLUTION AMENDING THE FISCAL YEAR 2005-06 BUDGET TO PROVIDE LEGAL SERVICES TO THE CITY OF MODESTO

WHEREAS, the City Council has approved a contract in the amount of $210,000 with Meyers, Nave, Riback, Silver & Wilson to provide legal services to the City, and

WHEREAS, $210,000 needs to be appropriated from the General Fund Reserve Acct #0100-800-8000-8003 to the City Attorney's Account #0100-040-0401-0235 for these services,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves the funding for the legal services contract as set forth in Attachment A, and directs that the necessary budgetary adjustments be made for FY2005-06.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd of January 2006, by Councilmember Hawn, moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
December 13, 2005

Mr. George Britton, City Manager
City of Modesto
1010 Tenth Street
Modesto, CA  95353

Re: Engagement of Legal Services/City of Modesto

Dear Mr. Britton:

Thank you and the Council for retaining Meyers, Nave, Riback, Silver & Wilson to represent the City of Modesto. We appreciate the opportunity to serve as your lawyers and look forward to working with you.

This letter sets forth our agreement concerning the legal services we will provide and our fee arrangements for those services. Please read this entire agreement before signing and returning it to us.

1. **Scope of Engagement.** We will provide the legal services reasonably required to represent and advise you in connection with Interim City Attorney services. Our work is limited to such services. Richard R. Rudnansky has been selected to serve as the designated Interim City Attorney. We will also provide legal services for additional matters that you request of us, provided we agree to perform that additional work. A letter confirming such additional work shall bring such work within the scope of this agreement.

2. **Fees and Personnel.** As compensation for our services, our fees will be based on our current standard billing rate for the personnel performing services under this agreement at the time such services are rendered; or at the current rate of the client's insurance carrier, if the carrier is providing for the cost of the defense. Our standard billing rates for attorneys and paralegals are attached as Attachment 1. I will be the principal in charge of representing your interests. This agreement retains the legal services of our law firm in addition to the services to be provided by Mr. Rudnansky. Hourly rates are subject to reasonable change, usually at the beginning of each year.

3. **Disbursements and Expenses.** In addition to hourly fees, we may incur out-of-pocket expenses related to your representation. Our Statement of Fee and Billing Information, which sets forth the details of our disbursement and expense policy, is attached Attachment 2.

4. **Billing and Payment Responsibilities.** We will send monthly statements which are due within 30 days of receipt. If you have any questions about an invoice, please promptly telephone or write me so that we may discuss these matters. Our Statement of Fee and Billing Information sets forth the details of our fee and billing policy.

5. **Termination of Services.** The City may terminate our services at any time by written notice. After receiving such notice, we will cease providing services. We will cooperate with you in the orderly transfer of all related files and records to your new counsel.
We may terminate our services at any time with your consent or for good cause. Good cause exists if (a) any statement is not paid within 60 days of its date; (b) you fail to meet any other obligation under this agreement and continue in that failure for 15 days after we send written notice to you; (c) you have misrepresented or failed to disclose material facts to us, refused to cooperate with us, refused to follow our advice on a material matter, or otherwise made our representation unreasonably difficult; or (d) any other circumstance exists in which ethical rules of the legal profession mandate or permit termination, including situations where a conflict of interest arises. If we terminate our services, you agree to execute a substitution of attorneys promptly and otherwise cooperate in effecting that termination.

Termination of our services, whether by the City or by us, will not relieve the obligation to pay for services rendered and costs incurred before our services formally ceased.

6. Insurance. During the term of this engagement, this law firm shall take out and maintain general liability and property damage insurance in the amount of $1,000,000; professional errors and omissions insurance, in an amount of $2,000,000 per occurrence; and $4,000,000 aggregate, which insurance may not be canceled or reduced in required limits of liability unless at least ten days advance written notice be given to you.

7. No Guarantee of Outcome. Any comments made by us about the potential outcome of this matter are expressions of opinion only and are not guarantees or promises about any outcome or results.

8. Entire Agreement; Full Understanding; Modifications in Writing. This letter contains our entire agreement about our representation. Any modifications or additions to this letter agreement must be made in writing.

9. Joint Representation. Our firm maintains of counsel agreements with certain legal specialists. Because these individuals are deemed independent contractors under the applicable provisions of the tax laws and not employees of the firm, it is necessary that you consent to dual representation by the firm and the specialist in the event the matter which you have engaged us to handle requires the use of that specialist. This arrangement has no effect whatsoever on the cost of your legal services, rather it is an ethical requirement that we disclose this fact and that you consent. You are consenting by signing this letter.

10. Conflicts. Our firm represents many public agencies in California. Since 1986, we have represented over five hundred public clients, including numerous cities, redevelopment agencies, special districts, counties and other public entities, and we are accepting new engagements all the time. It is virtually inevitable that we will work on projects from other clients having different governmental or political objectives, beliefs or views from the City of Modesto.

In view of the fact that the City of Modesto is a city, this letter confirms that the services which we are rendering to you are limited in scope and for the benefit of the City of Modesto only. Meyers Nave performs a variety of professional services for its clients and it is possible that we will represent public agency clients which are adverse to you on other matters. To avoid potential problems, you agree that you expressly
waive any actual or potential conflicts that might arise from such representation, that you will not attempt to disqualify Meyers Nave on such matters, and that our firm is free to represent its clients on such matters.

By signing this letter and returning it to us, you acknowledge that we have discussed these matters and you confirm that the City of Modesto does not object to our representation of clients on matters where their legal, governmental or political objectives and/or positions may be different from or adverse to those of the City of Modesto, and that the City of Modesto waives any conflict of interests with respect to our representation of such clients with differing legal, governmental or political interests. You further confirm that the City of Modesto will not assert any conflict of interest concerning such representation or attempt to disqualify this firm from representing such clients notwithstanding such adversity. While you would certainly be free to terminate our relationship, you agree that this firm nonetheless would be free to represent such clients even on those matters which you consider adverse, and that you waive any conflict of interest in connection therewith.

Needless to say, these acknowledgments do not permit our firm to represent another client in opposing the specific project for which you engage us without your specific written consent.

You may wish, and we encourage you, to consult legal counsel regarding the effect of this conflict waiver.

We would request that you review this letter carefully and, if it is consistent with your understanding of our respective responsibilities, please so indicate by returning a signed copy of this letter to me at your earliest convenience. Enclosed is an additional copy of this letter which you should retain for your records. Again, we thank you for allowing us the opportunity to serve as your lawyers.

Very truly yours,

MEYERS, NAVE, RIBACK, SILVER & WILSON

[Signature]
Richard R. Rudnansky

RRR/lh
#796562
c: Billing Department

These terms are accepted and agreed to as of the date of this letter.

By: George Britton, City Manager, City of Modesto
ATTEST:
By: Jean Zahr, City Clerk
## ATTACHMENT 1

**MEYERS, NAVE, RIBACK, SILVER & WILSON**

**RATE SHEET**

### General Advice Services

<table>
<thead>
<tr>
<th>Role</th>
<th>Rate</th>
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<tbody>
<tr>
<td>Attorneys</td>
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<tr>
<td>Paralegal</td>
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<tr>
<td>Legal Assistant</td>
<td>$100</td>
</tr>
<tr>
<td>Law Clerk</td>
<td>$95</td>
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</tbody>
</table>

### Litigation, Labor/Personnel, Redevelopment, Real Estate, Complex Environmental, Land Use & Development Matters, Telecommunications, Municipal Finance/Tax*

<table>
<thead>
<tr>
<th>Role</th>
<th>Rate</th>
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<tbody>
<tr>
<td>Attorneys</td>
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<tr>
<td>Paralegal</td>
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<tr>
<td>Legal Assistant</td>
<td>$100</td>
</tr>
<tr>
<td>Law Clerk</td>
<td>$95</td>
</tr>
</tbody>
</table>

*Cost recovery matters will be billed in accordance with the firm's current rate schedule at the designated rate for the attorney(s) assigned to the matter.*

Hourly rates set forth above are reviewed and amended annually in January of each year.
ATTACHMENT 2

MEYERS, NAVE, RIBACK, SILVER & WILSON
STATEMENT OF FEE AND BILLING INFORMATION

The following is a general description of our fee and billing policies. These general policies may be modified by the specific engagement letter or agreement to which this summary is attached.

**Professional Fees.** Our fees for professional services are based on the fair value of the services rendered. To help us determine the value of our services, our attorneys and paralegals maintain time records for each client and matter. Our attorneys and paralegals are assigned hourly rates which are based on years of experience, specialization, training and level of professional attainment. We adjust our rates periodically (usually at the beginning of each year) to take into account inflation and the increased experience of our professional personnel.

Before undertaking a particular assignment, we will, if requested, provide you with a fee estimate to the extent possible. Estimates are not possible for some matters, however, and cannot be relied on in many others because the scope of our work will not be clear at the outset. When a fee estimate is given, it is only an estimate; it is not a maximum or minimum fee quotation. The actual fee may be more or less than the quoted estimate.

**Retainer.** Our normal practice is to require a retainer to cover a portion of the anticipated attorneys' fees and costs. Any retainer will be placed in the firm's trust account. At the conclusion of our services, we will return to our client any unapplied retainer, after deducting payment for charges billed or to-be-billed for services and any remaining out-of-pocket expenses.

**Billing And Payment Procedures.** Unless other arrangements are made at the time of the engagement, invoices will be sent monthly. Invoices for outside services exceeding $100 may be billed separately. Occasionally, however, we may defer billing for a given month or months if the accrued fees and costs do not warrant current billing or if other circumstances would make it appropriate to defer billing.

Our invoices contain a brief narrative description of the work performed; if requested, the initials of the attorney who performed the work will appear on the statement. The invoice will include a line item reflecting in-house administrative costs. The firm's in-house administrative costs include, but are not limited to, duplicating, facsimile charges, telephone charges, E-mail, postage, mileage and other administrative expenses. We have determined that the most effective method of accounting for these administrative costs is to charge a flat 8% of the professional fees incurred.

The firm will be reimbursed for all outside services incurred in the course of providing legal services to our client(s). Outside services will include, but are not limited to, all third-party expenses, delivery charges, travel expenses, outside research services, filing fees, expert witness and expert consultant fees. To defray the firm's costs for administering these services, there will be an additional cost advance charge of 2% for all outside services of $100 or more.
If you have any questions regarding an invoice, the Finance Director or Executive Director are available to answer your questions. For any unresolved matters, the Bar Association has an arbitration mechanism that can be used to resolve such matters.

**Late Payments.** Statements for services are payable upon presentation and, in all events, within thirty (30) days after receipt. Occasionally a client has difficulty in making timely payments. To avoid burdening those clients who pay their statements promptly with the added costs we incur as a result of late payments, a late charge will be assessed on statements not paid within thirty (30) days. The maximum monthly late payment charge will be 1.5% per month. In the unlikely event we are required to institute legal proceedings to collect fees and costs, the prevailing party will be entitled to reasonable attorneys' fees and other costs of collection.
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-006

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

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

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

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

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

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

Weed and Seed Program Coordinator

The job specification for this classification is being created to serve as a liaison to the community to support various areas of crime prevention and to manage the Weed and Seed Program. The job specification for the classification of Weed and Seed Program Coordinator as shown on the attached Exhibit “A,” which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.
SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 3, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 3rd 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

JEAN ZAHR City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney
WEED AND SEED PROGRAM COORDINATOR

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

DEFINITION

To perform administrative management of the Weed and Seed Program including research, statistical and other technical work in complex areas involving grant funding, serving as a liaison to the community and supporting the Police Department in various areas of crime prevention.

SUPERVISION RECEIVED AND EXERCISED

Receives general direction from an assigned Police Captain, the Assistant Police Chief and Police Chief.

May exercise direct supervision over professional, technical and clerical staff.

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

Essential Functions:
Plans, directs, and coordinates activities of the Weed and Seed Program and related neighborhood programs to ensure that objectives are accomplished according to federal, state and local regulations.

Prepares studies and reports related to resource allocation, revenue projections, funding source development, utilization of services and/or the review and administration of the Weed and Seed Program and related neighborhood programs.

Coordinates the preparation of status reports and conducts follow-up studies to review the impact of policy decisions, program development and revenue utilization; and makes related recommendations.

Reviews and analyzes crime patterns and statistics for designated areas.

Assists with grant applications and seeks funding opportunities for programs and services to serve the designated area.

Exhibit "A"
Essential Functions: (Continued)

Provides administrative expertise on funding sources, contract development and grant application requirements.

Reviews, analyzes and tracks applicable State and Federal legislation; acts as legislative liaison to the police department; makes recommendations on departmental position on applicable topics.

Participates in recommending the appointment of personnel; provides or coordinates staff training; works with employees to improve performance, implements discipline procedures as necessary.

Acts as a liaison and provides technical assistance to community organizations in the Weed and Seed target areas to assist in finding resources and solutions for a variety of social issues.

Answers questions and provides information to citizens, outside agencies and City staff.

Prepares written and multimedia presentations and appears before the City Council, boards, commissions and other civic organizations representing the Police Department.

Attends various meetings and makes presentations to City Council, boards, and community groups on topics related to assigned area.

Reviews administrative practices and makes recommendations for improvements.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Funding sources and associated regulations and requirements related to grant administration.

Structure of City government and the legislative process.
Knowledge of: (Continued)

Principles and practices of organization, administration and personnel management.

Principles and practices of financial record keeping and reporting including budget preparation and administration.

Technical report writing procedures.

Basic business computer operations including the use of word processing software and other common desktop applications.

Ability to:

Formulate goals and objectives, prepare and evaluate research data.

Analyze problems; identify alternative solutions, project consequence and implement recommendations in support of goals.

Build and maintain positive relationships and respond appropriately to citizens, community organizations, and city staff on various issues and concerns.

Facilitate meetings, and negotiate solutions to community issues.

Communicate clearly and concisely, both orally and in writing.

Collect, organize and evaluate data and to develop logical conclusions.

Prioritize work assignments and meet deadlines.

Estimate and project revenues and expenditures.

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:

Exhibit "A"
Experience:

Three years of related program management experience involving the administration of grant funds for a public agency or non-profit organization, including supervisory responsibility.

Training:

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

WORKING CONDITIONS:

Environmental Conditions:

Office environment, occasionally travel from site to site.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time; traveling to and from sites and attending meetings.
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-007

A RESOLUTION AMENDING EXHIBIT “A” OF RESOLUTION NO. 2005-494 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO ADD WEED AND SEED PROGRAM COORDINATOR AT RANGE 435

WHEREAS, the City Council desires to amend Exhibit “A” of Resolution No. 2005-494,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2005-494. Resolution No. 2005-494 effective October 4, 2005, is hereby amended as shown on the amended Exhibit “A” entitled “City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes effective January 3, 2006”, which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit “A” adds the classification of Weed and Seed Program Coordinator at Salary Range 435 ($4,799 - $5,847 per month).

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 3, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 3rd 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

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 3, 2006

<table>
<thead>
<tr>
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<th>TITLE</th>
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<tbody>
<tr>
<td>403</td>
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<tr>
<td>407</td>
<td>Administrative Clerk II (Confidential)</td>
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<tr>
<td></td>
<td>Administrative Office Assistant II (Confidential)</td>
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<tr>
<td>408</td>
<td></td>
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<td>409</td>
<td></td>
</tr>
<tr>
<td>410</td>
<td></td>
</tr>
<tr>
<td>411</td>
<td>Administrative Office Assistant III (Confidential)</td>
</tr>
<tr>
<td></td>
<td>Police Clerk II (Confidential)</td>
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<tr>
<td>412</td>
<td></td>
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<td>413</td>
<td>Administrative Technician (Confidential)</td>
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<td>414</td>
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<tr>
<td>415</td>
<td>Senior Administrative Office Assistant (Confidential)</td>
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<tr>
<td></td>
<td>Secretary</td>
</tr>
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<tr>
<td>418</td>
<td>Legal Secretary</td>
</tr>
<tr>
<td></td>
<td>Systems Technician I</td>
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<tr>
<td>419</td>
<td>Public Information Technician (Confidential)</td>
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<td>420</td>
<td>Accountant I (Confidential)</td>
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<tr>
<td></td>
<td>Deputy City Clerk</td>
</tr>
<tr>
<td></td>
<td>Employee Benefits Coordinator</td>
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<tr>
<td></td>
<td>Executive Secretary (Represented)</td>
</tr>
<tr>
<td></td>
<td>Legal Services Technician</td>
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</table>

Exhibit "A"
<table>
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<tr>
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</table>
| 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   | 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 Supervisor I  
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  
Senior Community Development Program Specialist |

Exhibit "A"
<table>
<thead>
<tr>
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<th>TITLE</th>
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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  
Events Supervisor II  
Environmental Laboratory Supervisor  
Operations Supervisor  
Regulatory Compliance Supervisor  
SCADA Supervisor  
Senior Housing Rehabilitation Specialist  
Software Analyst II  
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 |
| 437   | |

Exhibit "A"
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
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</table>
| 438   | Budget Officer  
     | Housing Program Supervisor  
     | Land Surveyor  
     | Property Agent  
     | Purchasing Supervisor  
     | 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  
     | Recreation Superintendent  
     | Solid Waste Program Manager  
     | Streets Superintendent  
     | Transit Manager  
     | 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   | Deputy Chief Building Official |
| 444   | Deputy Chief Building Official  
     | Principal Planner |

Exhibit "A"
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<tr>
<td>445</td>
<td>Accounting Division Manager</td>
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<tr>
<td>446</td>
<td>Water Quality Control Superintendent Information Technology Unit Manager</td>
</tr>
<tr>
<td>447</td>
<td>Business Development Division Manager Chief Building Official Planning Division Manager Senior Civil Engineer Traffic Engineer</td>
</tr>
<tr>
<td>448</td>
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<td>449</td>
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<td>453</td>
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<td>455</td>
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Exhibit "A"
A RESOLUTION APPROVING AN AGREEMENT WITH MOTOR COACH INDUSTRIES, INC (MCI) FOR THE PURCHASE OF ONE (1) 40-FOOT, 47-PASSENGER COMMUTER BUS AT A COST OF $466,253.50 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEES, TO EXECUTE THE AGREEMENT

WHEREAS, the City desires to purchase one (1) 40-foot, 47-passenger commuter bus to improve service on the Modesto Area Express BART Commuter Express route, and

WHEREAS, the City is utilizing Lowcountry Regional Transit Authority’s competitive bid process to purchase said bus from Motor Coach Industries, Inc. (MCI), and

WHEREAS, MCI provided the City with a quote based on the bid price MCI submitted to the Lowcountry Regional Transit Authority, and

WHEREAS, MCI has quoted the following total price F.O.B. Modesto, including state and local sales taxes: Four Hundred Sixty-Six Thousand, Two Hundred Fifty-Three and Fifty One-hundredths Dollars ($466,253.50), and

WHEREAS, by an agenda report to the City Council dated December 14, 2005 from the Acting Public Works Director, City staff recommended to the Council that said bus be purchased from MCI at the quoted price,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the purchase of one (1) 40-foot, 47-passenger commuter bus from MCI at a cost of $466,253.50 is hereby approved.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute said purchase agreement.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 3\textsuperscript{rd} 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:

\textbf{AYES:} Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,
Mayor Ridenour

\textbf{NOES:} Councilmembers: None

\textbf{ABSENT:} Councilmembers: None

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

\textbf{APPROVED AS TO FORM:}

By: \underline{Richard Rudnansky}, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-009

A RESOLUTION APPROVING THE CONTINUATION OF COMPOSTING OPERATIONS WITH DISCOUNTED TIP FEES OF $6.50/TON FOR PRUNED REFUSE AND FORESTRY MATERIALS, BEGINNING FISCAL YEAR 2006/07

WHEREAS, in 1995 the City of Modesto began developing a compost facility to take waste materials from several different sources and divert them from disposal, and

WHEREAS, the Compost Facility (“Facility”) began operation in 1997, and

WHEREAS, the main materials targeted for diversion by the Facility were residential green waste, pruned refuse, forestry materials, and biosolids from wastewater treatment processes, and

WHEREAS, the primary goals of the Facility were to meet AB 939 waste diversion mandates, thus avoiding fines of up to $10,000 per day, and to reuse the City’s wastewater biosolids, and

WHEREAS, compost facilities are regulated by several state agencies, and

WHEREAS, the primary permit is issued by the California Integrated Waste Management Board, and

WHEREAS, the regional offices of the State Water Resources Board and the State Air Resources Board also issue permits to compost facilities, and

WHEREAS, operations that are permitted to process biosolids must also meet the requirements of the Federal 40CFR Part 503 regulations, and

WHEREAS, the state considers the City’s compost facility to be a large-scale operation, and
WHEREAS, the lengthy permitting process that new facilities face, and the fact that the City’s site can take many types of materials, including biosolids, make the City’s facility a valuable asset, and

WHEREAS, the Facility was initially funded out of the Sewer Fund because it was originally set up to take biosolids, and

WHEREAS, biosolids compost markets have been limited in recent years and the Facility only processes small quantities for City applications, and

WHEREAS, in July, 2004, City Council adopted Resolution 2004-367 separating the Facility from the Sewer Fund and establishing Compost Operations as a separate Enterprise Fund due to the reduced tie between the Facility and the Sewer Fund, and

WHEREAS, as part of the action to set up the separate Compost Enterprise, the City Council authorized the facility to start charging an $18.35/ton tip fee for green waste, pruned refuse, and forestry materials in Fiscal Year 2004/05, and

WHEREAS, with the tipping fee set at $18.35/ton, the Compost Facility is currently operating in a “revenue positive” mode, and

WHEREAS, the tip fees for green waste became part of the monthly garbage rates and the Sewer Fund paid the tip fees for pruned refuse and forestry materials for Fiscal Year 2004/05 as budgets for those operations were already in place, and

WHEREAS, pruned refuse materials are viable for the Facility because the material is very clean and ideal for composting when mixed with green waste materials from the toters, and

WHEREAS, without tip fees and sales revenue from the pruned refuse materials, other tip fees must be adjusted to keep the Facility viable, and
WHEREAS, beginning in July, 2005, the City’s Urban Forestry Division began taking its materials to local composting sites, due to savings in tipping fees, transportation and labor costs, and

WHEREAS, on November 22, 2005 by Resolution 2005-582, Council approved a supplemental request to fund Pruned Refuse operations and associated tip fees for the remainder of Fiscal Year 2005/06, as well as for Fiscal Year 2006/07 from the General Fund, and

WHEREAS, staff presented five (5) alternatives for Compost Operations to the Economic Development Committee on November 7, 2005 as follows:

1. Continuation of Composting Operations without Pruned Refuse Processing
2. Continuation of Composting Operations with Discounted Tip Fees for Pruned Refuse and Forestry
3. Continuation of Composting Operations without Discounted Tip Fees
4. Privatization of Compost Operations
5. Discontinuation of Compost Operations

WHEREAS, staff recommended Alternative #2 which continues Compost Operations and provides discounted tip fee of $6.50/ton for Pruned Refuse and Forestry materials as these materials are much cleaner and make for a more marketable composting product, and

WHEREAS, Urban Forestry Division has agreed to sign a Memorandum of Understanding (MOU) indicating they will bring their pruned refuse product to the Facility for a period of five (5) years, and

WHEREAS, discounted tip fees will require an increase in tip fees to $19/ton in Fiscal Year 2006/07 for all other customers to build up the contingency reserve, and
WHEREAS, the increased tip fee of $19/ton is still below the market average of $22.79/ton for the region, and

WHEREAS, this increased tip fee of $19/ton equates to an increase of $0.03 on the monthly garbage bills, and

WHEREAS, the Economic Development Committee considered this item at its November 7, 2005, meeting and recommended that the Council move forward with Alternative #2 Continuation of Composting Operations with Discounted Tip Fees for Pruned Refuse and Forestry Materials, beginning Fiscal Year 2006/07,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the continuation of Composting Operations with Discounted Tip Fees of $6.50/ton for Pruned Refuse and Forestry Materials, beginning Fiscal Year 2006/07.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
A RESOLUTION APPROVING THE MOVEMENT OF COMPOST OPERATIONS FROM THE WASTEWATER DIVISION OF THE PUBLIC WORKS DEPARTMENT TO THE SOLID WASTE DIVISION OF THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, EFFECTIVE JANUARY 1, 2006

WHEREAS, in 1995 the City of Modesto began developing a compost facility to take waste materials from several different sources and divert them from disposal, and

WHEREAS, the Compost Facility ("Facility") began operation in 1997, and

WHEREAS, the main materials targeted for diversion by the Facility were residential green waste, pruned refuse, forestry materials, and biosolids from wastewater treatment processes, and

WHEREAS, the primary goals of the Facility were to meet AB 939 waste diversion mandates, thus avoiding fines of up to $10,000 per day, and to reuse the City's wastewater biosolids, and

WHEREAS, compost facilities are regulated by several state agencies, and

WHEREAS, the primary permit is issued by the California Integrated Waste Management Board, and

WHEREAS, the regional offices of the State Water Resources Board and the State Air Resources Board also issue permits to compost facilities, and

WHEREAS, operations that are permitted to process biosolids must also meet the requirements of the Federal 40CFR Part 503 regulations, and

WHEREAS, the state considers the City’s compost facility to be a large-scale operation, and
WHEREAS, the lengthy permitting process that new facilities face, and the fact that the City’s site can take many types of materials, including biosolids, make the City’s facility a valuable asset, and

WHEREAS, the Facility was initially funded out of the Sewer Fund because it was originally set up to take biosolids, and

WHEREAS, biosolids compost markets have been limited in recent years and the Facility only processes small quantities for City applications, and

WHEREAS, in July, 2004, City Council adopted Resolution 2004-367 separating the Facility from the Sewer Fund and establishing Compost Operations as a separate Enterprise Fund due to the reduced tie between the Facility and the Sewer Fund, and

WHEREAS, the Economic Development Committee considered this item at its November 7, 2005, meeting and recommended the Compost Enterprise be moved from the Wastewater Division of the Public Works Department to the Solid Waste Division of the Parks, Recreation and Neighborhoods Department, effective January 1, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Compost Enterprise Fund move from the Wastewater Division of the Public Works Department to the Solid Waste Division of the Parks, Recreation and Neighborhoods Department, effective January 1, 2006.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahnr

JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-010

A RESOLUTION ACCEPTING THE WORK BY BDS CONSTRUCTION, INC., FOR THE PROJECT TITLED "SCENIC DRIVE BUS TURNOUT PROJECT," AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $64,865.75. TOTAL PROJECT COST IS $99,333.87, WHICH INCLUDED CONSTRUCTION, CONSTRUCTION ADMINISTRATION, AND ENGINEERING DESIGN

WHEREAS, a report has been filed by the Acting Public Works Director that the project titled "Scenic Drive Bus Turnout Project" has been completed by BDS Construction, Inc., in accordance with the contract agreement dated June 28, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Scenic Drive Bus Turnout Project" is hereby accepted from said contractor, BDS Construction, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $64,865.75, as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By
RICHARD RUDNANSKY, Interim City Attorney

01/03/06/PW/K Ohlsen/Item 11
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-011

A RESOLUTION ACCEPTING THE WORK BY RODGERS CONSTRUCTION & ENGINEERING CO., INC., FOR THE PROJECT TITLED “HATCH ROAD IMPROVEMENTS AT DALLAS STREET INTERSECTION,” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $273,952.78. TOTAL PROJECT COST IS $308,695.81, WHICH INCLUDED CONSTRUCTION CONTINGENCY, AND CONSTRUCTION ADMINISTRATION

WHEREAS, a report has been filed by the Acting Public Works Director that the project titled “Hatch Road Improvements at Dallas Street Intersection” has been completed by Rodgers Construction & Engineering Co., Inc., in accordance with the contract agreement dated May 4, 2004,

NOW, THEREFORE, BE IT RESOLVED by the Council that the “Hatch Road Improvements at Dallas Street Intersection” project is hereby accepted from said contractor, by Rodgers Construction & Engineering Co., Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $273,952.78, as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]
RICHARD RUDNANSKY, Interim City Attorney
A RESOLUTION AWARDING A CONTRACT TO CAROLLO ENGINEERS FOR ON-CALL ENGINEERING SERVICES FOR THE PUBLIC WORKS DEPARTMENT - WATER QUALITY CONTROL DIVISION FOR A ONE-YEAR AGREEMENT WITH THREE (3) ONE (1) YEAR EXTENSION OPTIONS IN AN AMOUNT NOT TO EXCEED $44,000 ANNUALLY AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

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

WHEREAS, the Public Works Department, Water Quality Control Division has utilized the services of outside consultant engineers to perform targeted engineering services in the past, and

WHEREAS, consultant engineers assisted with the implementation of the Cannery Segregation Project and new pumping and pipeline facilities at Jennings Road, and

WHEREAS, in addition, consultant engineers assisted with mandated Regional Water Quality Control Board studies, ensured land application of bio-solids were in compliance and properly permitted, and provided guidance and troubleshooting for the ranch operation in civil and agronomic areas, and

WHEREAS, retaining on-call engineering services allows the Water Quality Control Division to have quick access to engineering services when needed, and

WHEREAS, on September 27, 2005, Council approved Resolution 2005-479 authorizing the Public Works Department to solicit Request for Proposals/Request for
Qualifications (RFP/RFQ) for On-Call Engineering Services for the Public Works Department - Water Quality Control Division, and

WHEREAS, staff solicited over 80 firms and formally advertised the RFP/RFQ, as required by law, and

WHEREAS, nine (9) proposals were received, however, two (2) proposals were rejected for not following RFP/RFQ guidelines, and

WHEREAS, proposals were evaluated using criteria established in the RFP/RFQ document, and.

WHEREAS, a committee consisting of four (4) City staff evaluated the proposals and interviewed the top four (4) firms, and

WHEREAS, it was determined that Carollo Engineers is the most-qualified firm based on the total RFP/RFQ evaluation score and interview results,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes awarding a contract to Carollo Engineers for On-call Engineering Services for the Public Works Department - Water Quality Control Division for a one-year agreement, with three (3) one (1) year extension options, in an amount not to exceed $44,000 per year.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 3rd 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,
       Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 

RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-013

A RESOLUTION DESIGNATING COUNCILMEMBER WILL O'BRYANT TO SERVE AS VICE MAYOR FOR THE ENSUING YEAR PURSUANT TO SECTION 603 OF THE CHARTER OF THE CITY OF MODESTO

BE IT RESOLVED by the Council of the City of Modesto that Councilmember Will O’Bryant is hereby designated to serve as Vice Mayor for the ensuing year pursuant to Section 603 of the Charter of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of January 2006, by Mayor Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers:  None

ABSENT: Councilmembers:  None

Attest:  JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:  RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-014

A RESOLUTION APPROVING THE APPOINTMENTS
TO COUNCIL COMMITTEES AND OTHER BOARDS, COMMISSION AND
COMMITTEES

WHEREAS, the City Councilmembers serve on Council Committees and various
boards, commissions and committees and act as representative on behalf of the City of
Modesto, and

WHEREAS, the recent election has created a vacancy on these committees,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto
that the Councilmembers are hereby appointed to the designated committees as shown in
the Council report.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 10th day of January 2006, by Councilmember Marsh,
who moved its adoption, which motion being duly seconded by Councilmember Dunbar,
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO THE FORM

ATTEST: JEAN ZAHR, City Clerk

By: RICHARD RUDNANSKY, Interim City Attorney
A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED “JAMES C. ENOCHS HIGH SCHOOL OFF SITE IMPROVEMENTS,” APPROVING AN AGREEMENT BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) AND MODESTO CITY SCHOOL DISTRICT WITH A MAXIMUM REIMBURSEMENT AMOUNT OF $1,027,183 FOR IMPROVEMENTS ON SYLVAN AVENUE (ROSELLE TO MILLBROOK), AUTHORIZING THE DISTRICT ADMINISTRATOR TO EXECUTE SAID AGREEMENT, AND FINDING THAT THE PROPOSED AGREEMENT IS WITHIN THE SCOPE OF THE PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM EIR, AS AMENDED BY THE VILLAGE ONE SUPPLEMENTAL EIR AND THE ADDENDUM TO THE EIR (SCH No. 90020181)

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

WHEREAS, Modesto City School District (“MCS”) is constructing Enochs High School and is required to install certain improvements on the north side of Sylvan Avenue, between Roselle Avenue and Millbrook Avenue, certain improvements on Millbrook and the roundabout at Millbrook and Sylvan as part of its construction project, and

WHEREAS, MCS has agreed to install certain additional improvements on the south side of Sylvan Avenue, between Roselle Avenue and Millbrook Avenue, and

WHEREAS, the City Council has considered the proposed Acquisition & Shortfall Agreement (“Agreement”) between City of Modesto Community Facilities District No. 2004-1 (“Village One #2”) and MCS to acquire all such improvements to be installed by MCS and to reimburse MCS for the improvements on the south side of Sylvan Avenue, between Roselle Avenue and Millbrook Avenue, and
WHEREAS, said Agreement shall have a maximum reimbursement amount of $1,027,183 plus contingency, and

WHEREAS, the bids received for “James C. Enochs High School Off Site Improvements” were opened at 2:00 p.m. on December 21, 2005 and later reviewed by City staff and MCS, and

WHEREAS, the MCS and the CFD Engineer have recommended that the bid of $2,724,698.55 received from Top Grade Construction, Inc. be accepted as the lowest responsible bid, and

WHEREAS, MCS must award the contract to Top Grade Construction, Inc. in order for MCS to be eligible for reimbursement from Village One #2, and

WHEREAS, the City Council has received and considered the Written Checklist, Environmental Assessment No. EA/PW No. 2005-17, that concludes that MCS’s project entitled “James C. Enochs High School Offsite Improvements”, including the improvements for which MCS will be reimbursed under the proposed agreement, is within the scope of the previously certified Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR and the Addendum to the EIR (SCH No. 90020181), and that, pursuant to Sections 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required.

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

1. The plans and specifications for said Project are hereby approved.
2. In order for Modesto City School District ("MCS") to be eligible for CFD reimbursement, MCS must award the contract to Top Grade Construction, Inc.

3. The proposed Acquisition and Shortfall Agreement between City of Modesto Community Facilities District No. 2004-1 and MCS ("Project") is consistent with the Village One Specific Plan and the Modesto Urban Area General Plan.

4. That the District Administrator, or his designee, is hereby authorized to execute the Agreement.

5. 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.

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

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

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

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

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

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

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

9. The City Council has received and considered the Written Checklist, Environmental Assessment EA/PW No. 2005-17, which provides the substantial evidence to support findings 5-8 above.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-016

A RESOLUTION APPROVING A STANDARD AGREEMENT FOR
CONSULTANT SERVICES WITH PRECISION INSPECTION COMPANY, INC.
FOR BUILDING PERMIT INSPECTIONS AND PLAN CHECK SERVICES, IN
AMOUNT NOT TO EXCEED $75,000; AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the volume of plan checks and building inspections has continued to
grow over the last several years, and

WHEREAS, staffing shortages exist in the plan review area, and

WHEREAS, the target time set for plan review is 10 working days for tenant
improvement plans and residential plans and 15 working days for commercial plans, and

WHEREAS, the City currently sends commercial plans to Harris & Associates for
plan review, and

WHEREAS, the increase in the plan review workload cannot be absorbed by
Harris & Associates and meet the target time for plan reviews, and

WHEREAS, staff recommends the City enter into an Agreement with Precision
Inspection Company, Inc. to assist in conducting building permit inspections and plan
check services, and

WHEREAS, said Agreement includes a provision for building inspectors as may
be required.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the Standard Agreement for Consultant Services with Precision
Inspection Company, to assist in conducting building permit inspections and plan check
services for twelve (12) months in an amount not to exceed $75,000.
BE IT FURTHER RESOLVED by the Council that the City Manager, or his
designee, is hereby authorized to execute said Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 10th day of January 2006, by Councilmember Dunbar,
who moved its adoption, which motion being duly seconded by Councilmember
Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: ____________________________
JEAN ZAHN
City Clerk

APPROVED AS TO FORM:
By: ________________________________
RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO GIVING AUTHORIZATION TO DESIGNATED CITY STAFF TO APPROVE ELECTRONIC BANK TRANSACTIONS AND APPROVING THE CORPORATE RESOLUTION RECOGNIZING THE AUTHORITY BESTOWED UPON THESE STAFF MEMBERS

WHEREAS, The Finance Department elects to take advantage of the electronic banking functions offered by the city’s depository, Bank of the West; and

WHEREAS, In order to maintain sound internal controls over the cash management function, the Finance Department seeks Council’s approval to authorize staff members to approve electronic banking transactions; and

WHEREAS, The city’s depository, Bank of the West, requires approval of a corporate resolution evidencing the authority vested in these employees to approve electronic banking transactions.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the following staff members to approve electronic banking transactions on behalf of the city. Furthermore, the Corporate Resolution evidencing the authorization now bestowed upon these individuals is approved.

SECTION 1. The following staff are hereby authorized to approve electronic banking transactions: Wayne Padilla, Finance Director; Gregory Baird, Deputy Finance Director; Cheryl Detmar, Deputy Finance Director; Barry Newlin, Accounting Manager.

SECTION 2. The Finance Director is authorized to execute the documentation required to provide Bank of the West with the names of the staff authorized to approve electronic banking transactions.
SECTION 3. The Corporate Resolution provided by Bank of the West and
evidencing the authorization now bestowed upon these individuals shall be signed by the
City Clerk and forwarded to the bank.

SECTION 4. This resolution shall become effective on and after January 10,
2006.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 10th day of January 2006, by Councilmember Dunbar,
who moved its adoption, which motion being duly seconded by Councilmember Marsh,
was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahr
        JEAN ZAHIR, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-018

A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE FINANCE COMMITTEE AND DIRECTING THE MAYOR'S OFFICE TO ISSUE A LETTER TO THE OFFICES OF THE STATE LEGISLATORS WHO REPRESENT THE CITY OF MODESTO REGARDING THE FUNDING INEQUITIES CREATED BY AB 8 AND ALSO AUTHORIZING THE MAYOR'S OFFICE TO SOLICIT INPUT AND SUPPORT FROM OTHER PUBLIC AGENCIES WITHIN STANISLAUS COUNTY

WHEREAS, the Finance Committee reviewed staff's findings that property tax allocations to Stanislaus County public agencies were among the lowest in the state; and

WHEREAS, the Finance Committee made a finding that the City Council should consider contacting its state legislators and the other affected public agencies within Stanislaus County; and

WHEREAS, the City Council concurs that the level of property tax allocation made to the public agencies within Stanislaus County are among the lowest amounts distributed within the state; and

WHEREAS, the City Council wishes to address the funding inequity that has been created by Assembly Bill 8 by seeking a review of the state’s property tax allocation policies through a written request directed to the state legislators who represent Stanislaus County in accordance with the direction given by the Finance Committee; and

WHEREAS, the City Council also seeks to garner support for this request from all other public agencies within Stanislaus County.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Mayor's office to issue letters to the city's state legislators pointing out the funding inequity that exists within Stanislaus County and requesting that
the property tax allocation formula and policy implemented under Assembly Bill 8 should be reviewed by the offices of the state Legislative Analyst and Department of Finance.

BE IT FURTHER RESOLVED that the Mayor’s office is directed to solicit input and support from all public agencies within Stanislaus County to emphasize the urgency of this request.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-019

A RESOLUTION APPROVING A FOUR AND FOUR TENTHS (4.4%) PERCENT INCREASE IN SALARY FOR THE CITY CLERK/AUDITOR

WHEREAS, by Resolution No. 2005-602 effective December 27, 2005, the City Council approved and established a "City of Modesto Schedule of Salary Ranges in City Service For FY 05-06 Effective December 27, 2005," for Executive Management (Exhibit "O"), and

WHEREAS, salaries for Charter Officers appointed by the Council are subject to periodic review and adjustment, and

WHEREAS, the Council desires to approve a four and four tenths (4.4%) percent merit increase in salary to JEAN ZAHR, City Clerk/Auditor, effective January 10, 2006 which increase is within the range established in Exhibit "O" of Resolution No. 2005-602,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an increase in salary to JEAN ZAHR, City Clerk/Auditor, effective January 10, 2006, as follows:

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<th>Hourly</th>
<th>Bi-Weekly</th>
<th>Monthly</th>
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The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2006 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By

RICHARD RUDNANSKY, Interim City Attorney

ATTEST:  
JEAN ZAHR, City Clerk

2006-019
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-020

A RESOLUTION APPROVING A COOPERATIVE WORK AGREEMENT
WITH THE STATE OF CALIFORNIA, ACTING BY, AND THROUGH THE
DEPARTMENT OF TRANSPORTATION (CALTRANS) TO EXTEND THE
DEADLINE FOR EXPENDITURE OF BICYCLE ACTION TRANSPORTATION
FUNDING IN THE AMOUNT OF $698,798 FOR THE VIRGINIA CORRIDOR
TRAILWAY, PHASE III CONSTRUCTION, AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the Virginia Avenue Corridor Trail Project ("Project") consists of
conversion of the abandoned, 4.2 mile Union Pacific Railroad corridor – from City’s
central business district at Needham Avenue to the northern City boundary at Bangs
Avenue – to a premier linear park with Class I bikeway and pedestrian trail, and

WHEREAS, the City of Modesto was awarded a Bicycle Transportation Account
(BTA) grant by the State of California in July 2003, in the amount of $698,798 for Phase
III, and

WHEREAS, the majority of these funds are to be allocated toward construction
costs, with a current deadline of April 30, 2006, for submission of final request for
payment to the state, and a June 30, 2006 deadline for expenditure of funds, and

WHEREAS, due to delays in Phase II construction, the Phase III construction
start date has also been delayed, and the BTA funds will not be expended by the June 30,
2006, deadline, and

WHEREAS, a Cooperative Work Agreement with the State of California, acting
by, and through the Department of Transportation (CalTrans), to extend the deadline for
expenditure of these grant funds must be approved by the City Council, CalTrans, the
State Department of Finance and other State agencies, in order to extend the expenditure
deadline to a maximum of eight years from date of appropriation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the Council hereby approves a Cooperative Work Agreement with the State of
California, acting by, and through the Department of Transportation (CalTrans), to extend
the deadline for expenditure of Bicycle Action Transportation Funding in the amount of
$698,798 for the Virginia Corridor Trailway, Phase III construction.

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

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 10th day of January 2006, by Councilmember Dunbar,
who moved its adoption, which motion being duly seconded by Councilmember Marsh,
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: __________________________
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: __________________________
RICHARD RUDNANSKY, City Attorney
A RESOLUTION APPROVING THE INSTALLATION OF A TRAFFIC SIGNAL AT THE PRESCOTT ROAD AND BANGS AVENUE INTERSECTION

WHEREAS, the Economic Development Committee (EDC) first considered this item on October 13, 2003, and

WHEREAS, at the request of the property owners, the item was pulled from the agenda and staff was instructed to return to EDC for their reconsideration, and

WHEREAS, staff met with the property owners to discuss the proposed intersection traffic control and they favored the installation of a traffic signal, but they could also see the value of a roundabout, and

WHEREAS, staff presented this item to EDC at their December 8, 2003, meeting and staff’s recommendation was for a roundabout, and

WHEREAS, the installation of a roundabout was unanimously approved by EDC at the December 8, 2003, meeting, and

WHEREAS, the EDC at its December 12, 2005, meeting reviewed and recommended to install a traffic signal at the Prescott Road and Bangs Avenue intersection, and

WHEREAS, the cost for installing a traffic signal at this location is equivalent to that of a roundabout,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the installation of a traffic signal at the Prescott Road and Bangs Avenue intersection.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-022

A RESOLUTION ESTABLISHING LOCAL LIMITS FOR COPPER, MERCURY, AMMONIA, TOTAL DISSOLVED SOLIDS (TDS), ELECTROCONDUCTIVITY (EC), ARSENIC AND MOLYBDENUM INTO THE CITY OF MODESTO'S WASTEWATER SYSTEM AND SUPERSEEDING RESOLUTION NO. 2005-273

WHEREAS, a federally mandated National Pollutant Discharge Elimination System (NPDES) Permit governs the City of Modesto's discharge of treated wastewater to the San Joaquin River, and

WHEREAS, the NPDES Permit is issued by the Regional Water Quality Control Board (RWQCB), which issues permits governing discharges by all Publicly Owned Treatment Works, “POTW”, and

WHEREAS, the current NPDES Permit requires the City of Modesto to meet the established Maximum Allowable Headworks Loading (MAHL) for constituents identified as pollutants of concern, and

WHEREAS, the development and implementation of Local Limits is a requirement of the National Pretreatment Program and of the NPDES Permit for the City, RWQCB Order No. 5-01-120, and

WHEREAS, staff worked with representatives of the Central Valley Manufacturers’ Council and industry to develop a resolution to establish a MAHL for molybdenum to meet both a requirement of the NPDES Permit and a Cease and Desist Order issued May 11, 2001, and

WHEREAS, on March 25, 2005, Resolution No. 2005-273 was approved by City Council, thereby setting the MAHL for molybdenum, and
WHEREAS, the City is now required under the NPDES Permit to establish additional MAHL limits for identified Pollutants of Concern, and

WHEREAS, the proposed resolution establishes a MAHL for molybdenum, copper, mercury, ammonia, arsenic, electroconductivity (EC) and Total Dissolved Solids (TDS), and

WHEREAS, the proposed Local Limits for flow into the City of Modesto Treatment Plant are as follows:

<table>
<thead>
<tr>
<th>Constituent Name</th>
<th>Local Limit (Not to Exceed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ammonia</td>
<td>10,113 pounds/day</td>
</tr>
<tr>
<td>Arsenic</td>
<td>26 pounds/day</td>
</tr>
<tr>
<td>Copper</td>
<td>24.5 pounds/day</td>
</tr>
<tr>
<td>EC</td>
<td>1,597 micro ohms / centimeter</td>
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<tr>
<td>Mercury</td>
<td>0.0413 pounds/day</td>
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<tr>
<td>Molybdenum</td>
<td>1.31 pounds/day</td>
</tr>
<tr>
<td>TDS</td>
<td>184,646 pounds/day</td>
</tr>
</tbody>
</table>

, and

WHEREAS, any user that violates its local limit on copper, mercury, arsenic, ammonia, EC, TDS and molybdenum shall be subject to the penalties and enforcement procedures set forth in the City of Modesto Sewage Collection and Disposal Ordinance, and

WHEREAS, the Economic Development Committee heard this item at its December 12, 2005 meeting and recommended approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Publicly Owned Treatment Works owned by the City of Modesto, California shall issue discharge permits to all controllable sources of copper, mercury, arsenic, ammonia, EC, TDS and molybdenum which will establish a local limit for each user in a permit issued to that user.
BE IT FURTHER RESOLVED that these discharge permits shall contain limits on the discharge of copper, mercury, arsenic, ammonia, EC, TDS and molybdenum to the main treatment plant in amounts such that dischargers which comply with the permit limitations will not collectively discharge wastewater for treatment at the main treatment plant which will exceed the MAHL established for all Pollutants of Concern.

BE IT FURTHER RESOLVED that any permitted user which violates its local limit on copper, mercury, arsenic, ammonia, EC, TDS and molybdenum shall be subject to the penalties and enforcement procedures as set forth in the City of Modesto Sewage Collection and Disposal Ordinance.

BE IT FURTHER RESOLVED that Resolution No. 2005-273 is hereby superseded upon the effective date of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-023

A RESOLUTION APPROVING AN AMENDMENT TO A PURCHASE AGREEMENT WITH KENNETH MOODY RELATING TO THE ACQUISITION OF PROPERTY LOCATED ON THE NORTHEAST CORNER OF SYLVAN AVENUE AND ROSELLE AVENUE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with Kenneth Moody (APN: 084-002-041) to purchase the necessary real properties for the Sylvan-Roselle Roundabout Project, and

WHEREAS, on July 12, 2005, the City of Modesto and Kenneth Moody entered into a Purchase Agreement to convey a portion of Kenneth Moody’s property in fee simple title to the City of Modesto for the total purchase price of $49,000, and

WHEREAS, said purchase price of $49,000 included a line item in the amount of $19,500 for the cost of repairing and/or resurfacing a portion of Kenneth Moody’s parking lot on Kenneth Moody’s property, and

WHEREAS, subsequent to said property sale, the City and Kenneth Moody have determined that the cost of said parking lot repair and/or resurfacing has increased, and

WHEREAS, subsequent to the close of escrow, the City agrees to pay Kenneth Moody the sum of $8,917, as payment in full for the City’s share of the additional cost of parking lot repair and/or resurfacing construction on Kenneth Moody’s property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that an Amendment to a Purchase Agreement between City of Modesto and Kenneth Moody (APN: 084-002-041) for the Sylvan-Roselle Roundabout Project in the total amount of $8,917 is hereby approved.
BE IT FURTHER RESOLVED that the execution of said Amendment by the City Manager on behalf of the City of Modesto is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-024

A RESOLUTION REJECTING THE PROPOSAL RECEIVED AND APPROVING THE RETENTION OF FORESTRY DIVISION STAFF TO PERFORM PRUNED REFUSE, LEAF AND FORESTRY MATERIALS COLLECTION SERVICES WITH PREVIOUSLY-APPROVED SUPPLEMENTAL FUNDING, THROUGH THE END OF FISCAL YEAR 06-07, AND DIRECTING STAFF TO RETURN TO COUNCIL WITH A RECOMMENDATION FOR A PERMANENT FUNDING SOURCE FOR PRUNED REFUSE COLLECTION SERVICES BY MAY 9, 2006

WHEREAS, City crews currently perform three (3) different refuse collection services as follows:

- Pruned Refuse Collection - Curbside or alley collection of tree or shrub prunings generated by homeowners during the months of January through November
- Leaf Collection – during the month of December, these same crews collect leaves rather than pruned refuse
- Forestry Refuse Collection – Forestry Division’s Tree Trimming crews also collect and dispose of trimmings generated by City trimming crews

WHEREAS, the annual cost for providing all three services is $1.7 million and is funded from several sources, and

WHEREAS, leaf collection is funded by the Storm Drain Fund at a cost of $320,000 in FY 2005/06 and this funding remains in place, and

WHEREAS, forestry refuse collection is funded by the Gas Tax Fund at a cost of $210,000 in FY 2005/06 and this funding remains in place, and

WHEREAS, pruned refuse collection has been funded by the Wastewater Fund due to the practice of co-composting pruned refuse with biosolids, and
WHEREAS, Council, by Resolution No. 2004-367, on July 13, 2004 approved the cost of pruned refuse collection be removed from the Wastewater Fund as the Composting Facility was no longer processing biosolids, and

WHEREAS, Council, by Resolution No. 2004-368, also on July 13, 2004 directed staff to meet with licensed solid waster collection companies to collect informal estimates for the cost to provide pruned refuse, leaf, and forestry materials collection services, and

WHEREAS, the decision to include leaf and forestry materials in the estimates was due to the economy of using the same crews and equipment for collection and transportation of all the different materials, and

WHEREAS, based on meetings staff held with the licensed solid waste collection companies to familiarize them with the specific details of the collection program, staff received an estimate of $3.40 to $3.80 per household per month from one company and $3.60 per household per month from another company, and

WHEREAS, the City’s current cost to provide these same services is $2.51 per household per month, and

WHEREAS, on April 26, 2005, Council, by Resolution No. 2005-224, authorized the Purchasing Supervisor to prepare and release a formal Request for Proposals for Pruned Refuse, Leaf, and Forestry Materials Collection Services for a five (5) year period with an option to renegotiate for an additional five (5) year period and an option to provide a quotation for composting services, and

WHEREAS, on April 26, 2005, Council, by motion, also directed staff to meet and confer with MCEA and MCMA related to the potential displacement of full-time employees that might occur as a result of contracting out these services, and
WHEREAS, MCEA and MCMA agreed the City’s current cost of $2.51 per household per month would be used to compare with the proposals, and

WHEREAS, on September 2, 2005, the Purchasing Division of the Finance Department solicited Request for Proposals RFP No. 0405-38 for Yard Trimmings, Leaf, and Forestry Materials Collection Services to the three (3) local licensed solid waste collection companies, and

WHEREAS, on September 4, 2005 an evaluation committee, comprised of four (4) staff members and the Purchasing Supervisor, was formed to oversee the evaluation process, and

WHEREAS, on September 9, 2005 a proposers conference was held and only one prospective proposer was in attendance, and

WHEREAS, on September 27, 2005 RFPs were formally opened and only Gilton Solid Waste Management Inc. chose to submit a proposal, and

WHEREAS, Gilton’s proposal included a cost of $5.60 per household per month, and

WHEREAS, Gilton chose not to submit a proposal to provide composting services, and

WHEREAS, Gilton’s cost to perform the same services as City staff was approximately $2.1 million more per year, and

WHEREAS, the Economic Development Committee, at its November 7, 2005 meeting recommended approval of continuing collection of pruned refuse by City staff, and
WHEREAS, pruned refuse collection has been funded through FY 2006/07 by the Supplemental Budget process, and

WHEREAS, a funding source will need to be identified for continuance of this program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rejects the proposal received and approves the retention of Forestry Division staff to perform Pruned Refuse, Leaf and Forestry Materials Collection Services with previously-approved supplemental funding, through the end of Fiscal Year 2006/07.

BE IT FURTHER RESOLVED that the Council hereby directs staff to return to Council with a recommendation for a permanent funding source for Pruned Refuse Collection Services by May 9, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 10th day of January 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

Jean Zahr, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-025

A RESOLUTION APPROVING AN AMENDMENT TO THE CITY OF
MODESTO 2005-2006 HUD ANNUAL ACTION PLAN

WHEREAS, the City of Modesto receives several Federal grants from the United
States Department of Housing and Urban Development (HUD), and

WHEREAS, the Modesto City Council, at its May 24, 2005, meeting, by
Resolution No. 2005-279, approved the adoption of the 2005-2006 Annual Action Plan,

WHEREAS, City staff has proposed amendments to the Annual Action Plan, and
said proposed amendments are as set forth in Exhibit “A” attached hereto and
incorporated herein by reference, and

WHEREAS, notice has been duly given to notify the community of proposed
amendments to the Annual Action Plan, and to provide a 30-day comment period, which
began December 11, 2005, and ended on January 10, 2006, and

WHEREAS, the Citizens Housing and Community Development Committee
(CH&CDC) considered the proposed changes to the Annual Action Plan at its December
9, 2005, meeting, and the Committee recommended that the City Council approve
amendments to the Annual Action Plan as proposed by staff as well as budgetary
adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on
January 10, 2006, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth
Street, to consider approval of the proposed amendments to the 2005-2006 Annual
Action Plan,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Amendment to the 2005-2006 Annual Action Plan as presented to the Council is hereby approved, and a copy of said Amendment to the 2005-2006 Annual Action Plan is attached hereto as Exhibit “A” and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute any documents with respect to the Amendment to be submitted to the Regional HUD office.

BE IT FURTHER RESOLVED that any and all documents necessary to implement the Action Plan shall require further Council approval.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th 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, Mayor Ridenour

NOES:     Councilmembers: None

ABSENT:   Councilmembers: None

Attest:    JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:        RICHARD RUDNANSKY, Interim City Attorney
<table>
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<tr>
<th>CDBG Budget-Fiscal Year 2005-2006-Amendment</th>
<th>FY 05-06</th>
<th>Amendment</th>
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<td>Paint/Insulation Rebate</td>
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<td>Street Paving in Low-Income Areas</td>
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<td>Homeless Day Facility Showers</td>
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<td>1230 12th Street Retrofit</td>
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<td>Water Tower Removal-17th &amp; G</td>
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<td>Second Harvest Food Bank &quot;Food Assistance Program&quot;</td>
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<td>&quot;Nutritional Supplement &amp; Education Program&quot;</td>
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<td>Victory Life Center &quot;Commodity Supplement Food Program&quot;</td>
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<td>CHSS &quot;Housing Services Case Management&quot;</td>
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<td>Interfaith Ministries &quot;Santa Fe Emergency Shelter&quot;</td>
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<td>Healthy Aging Association &quot;Young at Heart&quot;</td>
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<td>Children Crisis Center &quot;Cricket's House Respite Child Care&quot;</td>
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<td>CHS &quot;Hutton House Runaway &amp; Homeless Youth Shelter&quot;</td>
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<td><strong>Section 108 Loan Repayment</strong></td>
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</table>
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-026

A RESOLUTION AMENDING THE FISCAL YEAR 2005-2006 ANNUAL OPERATING BUDGET TO REFLECT APPROVED CHANGES TO THE HUD ANNUAL ACTION PLAN

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the City Council, at its May 24, 2005, meeting, by Resolution No. 2005-279, approved the adoption of the 2005-2006 Annual Action Plan, and

WHEREAS, since adoption of the Annual Action Plan, staff has determined that changes should be made to programs and services provided to better meet the needs of the citizens of Modesto, and

WHEREAS, these program changes require reallocation of operating budget funds, and

WHEREAS, reallocation of these funds is more fully described on Exhibit “A”, attached hereto and incorporated by reference, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the Annual Action Plan at its December 9, 2005, meeting, and the Committee recommended that the City Council approve amendments to the Annual Action Plan as proposed by staff as well as budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on January 10, 2006, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth
Street, to consider approval of the proposed amendments to the 2005-2006 Annual
Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the Fiscal Year 2005-2006 Annual Operating Budget is hereby amended to reallocate
the Community Development Block Grant (CDBG) as indicated on Exhibit “A” attached
hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City Manager, 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 10th 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,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
### CDBG Budget-Fiscal Year 2005-2006-Amendment

<table>
<thead>
<tr>
<th>Housing Development, Preservation &amp; Home Ownership</th>
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<th>Amendment</th>
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<td><strong>Total</strong></td>
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<table>
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</table>
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  
Telephone No.: 577-5311  
Department: Parks, Recr & Neighborhoods  
Fund Title: CDBG Direct Program  

Council Action Date:  
Resolution Number:  
FY: 05-06  
Transfer No.:  

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<th>Appropriations Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
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<td>CDBG Carryover</td>
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**APPROPRIATIONS**

| FROM | | | | | |
| TO | 1130-320-3214-6010 | 3214C | $10,000 | $10,000 | Engineering |
| | 1130-320-3214-6040 | 3214C | $30,000 | $30,000 | Construction |
| | 1130-320-3214-6050 | 3214C | $5,000 | $5,000 | Contingency |
| | 1130-320-3214-6060 | 3214C | $5,000 | $5,000 | Constr Admin |

**COMMENTS/JUSTIFICATION**

Create a new multi-year org, 3214, for 05-06 Curb Ramps, funded from carryover as specified in the Amendment to the 05-06 Annual Action Plan.

**AUTHORIZATION (check if required)**

| DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level) | SIGNATURE | DATE |
| FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval) | |
| CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Salary line movement in or out) | |


REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  
Telephone No.: 577-5311  
Department: Parks, Recr & Neighborhoods  
Fund Title: CDBG Direct Program

<table>
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<tr>
<th>Fund-Agency-Org-Object</th>
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<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Description of Object</th>
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<td><strong>FROM</strong></td>
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<td><strong>TO</strong></td>
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<td>$40,000</td>
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**APPROPRIATIONS**

| FROM | 
| TO | 1130-320-3232-0511 |
| 3232C |
| $40,000 |
| $40,000 |
| Homeless Day Facility Showers |

**COMMENTS/JUSTIFICATION**

Create a new muti-year org, 3232, for the construction of showers at the Salvation Army Shelter at 9th and D. This is funded from carryover as specified in the Amendment to the 05-06 Annual Action Plan.

**AUTHORIZATION** (check if required)  
**SIGNATURE**  
**DATE**
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis
Telephone No.: 577-5311
Department: Parks, Recr & Neighborhoods
Fund Title: CDBG Direct Program

Council Action Date: ____________________________
Resolution Number: ____________________________

Fund-Agency-Organization-Object | Appr Unit | Current Budget | Increase/Decrease | Revised Budget | Description of Object
--- | --- | --- | --- | --- | ---
DEPARTMENTAL REVENUES
FROM
TO
1130-320-3254-3511 | na | | | | CDBG Carryover
1130-320-3220-3511 | na | | | | CDBG Carryover
1130-320-3256-3511 | na | | | | CDBG Carryover

APPROPRIATIONS
FROM
TO
1130-320-3254-0255 | 3250C | $231,841 | $13,270 | $245,111 | City Svs (Code Enforcement)
1130-320-3254-0505 | 3250C | $40,000 | $40,000 | KKM Furnishings
1130-320-3254-NOBJ | 3250C | $30,000 | $30,000 | Neighborhood Projects
1130-320-3220-6040 | 3250C | $55,000 | $15,000 | $70,000 | Robertson Road Shade Structure
1130-320-3256-0502 | 3250C | $5,000 | $3,000 | $8,000 | LBP Testing
1130-320-3256-0503 | 3250C | $1,000 | $5,000 | $6,000 | LBP Clearance
1130-320-3256-0504 | 3250C | $4,000 | $2,000 | $6,000 | LBP Abatement
1130-320-3254-NOBJ | 3250C | $220,000 | $220,000 | Playground Equipment

COMMENTS/JUSTIFICATION
Adjustment to the 05-06 operating budget from carryover funds to reflect changes as specified in the Amendment to the 05-06 Annual Action Plan.

AUTHORIZATION (check if required) | SIGNATURE | DATE
--- | --- | ---
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager’s Approval)
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Salary lines movement in or out)
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis
Telephone No.: 577-5311
Department: Parks, Recr & Neighborhoods
Fund Title: Housing Loans

<table>
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<tr>
<th>Fund-Agcy-Org-Object</th>
<th>Appr Unit</th>
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Comments/Justification
Appropriate from the RLF reserve to fund ongoing activities in the housing rehabilitation program, as specified in the Amendment to the 05-06 Annual Action Plan.

Authorization (check if required)

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<th>DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT</th>
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<td>(All items requiring City Manager's Approval)</td>
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<td>(Transfers between Budgeted Activities of Departments within Funds)</td>
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<td>( Appropriation of Unbudgeted Dept Revenues)</td>
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<td>(Salary lines movement in or out)</td>
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REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis
Telephone No.: 577-5311
Department: Parks, Recr & Neighborhoods
Fund Title: Infrastructure and Improvements
Council Action Date:
Resolution Number:

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<th>Fund-Agency-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Description of Object</th>
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</thead>
</table>

DEPARTMENTAL REVENUES

FROM

TO

APPROPRIATIONS

FROM

1151-800-8000-8003 1150R $1,466,919 RLF Reserve

TO

1151-320-3271-0507 1151R $1,466,919 $1,466,919 Property Acquisition

COMMENTS/JUSTIFICATION

Appropriate from the RLF reserve to fund property acquisition. This is a re-appropriation of $1,097,950 from unspent commitment in 04-05, and additional funds of $368,969, as specified in the Amendment to the 05-06 Annual Action Plan. This needs to be a multi-year org.

AUTHORIZATION (check if required) SIGNATURE DATE

DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Salary lines movement in or out)
**REQUEST FOR BUDGET ADJUSTMENT**

**Contact Person:** Cheryl Davis  
**Telephone No.:** 577-5311  
**Department:** Parks, Recr & Neighborhoods  
**Fund Title:** Public Service

**DEPARTMENTAL REVENUES**

<table>
<thead>
<tr>
<th>Fund-Agcy-Org-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Description of Object</th>
</tr>
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<tbody>
<tr>
<td>FROM</td>
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<td></td>
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<tr>
<td>TO</td>
<td></td>
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</tbody>
</table>

**APPROPRIATIONS**

| FROM | 1152-800-8000-8003 | 1150R | $61,000 | RLF Reserve |
| TO   | 1152-320-3270-0496 | 1152R | $61,000 | $61,000 | Direct Grants |

**COMMENTS/JUSTIFICATION**

Appropriate from the RLF reserve to fund three additional public services for winter shelter programs, as specified in the Amendment to the 05-06 Annual Action Plan.

**AUTHORIZATION (check if required) | SIGNATURE | DATE**

- DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)
- FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager’s Approval)
- CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Salary line moves in or out)
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-027

A RESOLUTION AMENDING THE FISCAL YEAR 2005-2006 FUNDING FOR THE CAPITAL IMPROVEMENT BUDGET TO REFLECT APPROVED CHANGES TO THE HUD ANNUAL ACTION PLAN

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the City Council, at its May 24, 2005, meeting, by Resolution No. 2005-279 approved the adoption of the 2005-2006 Annual Action Plan, and

WHEREAS, since adoption of the Annual Action Plan, staff has determined that additional revenue from prior years' carryover Community Development Block Grant (CDBG) program funds will be available for capital improvement projects, and

WHEREAS, staff recommends that the available funding be programmed for new and existing projects, and

WHEREAS, programming of these funds is more fully described on Exhibit “A”, attached hereto and incorporated by reference, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the Annual Action Plan at its December 9, 2005, meeting, and the Committee recommended that the City Council approve the amendments to the Annual Action Plan as proposed by staff as well as budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on January 10, 2006, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth
Street, to consider approval of the proposed amendments to the 2004-2005 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2005-2006 funding for the Capital Improvement Plan Budget is hereby amended to estimate new revenue, appropriate new expenses and reallocate HUD Funds as indicated on Exhibit “A” attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City Manager, 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 10th 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: [Signature]
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]
RICHARD RUDNANSKY, Interim City Attorney
## CDBG Budget-Fiscal Year 2005-2006-Amendment

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<th>Housing Development, Preservation &amp; Home Ownership</th>
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<th>Amendment</th>
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<td>Rehabilitation Support</td>
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| Infrastructure & Public Improvement                 |          |           |       |
| Street Paving in Low-Income Areas                   | 390,436  | 2,526,836 | 2,917,272 |
| 05-06 ADA Improvements-Curb Ramps                  | 50,000   |           | 50,000 |
| Neighborhood Based Projects                         | 40,000   |           | 40,000 |
| Property Acquisition                                | 1,466,919|           | 1,466,919 |
| Neighborhood Center at Marshall Park                | 94,917   |           | 94,917 |
| Maddux Youth Center                                 | 220,000  |           | 220,000 |
| Public Improvements- Roberton Road                  | 15,000   |           | 15,000 |
| Homeless Day Facility Showers                       | 40,000   |           | 40,000 |
| 1230 12th Street Retrofit                           | 50,000   |           | 50,000 |
| Playground Equipment-M. Twain, Chrysler, Chrysler 99| 220,000  |           | 220,000 |
| Water Tower Removal-17th & G                        | 150,000  |           | 150,000 |
| King-Kennedy Memorial Center-Multipurpose/Kitchen    | 30,000   |           | 30,000 |

| Neighborhood Preservation & Stabilization           |          | 13,270    | 251,419 |
| Neighborhood Clean-up Projects                      | 20,000   |           | 20,000 |
| Code Enforcement                                    | 218,149  | 13,270    | 231,419 |

| Economic Development                                |          | 20,000    | 20,000 |
| Workforce Development Program                       | 20,000   |           | 20,000 |

| Public Services                                     | 510,953  | 61,000    | 571,953 |
| Stanislaus Literacy Center "Adult Literacy"          | 15,497   |           | 15,497 |
| Second Harvest Food Bank "Food Assistance Program"   | 40,000   |           | 40,000 |
| Stanislaus Community Assistance                      | 41,485   |           | 41,485 |
| "Nutritional Supplement & Education Program"         | 19,940   |           | 19,940 |
| Victory Life Center "Commodity Supplement Food Program" | 19,940  |           | 19,940 |
| CHSS "Housing Services Case Management"              | 22,199   |           | 22,199 |
| Interfaith Ministries "Santa Fe Emergency Shelter"   | 79,527   | 12,200    | 91,727 |
| Healthy Aging Association "Young at Heart"           | 12,686   |           | 12,686 |
| Children Crisis Center "Cricket's House Respite Child Care" | 18,720  |           | 18,720 |
| Children Crisis Center "Sawyer Respite Child Care"   | 18,720   |           | 18,720 |
| Parents Resources Center "ABC's of Childcare"        | 21,747   |           | 21,747 |
| CHS "Hutton House Runaway & Homeless Youth Shelter"  | 27,590   |           | 27,590 |
| MPD "Crime Free Multi-Housing Project"               | 110,000  |           | 110,000 |
| Children's Crisis Center "Sawyer House Children's Homeless Shelter" | 14,040  |           | 14,040 |
| Project Sentinel "Fair Housing"                      | 22,000   |           | 22,000 |
| Project Sentinel "Tenant Landlord Services"          | 24,000   |           | 24,000 |
| CHS "Pathways Transitional Living"                   | 22,802   |           | 22,802 |
| Salvation Army "Winter Emergency Shelter"            | 36,600   |           | 36,600 |
| CHSS "Emergency Shelter"                            | 12,200   |           | 12,200 |
**Exhibit A**

<table>
<thead>
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<th>Description</th>
<th>Amount</th>
<th>Description</th>
<th>Amount</th>
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<td>General Administration</td>
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<td>CDBG Grand Total</td>
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REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis
Telephone No.: 577-5311
Department: Parks, Recr & Neighborhoods
Fund Title: Capital Grants

Council Action Date: ___________________ 
Resolution Number: ___________ 
FY: 05-06

<table>
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<tr>
<th>Fund-Agcy-Org-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
<th>Description of Object</th>
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<td>1230 12th Street Retrofit</td>
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<td>$251,498</td>
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COMMENTS/JUSTIFICATION
Appropriate $50,000 from RLF reserve for replacement HVAC system for the 1230 12th Street retrofit. This is reflected in the Amendment to the 05-06 Annual Action Plan.

<table>
<thead>
<tr>
<th>AUTHORIZATION (check if required)</th>
<th>SIGNATURE</th>
<th>DATE</th>
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<td>DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT</td>
<td>(Allocation of Dept Appr to Line-Item Level)</td>
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<tr>
<td>FINANCE DIRECTOR</td>
<td>(Transfers to/from Internal Service Charges)</td>
<td>(All items requiring City Manager's Approval)</td>
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<td>CITY MANAGER</td>
<td>(Transfers between Budgeted Activities of Departments within Funds)</td>
<td>(Appropriation of Unbudgeted Dept Revenues)</td>
</tr>
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</table>
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis
Telephone No.: 577-5311
Department: Parks, Recr & Neighborhoods
Fund Title: Capital Grants

Council Action Date: ___________________________
Resolution Number: ___________________________

Therefore, the following Appropriations and Transfers have been made:

**APPROPRIATIONS**

<table>
<thead>
<tr>
<th>Fund-Agency-Organ-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Description of Object</th>
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<tbody>
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<td>2300-310-M182-6040</td>
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<td>$160,000</td>
<td>$2,519,262</td>
<td>Construction-Maddux Yth Center</td>
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**TRANSFERS**

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<th>Fund-Agency-Organ-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Description of Object</th>
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<td>Transfer to fund 2300</td>
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<tr>
<td>TO</td>
<td>na</td>
<td>$350,000</td>
<td>$220,000</td>
<td>$570,000</td>
<td>Transfer from fund 1130</td>
</tr>
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</table>

**COMMENTS/JUSTIFICATION**

Increase CIP budget for the remodeling of Maddux Youth Center. Extra funding is: $140,000 for hardwood floor, $20,000 for landscaping, and $60,000 for furnishings for the Youth Center. This funding is from carryover of unspent funds from the 04-05 year, and is reflected in the Amendment to the 05-06 Annual Action Plan.

**AUTHORIZATION (check if required)**

<table>
<thead>
<tr>
<th>Department Director or Authorized Assistant</th>
<th>Signature</th>
<th>Date</th>
</tr>
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<td>(All items requiring City Manager's Approval)</td>
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<td>(Transfers between Budgeted Activities of Departments within Funds)</td>
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<tr>
<td>( Appropriation of Unbudgeted Dept Revenues)</td>
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<tr>
<td>(Transfers into or out of Personnel Services)</td>
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</table>
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis
Telephone No.: 577-5311
Department: Parks, Recr & Neighborhoods
Fund Title: Special Fund for Capital Outlay

<table>
<thead>
<tr>
<th>Fund-Agcy-Org-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
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<tr>
<td>FROM</td>
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| TRANSFERS             |           |                |                     |                |                      |
| FROM                  |           |                |                     |                |                      |
| 1130-700-M163-7230    | M163      | $513,000       | $94,917             | $607,917       | Transfer to fund 1300 |
| TO                    | na        | $513,000       | $94,917             | $607,917       | Transfer from fund 1130 |

COMMENTS/JUSTIFICATION
Increase CIP budget for the construction of the Neighborhood Center at Marshall Park.
This funding is from carryover of unspent funds from the 04-05 year, and is reflected in the Amendment to the 05-06 Annual Action Plan.

<table>
<thead>
<tr>
<th>AUTHORIZATION (check if required)</th>
<th>SIGNATURE</th>
<th>DATE</th>
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<tbody>
<tr>
<td>DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)</td>
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<tr>
<td>FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)</td>
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<td>CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into or out of Personnel Services)</td>
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REQUEST FOR BUDGET ADJUSTMENT

Exhibit A

Contact Person: Cheryl Davis
Telephone No.: 577-5311
Department: Parks, Recr & Neighborhoods
Fund Title: Capital Grants

<table>
<thead>
<tr>
<th>Fund-Agency-Organ-Object</th>
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<th>Increase/Decrease</th>
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| TRANSFERS                 | 1130-700-NCIP-7233 | NCIP | $150,000 | $150,000 | Transfer to fund 2330 |
|                          | 2330-700-NCIP-9113 | na | $150,000 | $150,000 | Transfer from fund 1130 |

COMMENTS/JUSTIFICATION
Create a new CIP for removal of the water tower at 17th and G Street, the site of the old Tower Park. This funding is from carryover from 04-05 and is reflected in the Amendment to the 05-06 Annual Action Plan.

<table>
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<th>DATE</th>
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<td>(All items requiring City Manager's Approval)</td>
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<tr>
<td>(Transfers into or out of Personnel Services)</td>
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REQUEST FOR BUDGET ADJUSTMENT

Exhibit A

Contact Person: Cheryl Davis
Telephone No.: 577-5311
Department: Parks, Recr & Neighborhoods
Fund Title: Capital Grants

Council Action Date: ____________________________
Resolution Number: ____________________________
FY: 05-06
Transfer No. ____________________________

APPROPRIATIONS

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<th>Increase/ (Decrease)</th>
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TRANSFERS

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<td>2330-700-NCIP-9113</td>
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<td>$150,000</td>
<td>Transfer from fund 1130</td>
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</tbody>
</table>

COMMENTS/JUSTIFICATION

Create a new CIP for the replacement of the irrigation system at Mellis Park. This funding is from carryover from 04-05 and is reflected in the Amendment to the 05-06 Annual Action Plan.

AUTHORIZATION (check if required) SIGNATURE DATE

DEPARTMENT DIRECTOR or
AUTHORIZED ASSISTANT
(Allocation of Dept Appr to Line-Item Level)

FINANCE DIRECTOR
(Transfers to/from Internal Service Charges)
(All items requiring City Manager’s Approval)

CITY MANAGER
(Transfers between Budgeted Activities of Departments within Funds)
(Appropriation of Unbudgeted Dept Revenues)
(Transfers into or out of Personnel Services)
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-028

A RESOLUTION AMENDING THE FISCAL YEAR 2005-2006 ANNUAL OPERATING BUDGET AND CAPITAL IMPROVEMENT BUDGET TO REFLECT REVENUES AND APPROPRIATIONS AS ADOPTED, AND CARRYOVER AMOUNTS FROM PRIOR YEAR

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the City Council, at its May 24, 2005, meeting, by Resolution No. 2005-279, approved the adoption of the 2005-2006 Annual Action Plan, and

WHEREAS, since adoption of the Annual Action Plan, staff has determined that some adjustments need to be made in order to align the City's budget to the HUD financial system, and

WHEREAS, some of these changes require a transfer of funds from the General Fund Reserve, and

WHEREAS, these changes are shown on Exhibit “A”, attached hereto and incorporated by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2005-2006 Annual Operating Budget and Capital Improvement Budget are hereby amended to reflect adjustments to the HUD fund as indicated on Exhibit “A” attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City Manager, 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 10th 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
<table>
<thead>
<tr>
<th>CDBG Budget-Fiscal Year 2005-2006-Amendment</th>
<th>FY 05-06</th>
<th>Amendment</th>
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<td>Amount 2</td>
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<td>Principal and Interest for Section 108 Loan</td>
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<td>Interest Payment for RLF</td>
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<td>CDBG Grand Total</td>
<td>3,326,355</td>
<td>3,171,106</td>
<td>6,497,461</td>
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</table>
**REQUEST FOR BUDGET ADJUSTMENT**

**Contact Person:** Cheryl Davis
**Telephone No.:** 577-5311
**Department:** Parks, Recr & Neighborhoods
**Fund Title:** CDBG Direct Program

**Council Action Date:**
**Resolution Number:**
**Transfer No.:**
**FY:** 05-06

<table>
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<tr>
<th>Fund-Agency-Organisational-Object</th>
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<th>Current Budget</th>
<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
<th>Description of Object</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>DEPARTMENTAL REVENUES</strong> FROM</td>
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<td>($150,000)</td>
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</tbody>
</table>

| **APPROPRIATIONS** FROM           |           |                |                     |               |                       |
| 1130-320-3256-0493                | 3250C     | $156,000       | ($150,000)          | $6,000         | Housing Demo Service, Professional & Other Neighborhood Grants |
| 1130-320-3254-0235                | 3250C     | $3,000         | ($3,000)            | 0              |                       |
| 1130-320-3254-0505                | 3250C     | $30,000        | ($30,000)           | 0              |                       |
| 1130-320-3254-0496                | 3250C     | $455,953       | ($20,000)           | $435,953       | Direct Grants (non profis) |
| **TO**                            |           |                |                     |               |                       |
| 1130-320-3223-6041                | 3250C     | $190,436       | $200,000            | $390,436       | City Forces (Street Paving) |
| 1130-320-3254-0497                | 3250C     | $117,000       | $3,000              | $120,000       | Direct Loans (DPAP)    |

**COMMENTS/JUSTIFICATION**

This is an adjustment to match the City budget to the HUD Annual Action Plan.
The organization 3223 for 05-06 Street Pavings needs to be changed to a multi-year org.

<table>
<thead>
<tr>
<th>AUTHORIZATION (check if required)</th>
<th>SIGNATURE</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEPARTMENT DIRECTOR or</td>
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</tr>
<tr>
<td>AUTHORIZED ASSISTANT</td>
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</tr>
<tr>
<td>(Allocation of Dept Appr to Line-Item Level)</td>
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<tr>
<td>FINANCE DIRECTOR</td>
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<td></td>
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<tr>
<td>(Transfers to/from Internal Service Charges)</td>
<td></td>
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<tr>
<td>(All items requiring City Manager's Approval)</td>
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<tr>
<td>CITY MANAGER</td>
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<tr>
<td>(Transfers between Budgeted Activities of Departments within Funds)</td>
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<tr>
<td>(Appropriation of Unbudgeted Dept Revenues)</td>
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<tr>
<td>(Salary lines movement in or out)</td>
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</tr>
</tbody>
</table>
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  
Telephone No.: 577-5311  
Department: Parks, Recr & Neighborhoods  
Fund Title: CDBG-Rental Rehab

<table>
<thead>
<tr>
<th>Fund-Agcy-Org-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
<th>Description of Object</th>
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</thead>
<tbody>
<tr>
<td>FROM</td>
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<td></td>
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<td></td>
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<tr>
<td>TO</td>
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<td></td>
</tr>
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<td>$2,616</td>
<td>$2,616</td>
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<td>Direct Grants</td>
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</tbody>
</table>

COMMENTS/JUSTIFICATION

Revenue collected to fund the Minor Home Repair Grant Program.

AUThORIZATION (check if required) SIGNATURE DATE

DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT  
(Allocation of Dept Appr to Line-Item Level)

FINANCE DIRECTOR  
(Transfers to/from Internal Service Charges)  
(All items requiring City Manager's Approval)

CITY MANAGER  
(Transfers between Budgeted Activities of Departments within Funds)  
(Appropriation of Unbudgeted Dept Revenues)  
(Salary lines movement in or out)
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  Telephone No.: 577-5311
Department: Parks, Recr & Neighborhoods  Fund Title: Housing Loans

<table>
<thead>
<tr>
<th>Fund-Agency-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
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DEPARTMENTAL REVENUES

FROM

TO

APPROPRIATIONS

FROM

1150-320-3266-0235  $3,000  ($3,000)  Serv, Professional and Other

TO

1150-320-3266-0495  $123,844  $1,500  $125,344  CDBG-EHRP (Loans)
1150-320-3266-0497  $123,500  $1,500  $125,000  Direct Loans (HMP)

COMMENTS/JUSTIFICATION

Adjustment to match the City Budget to HUD Annual Action Plan.

<table>
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<tr>
<th>AUTHORIZATION (check if required)</th>
<th>SIGNATURE</th>
<th>DATE</th>
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<tr>
<td>DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)</td>
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<tr>
<td>FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)</td>
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<td>CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Salary lines movement in or out)</td>
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**REQUEST FOR BUDGET ADJUSTMENT**

Contact Person: Cheryl Davis  
Telephone No.: 577-5311  
Department: Parks, Recr & Neighborhoods  
Fund Title: Public Service

### DEPARTMENTAL REVENUES

<table>
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<td>TO</td>
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<td>$75,000</td>
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### APPROPRIATIONS

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<table>
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### COMMENTS/JUSTIFICATION

Adjustment to match the City Budget to HUD Annual Action Plan for the Workforce Development activity.

### AUTHORIZATION (check if required)

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<th>SIGNATURE</th>
<th>DATE</th>
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| FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval) |   |     |
|------------------------------------------------------------------------------------------------------|   |     |

| CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Salary lines movement in or out) |   |     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|   |     |
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis
Telephone No.: 577-5311
Department: Parks, Recr & Neighborhoods
Fund Title: HOME Program

COUNCIL ACTION DATE: ____________________________
Resolution Number: ____________________________

FY: 05-06
Transfer No. ____________________________

<table>
<thead>
<tr>
<th>Fund-Agcy-Obj-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Description of Object</th>
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<tr>
<td>FROM</td>
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APPROPRIATIONS

FROM
1170-320-3259-0235 3259C $1,000 ($1,000) 0 Serv, Professional & Other

TO
1170-320-3259-0497 3259C $1,051,522 $1,000 $1,052,522 Direct Loans

COMMENTS/JUSTIFICATION

Adjustment to match the City Budget to HUD Annual Action Plan.

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</table>
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis
Telephone No.: 577-3311
Department: Parks, Recr & Neighborhoods
Fund Title: CDBG Direct Program

Council Action Date: ____________________
Resolution Number: ____________________

FY: 05-06
Transfer No. ____________________

Fund-Agency-Object | Appr. Unit | Current Budget | Increase/(Decrease) | Revised Budget | Description of Object
---|---|---|---|---|---
| | | | | |

| DEPARTMENTAL REVENUES
| FROM |
| | |
| TO 1130-320-3231-3511 | na | $175,000 | $175,000 | CDBG Carryover |

| APPROPRIATIONS
| FROM |
| | |
| TO 1130-320-3231-0506 | 3231C | $175,000 | $175,000 | KKMC Neighborhood Collabtv |

COMMENTS/JUSTIFICATION
Create a new multi-year org, 3231, for the KKMC Collaborative for development and construction of the Collaborative's headquarters to be constructed in Mellis Park. The adjustment is required to re-appropriate unspect budget from FY 04-05 for an on-going HUD activity. This activity is committed in the HUD system, but it not budgeted in the City's system for 05-06.

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MODESTO CITY COUNCIL
RESOLUTION NO. 2006-029

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR’S AUTHORITY TO ISSUE CHANGE ORDERS ON THE “MADDUX YOUTH CENTER RENOVATION AND EXPANSION” PROJECT FROM 8 PERCENT ($186,940) TO 12.5 PERCENT ($293,513) OF THE ORIGINAL CONTRACT PRICE WITH ACME CONSTRUCTION, INC. TOTAL ESTIMATED COST OF THIS PROJECT IS $2,972,465, WHICH INCLUDES CONSTRUCTION CONTINGENCY, CONSTRUCTION ADMINISTRATION AND ENGINEERING DESIGN

WHEREAS, on March 8, 2005, the City Council awarded a $2,336,752 contract to Acme Construction, Inc. to construct the “Maddux Youth Center Renovation and Expansion” project, and

WHEREAS, the contractor started work on May 9, 2005, and

WHEREAS, changes to the Maddux Youth Center construction budget are necessary in order to complete portions of the project that were omitted, due to a limited budget at the beginning of the project scope, and

WHEREAS, funds were not budgeted for a new wooden gymnasium floor, irrigation within the project scope or funds for all necessary furnishings and equipment, and

WHEREAS, due to the availability of CDBG funds, as well as the need for these aspects of the project to be funded, staff is now recommending funding this item, and

WHEREAS, the cost of the extra work could be as high as 15 percent over the original contract price, an estimated $293,513, an amount which exceeds the Director’s authority for the project as established by the Council’s Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and
WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of $186,940, and seeks authority to issue change orders in an increased amount,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director’s authority level to issue change orders, from 8 percent ($186,940) to 15 percent ($293,513) of the original contract price for the project entitled “Maddux Youth Center Renovation and Expansion”.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:  
RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-030

A RESOLUTION AMENDING SECTIONS 1 & 2 OF RESOLUTION NO. 80-129
ENTITLED "A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR
PREZONED PLANNED DEVELOPMENT ZONE, P-D(255), (JOAQUIN
CONSTRUCTION)." (LLOYD VARGAS)

WHEREAS, the City Council, by Ordinance No. 1919-C.S., adopted on February
12, 1980, and which became effective on July 24, 1980, amended Section 25-3-8 of the
Zoning Map to Planned Development Zone, P-D(255) to allow a 79 unit small lot
subdivision on property located west of Carpenter Road north of Torrid Avenue, and

WHEREAS, Modesto City Council Resolution No. 80-129, which was approved
on February 12, 1980, and amended by City Council Resolution No. 81-369 on May 12,
1981, approved a development plan for Planned Development Zone, P-D(255), and

WHEREAS, a verified application for an amendment to Planned Development
Zone, P-D(255), was filed by Lloyd Vargas on September 23, 2005, to allow a property
located at 1104 Diablo Avenue north of Torrid Avenue, to subdivide into three new
residential units, 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. 2005-46, that the
amendment to Planned Development Zone P-D(255), as requested is required by public
necessity, convenience, and general welfare for the following reasons:

1. The proposed Plan Development Amendment is consistent with
the Modesto Urban Area General Plan. The General Plan
designates this area as "R" (Residential), and the amendment to
allow Residential uses 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. The proposed project by reason of its plot plan design and conditions of approval will be compatible with the surrounding land uses.

WHEREAS, said matter was set for a public hearing of the City Council to be held on January 10, 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 Lloyd Vargas for an amendment to Planned Development Zone, P-D(255) should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2005-46 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3402-C.S. on the 10th day of January, 2006, amending Section 2 of Ordinance No. 1919-C.S. to allow three additional residential units, for a total of 81, to be established in Planned Development Zone, P-D(255).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Section 1 of Modesto City Council Resolution No. 80-129 entitled "A Resolution Approving a Development Plan for Pre-zoned Planned Development Zone, P-D(255), (Joaquin Construction)" is hereby amended to read as follows:

"SECTION 1. DEVELOPMENT PLAN. An amended development plan for Planned Development Zone, P-D(255), is hereby approved subject to the following conditions:
1. All development shall conform to the plot plan and building elevations titled “Zero-Lot Subdivision – 3 Lot Re-Zone Vargas Family.” As amended in red, stamped approved by the Planning Commission on December 5, 2005.

2. Street improvements consistent with Standard Specifications shall be provided prior to the occupancy of any structures or when requested by the City Engineer or designee to alleviate a health, safety, or traffic problem in the area.

3. Prior to the 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.

4. Prior to the issuance of a building permit for any structure, a final subdivision or parcel map shall be recorded.

5. 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, 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.

6. 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 the time of issuance of the building permit.

7. All conditions of City Council Resolution No. 81-369, as amended by Planning Commission Resolution No. 84-86, not in conflict with this action shall remain in full force and effect.”

“SECTION 2. DEVELOPMENT SCHEDULE. The Planned Development Zone is built-out and this proposal only consists of establishing three residential units on site, the following development schedule is hereby approved for the new development:

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.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until Ordinance No. 3402-C.S. amending Ordinance No. 1919-C.S becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-031

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(255), PROPERTY LOCATED AT 1104 DIABLO AVENUE (LLOYD VARGAS)

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, Lloyd Vargas has proposed an amendment to Planned Development Zone P-D(255) to allow the establishment of three residential units at 1104 Diablo Avenue north of Torrid 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. 2005-37 ("Initial Study") reviewed the proposed amendment to P-D(255) 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. 2005-46 recommended to the City Council approval of the application of Lloyd Vargas to amend Planned Development Zone, P-D(255), for the property located on the east side of Diablo Avenue north of Torrid Avenue, to allow the establishment of three residential units on site as set forth in said Resolution No. 2005-46, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on January 10, 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(255), 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 amendment to P-D(255) is consistent with the General Plan and will bring the subject property more in line with the surrounding zero-lot line homes.

2. The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required.

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

4. 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.
5. 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.

6. 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.

7. The criteria for currency of the Master EIR were reviewed and it was determined that the Master EIR is current for all areas of the Initial Study.

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 10th day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

ATTEST: Jean Zahr, City Clerk

By: Richard Rudransky, Interim City Attorney
EXHIBIT A

Initial Study

EA/C&ED No. 2005-07
Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. 2005-37

For the proposed:

Amendment to Planned Development Zone, P-D(255) and for a Subsequent Vesting Tentative Parcel Map to Allow Replacement of an Existing Dwelling with Three (3) New Dwellings

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division
November 21, 2005
City of Modesto
Master EIR Initial Study Checklist

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 proposed tentative subdivision map 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: Amendment to P-D(255) and Subsequent Vesting Tentative Parcel Map

B. Address or Location: 1104 Diablo Avenue, Modesto

C. Applicant: Lloyd J. Vargas
   2831 S. Carpenter Road
   Modesto, CA 95358

D. City Contact Person:

   Project Manager: Bob Cannell
   Department: Community & Economic Development
   Phone Number: (209) 577-5274
   E-mail address: bcannelll@modestogov.com
E. Current General Plan Designation: R - Residential

F. Current Zoning Classification(s): P-D(255), Low-Density Residential

G. Surrounding Land Uses: North: Residential
                            South: Residential
                            East: Residential
                            West: Residential

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 applicant seeks approval of an amendment to P-D(255) to allow an existing house one large lot to be replaced with three (3) new homes following a subsequent Vesting Tentative Parcel Map, creating three lots.

I. Other Public Agencies Whose Approval is Required: None

III. FINDINGS / DETERMINATION

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.

[Signature]
Project Manager

Senior Planner

November 21, 2005
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.  

(2) City policies that 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 contained within the Master EIR.

(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).

(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.

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

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

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 negative 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.

(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.

(3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.
(4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.

(5) Policies that require site-specific mitigation remain in place, in addition to avoidance or other mitigation of impacts as a prerequisite to future development.

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 buildout 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:

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 an 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.

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

Traffic and Circulation mitigation measures that are 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 V, 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:

1. The project would contribute more than an additional 100 average daily trips (ADT) to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR. City Engineering & Transportation Staff will review the project to determine whether the project contributes more than 100 ADT thresholds. Such Projects are presumed to generate more trips than assumed by the Master EIR.

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

3. Result in inadequate emergency access.

4. Result in inadequate parking capacity.

Discussion:

The proposed project would generate less than 100 ADT, and would have no impact relative to transportation system design, incompatible uses, and emergency access, nor would it result in inadequate parking capacity.
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 traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

**Effect:** Projected traffic levels will result in increased ROG and NOX levels in the project area. This is a significant and unavoidable impact.

These are also cumulative impacts on air quality.

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 V, Mitigation Measures Applied to Project.

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-than significant unless:

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.  
   - YES NO  
   - 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:

The proposed project would not result in long-term air quality-related impacts. However, in order to minimize any short-term air quality-related impacts associated with construction, the appropriate mitigation measures will be applied from the MEIR.

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 exceed the City's Noise Significance Standards (see Table 3-3 MEIR).

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. New measures are listed in Section V: Mitigation Applied to Project.

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:

YES NO

(1) The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance. □ X

(2) The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan. □ X

(3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? □ X

(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. □ X
Discussion:

The proposed project will not result in any substantial increase in noise levels that exist without the project, and construction-related noise is limited per the City of Modesto Municipal Code. The appropriate mitigation measures will be applied from the MEIR.

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.

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 V, Mitigation Applied to 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:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. □ X
(2) The project will directly result in the development of land outside the March 2003 planning area boundaries. □ X
(3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract. □ X
(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. □ X

City of Modesto Finding of Conformance
General Plan Master EIR 9

Initial Study
C&ED No. 2005-37
November 21, 2005
Discussion:

The proposed project is in an urbanized area, and will have no effect on agricultural lands of any kind.

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 V, Mitigation Measures Applied to 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:
(1) The project is inconsistent with the Modesto Urban Area General Plan. ☐ X

(2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed. ☐ X

Discussion:
Water supplies are available to serve the existing residential area.

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 V, Mitigation Measures Applied to 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-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 who serves or may serve the project that there is not adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. □ X

Discussion:

The City of Modesto wastewater infrastructure has adequate capacity to serve the property.

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 measure 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 V, Mitigation Measures Applied to Project.
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:

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

(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.

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

Discussion:

The proposed project would not have any impact on wildlife nor plant habitat.

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. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

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-significant unless:

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<th>YES</th>
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<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
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<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>
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Discussion:

The proposed three-lot subdivision addition would have absolutely no impact whatsoever on archaeological/historical sites.

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. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

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:

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

(2) The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite. □

(3) 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:

The proposed three-lot subdivision addition would have absolutely no impact on the rate nor amount of surface runoff. Furthermore, the storm water drainage system will accommodate all current on-site runoff.
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 will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

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:
(1) The project is inconsistent with the Modesto Urban Area General Plan.  
(2) The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.  
(3) The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.  
(4) 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.

Discussion:

The proposed project is subject to all City of Modesto storm water quality control requirements.

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 V, Mitigation Applied to Project.

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:

**YES NO**

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

☐  X

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 V, Mitigation Applied to 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.  

X

(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.  

X

Discussion:

The proposed three-lot subdivision addition would have no impact to schools.

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 V, Mitigation Measures Applied to 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:

(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:

The proposed project would have no effect relative to provision of police services.

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 V, Mitigation Measures Applied to 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:

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<thead>
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<th>YES</th>
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<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
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<td>X</td>
</tr>
<tr>
<td>(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.</td>
<td>□</td>
<td>X</td>
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Discussion:

The proposed project would have no effect relative to provision of fire services.

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: Since the project 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. The project 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: The project makes 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 V, Mitigation Applied to 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>
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<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
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<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>
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Discussion:

The proposed project will have not impact relative to solid waste.
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 V, Mitigation Measures Applied to 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:

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Discussion:

The proposed project would have no impacts relative to hazardous materials.

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 V, Mitigation Measures Applied to 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-less significant unless:

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</table>

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

(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.

Discussion:

The proposed three-lot subdivision addition would have no potential to increase risks associated with landslides or seismic activity.
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 V, Mitigation Applied to 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>
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</table>

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

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>☐</td>
<td>X</td>
</tr>
<tr>
<td>☐</td>
<td>X</td>
</tr>
</tbody>
</table>

(1) The project is inconsistent with the Modesto Urban Area General Plan.
(2) The project includes a substantive amendment to the Modesto Urban Area General Plan.
(3) The project would physically divide an established community.

Discussion:

The proposed three-lot subdivision addition is consistent with the Modesto Urban Area General Plan, and would not physically 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:

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

(1) The project is inconsistent with the Modesto Urban Area General Plan.
(2) The project would have a substantial adverse effect on a scenic vista.
(3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings.
(4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.
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:

Traffic and Circulation Measures: N/A

Air Quality Measures:

A. The City of Modesto shall work with the SJVUAPCD to reduce particulate matter emissions from construction, grading, excavation, and demolition to the maximum extent feasible.

B. 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.

C. 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.

Noise Measures:

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.):

1. A hammer, or any other device or implement used to pound or strike an object.
2. An impact wrench, or other tool or equipment powered by compressed air.
3. A hand-powered saw.
4. 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.
5. 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.
6. 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.

7. 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.

8. 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:

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

Storm Drainage Measures: N/A

Flooding and Water Quality Measures: N/A

Parks and Open Space Measures: N/A

Schools Measures: N/A

Police Services: N/A

Fire Services: N/A

City of Modesto Finding of Conformance
General Plan Master EIR 27

Initial Study
C&ED No. 2005-37
November 21, 2005
**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.
WHEREAS, California Government Code Section 66014 authorizes development user fees which include but is not limited to fees for building inspections, building permits, and filing and processing applications, and

WHEREAS, Section 9-1.08 of the Modesto Municipal Code authorizes the City Council to establish building permit, plan checking and investigation fees in accordance with a schedule approved by the City Council from time to time by resolution, and

WHEREAS, Section 4-3.08 of the Modesto Municipal Code authorizes the Council to establish by resolution, investigation and permit fees relating to the moving of houses, and

WHEREAS, said development user fees are set forth in City Council Resolution Nos. 89-1003, 89-1004, 89-1005, 89-1006, 92-255, 93-263, 2003-446, and 2005-278, and

WHEREAS, a Process Improvement Task Force (PITF) was established in April 2004 with the task of creating a Development Process Improvement Program to address concerns regarding the development review process, and

WHEREAS, the PITF conducted a thorough evaluation of the current planning, building, engineering and landscape permit and plan approval process, and

WHEREAS, on October 11, 2004, the Economic Development Committee reviewed the preliminary recommendations of the PITF and recommended their approval to the full Council as follows:
A. Enhance processes, systems and technology for more effective communication, coordination and decision-making

B. Centralize information through the use of technology to track parallel activities and plan checks

C. Establish uniform policies for application of standard specifications

D. Standardize all application and plan submittal requirements

E. Improve interdepartmental project condition referral and implementation processes, and

WHEREAS, on January 4, 2005, the City Council approved Resolution No. 2005-26, adopting the Development Process Improvement Program Action Plan that identified City staff responsibilities requiring the commitment of additional resources, and

WHEREAS, staff proposed that the additional resources necessary to fund the Action Plan come from an increase in building permit fees, and

WHEREAS, the building permit fee increases are outlined in the Building Permit Fee Schedule attached hereto as Exhibit “A”, and

WHEREAS, the Finance Committee reviewed the Development Process Improvement Program Action Plan on October 21, 2005, and approved the fee increase on December 13, 2005, and recommended its adoption to the full Council, and

WHEREAS, the Development Process Improvement Program Action Plan and fee increase has been reviewed with both the Construction Industry Liaison Committee and the Building Industry Association who had no objection to the proposed fee increase, and
WHEREAS, said matter was set for public hearing of the City Council to be held on January 10, 2006, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the building permit fee increase as set forth in the Building Permit Fee Schedule attached hereto as Exhibit “A”, and incorporated herein by this reference.

BE IT FURTHER RESOLVED that the Council finds that the California Environmental Quality Act (CEQA) does not apply to the adoption of this resolution pursuant to Sections 15378(b)(4).

BE IT FURTHER RESOLVED that the Council finds that should any fee, provision, clause, paragraph or subparagraph be held invalid or unconstitutional, that invalidity or unconstitutionality shall not affect other provisions or applications thereof which can be given effect without the invalid fee, provision, clause, paragraph, or subparagraph, and to this end, the provisions are declared severable. By adopting this resolution, the City Council hereby declares that it would have adopted this resolution without that fee, provision, clause, paragraph or subparagraph.

BE IT FURTHER RESOLVED by the City Council that this resolution shall take effect in accordance with the law sixty (60) calendar days from the date of adoption of this resolution.

BE IT FURTHER RESOLVED that Resolution Nos. 89-1003, 89-1004, 89-1005, 89-1006, 92-255, 93-263, 2003-446 and 2005-278 are hereby amended effective upon the effective date of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM

By:

RICHARD RUDNANSKY, Interim City Attorney
# BUILDING PERMIT FEE SCHEDULE
## CITY OF MODESTO
### 2006

## BUILDING PERMIT FEE:

Total Valuation:

<table>
<thead>
<tr>
<th>Valuation Range</th>
<th>Fee</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1.00 to $2,000.00</td>
<td>$68.00</td>
<td>for the first $2,000 plus $10.00 for each additional $1,000 or fraction thereof, to and including $25,000</td>
</tr>
<tr>
<td>$2,001.00 to $25,000.00</td>
<td>$68.00</td>
<td>for the first $25,000 plus $7.27 for each additional $1,000 or fraction thereof, to and including $50,000</td>
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<tr>
<td>$25,001.00 to $50,000.00</td>
<td>$298.00</td>
<td>for the first $50,000 plus $5.00 for each additional $1,000 or fraction thereof, to and including $100,000</td>
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<tr>
<td>$50,001.00 to $100,000.00</td>
<td>$480.00</td>
<td>for the first $100,000 plus $3.90 for each additional $1,000 or fraction thereof, to and including $500,000</td>
</tr>
<tr>
<td>$100,001.00 to $500,000.00</td>
<td>$732.00</td>
<td>for the first $500,000 plus $3.36 for each additional $1,000 or fraction thereof, to and including $1,000,000</td>
</tr>
<tr>
<td>$500,001.00 to $1,000,000.00</td>
<td>$2,300.00</td>
<td>for the first $1,000,000 plus $2.24 for each additional $1,000 or fraction thereof</td>
</tr>
<tr>
<td>$1,000,001.00 and up</td>
<td>$3,980.00</td>
<td></td>
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</tbody>
</table>

## PLAN CHECK FEE:

65% of Building Permit Fee

## RESIDENTIAL (NEW SINGLE-FAMILY AND DUPLEX)

- Master Plan “all inclusive” fee (residential).........................$.45 per square foot (house and garage)
- Custom House “all inclusive” fee (residential) ......................$.55 per square foot (house and garage)
- Addition “all inclusive” fee (residential)............................$.55 per square foot
OTHER RESIDENTIAL FEES

Remodel fee (residential)

Building Permit fee based on valuation ................................................ see “Building Permit Fee” Table above
Plan Check ............................................................................................................. 65% of building permit fee

- Plumbing .................................................................................. $68.00
- Mechanical ............................................................... $68.00
- Electrical .............................................................. $68.00

Reroof fee (residential) .............................................................. $170.00

Pool (residential) ................................................................. $447.00

Pool with Spa (residential) ...................................................... $617.00

Spa (residential) ................................................................. $202.00

HVAC replacement (residential) ........................................ $73.00

HVAC new (residential) .................................................... $202.00

Plumbing Permit (residential) ................................................ $73.00

Mechanical Permit (residential) ............................................. $73.00

Electrical Permit (residential) ............................................. $73.00

COMMERCIAL AND MULTIFAMILY FEES

- Building Fees (commercial) -- (new, additions, excluding warehouses)

Building Permit fee based on valuation ........................................ see “Building Permit Fee Table” above
Plan Check ............................................................................................................. 65% of building permit fee

- Electrical fee ....................................................................... $0.075 per square foot

- Plumbing fee ....................................................................... $0.053 per square foot

- Mechanical fee ....................................................................... $0.053 per square foot

- Shell Building Fees (commercial) -- (finished building without tenants)

Building Permit fee based on valuation ........................................ see “Building Permit Fee Table” above
Plan Check ............................................................................................................. 65% of building permit fee

- Electrical fee ....................................................................... $0.075 per square foot
Plumbing fee ........................................... $.053 per square foot
               minimum $68.00
Mechanical fee......................................$.053 per square foot
               minimum $68.00

- Shell Building Fees (commercial)  --  (unfinished interior)

Building Permit fee based on valuation ........................................ see "Building Permit Fee Table" above
Plan Check ........................................................................................................ 65% of building permit fee

Electrical fee........................................ $68.00
Plumbing fee....................................... $68.00
Mechanical fee..................................... $68.00

- Tenant Improvements fees (commercial)  --  (including commercial remodel and warehouse remodel)

Building Permit fee based on valuation ........................................ see "Building Permit Fee Table" above
Plan Check ........................................................................................................ 65% of building permit fee

Electrical fee...........................................$.075 per square foot
               minimum $68.00
Plumbing fee.........................................$.053 per square foot
               minimum $68.00
Mechanical fee.........................................$.053 per square foot
               minimum $68.00

- Warehouse Permit fees (commercial)

Building Permit fee based on valuation ........................................ see "Building Permit Fee Table" above
Plan Check ........................................................................................................ 65% of building permit fee

Less than 20,000 Square Feet:

Electrical fee...........................................$.075 per square foot
               minimum $68.00
Plumbing fee.........................................$.053 per square foot
               minimum $68.00
Mechanical fee.........................................$.053 per square foot
               minimum $68.00

Over 20,000 Square Feet:

   Electrical fee................................... $1,570 + .033 per square foot
               over 20,000 sq ft
   Plumbing fee...................................... $1,120 + .023 per square foot
               over 20,000 sq ft
   Mechanical fee.................................... $1,120 + .023 per square foot
               over 20,000 sq ft
OTHER COMMERCIAL, MULTIFAMILY, AND WAREHOUSE FEES NOT CATEGORIZED ABOVE

Plumbing Permit (commercial) ........................................ $68.00
Mechanical Permit (commercial) ...................................... $68.00
Electrical Permit (commercial) ........................................ $68.00

STRONG MOTION INSTRUMENTATION FEE (EARTHQUAKE TAX)

Collected on new buildings, building alterations, additions, and repairs, as well as all-inclusive permits, ramadas, porches, awnings

- Residential Permits ........................................... Multiply valuation by .0001
  Minimum Fee ............................................... $.50

- Commercial Permits ........................................... Multiply valuation by .00021
  Minimum Fee ............................................... $.50

PRE-MOVE INSPECTION FEE AND MOVING PERMIT

Investigation of suitability of building located in City for moving to another site in City .................. $112.00

Investigation of suitability of building located outside City limits for moving into City ................ $112.00 + current approved mileage rate

Building located in City and is to be moved outside the City, there is no investigation fee

HOUSE MOVING PERMIT

Permits for moving of house to new location ................ $68.00

MOBILE HOME PARK FEES

Special fees for mobile home parks which are based on State Codes

- Each Cabana .............................................. $64.00
- Each Ramada ............................................. $64.00
- Each Awning ............................................. $64.00
- Each Carport ............................................. $64.00
- Each Porch ................................................. $64.00
- Each Fence or Windbreak ............................... $64.00
Each Set-Up ........................................................................... $80.00

Each Set-Up Reinspection ...................................................... $80.00

An issuance fee only with no additional charge will be required for screening of an existing awning.

**OTHER INSPECTIONS AND FEES**

- Inspection outside of normal business hours (minimum charge - two hours) ................................ $98.00/hour
- Weekend and holidays (minimum charge - four hours) ................................................................. $98.00/hour
- Reinspection fee assessed under provisions of Section 305(g) ................................................... $84.00 each
- Inspections for which no fee is specially indicated (minimum charge - 1 hour) ......................... $98.00/hour
- Additional plan review required by changes, additions or revisions to approved plans (minimum charge - 1 hour) ....................................................... $98.00/hour
- Inspections outside of normal business hours (minimum charge - 2 hours) ............................. $98.00/hour
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-033

A RESOLUTION AMENDING THE FISCAL YEAR 2005-2006 OPERATING BUDGET TO INCREASE THE REVENUE BUDGETS OF THE COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT AND PUBLIC WORKS DEPARTMENT TO IMPLEMENT THE DEVELOPMENT PROCESS IMPROVEMENT PROGRAM

WHEREAS, on January 4, 2005, the City Council adopted Resolution 2005-26 approving the Development Process Improvement Program Action Plan that identified City staff tasks requiring the commitment of additional resources, and

WHEREAS, staff proposed that the additional resources necessary to fund the Action Plan come from an increase in building permit fees, and

WHEREAS, implementation of the Action Plan requires the additional resources and staff for FY05/06 as follows:

- 1 Software Analyst
- 1 Senior Planner
- 1 Associate Civil Engineer
- 1 AOA II
- Staff Training and Education
- Software and Technology Additions
- Customer Outreach,

WHEREAS, on October 21, 2005, the Finance Committee reviewed the expenses necessary to support the continued implementation of the Development Process Improvement Program Action Plan and, on December 13, 2005, the Finance Committee approved said expenses and recommended their approval to the full Council, and
WHEREAS, the Development Process Improvement Program Action Plan has been reviewed by both the Construction Industry Liaison Committee and the Building Industry Association who had no objection to the fee increases and additional appropriations.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2005-2006 budget for salaries and expenses and increases the position allocations as follows:

A. Amend the Community & Economic Development Department operating budget and position allocation to:

a. Increase revenues by $75,000 to Account Number 0100-140-1401-4001
b. Increase salaries by $11,000 to Account Number 0100-140-1430-0182
c. Increase service credit expenses by $24,000 to Account Number 0100-140-1401-0255
d. Increase miscellaneous expenses by $40,000 to Account Number 0100-140-1401-0260
e. Add the following positions:
   i. 1 Senior Planner
   ii. 1 Administrative Office Assistant II

B. Amend the Information Technology Department operating budget and position allocation to:
a. Increase service credit revenue by $24,000 to Account 0100-7130-0742-4909

b. Increase salaries by $24,000 to Account 0100-7130-0742-0182

c. Add the following position:
   i. 1 Software Analyst

C. Amend the Public Works operating budget to:

a. Increase revenues by $34,000 to Account Number 0100-420-4213-4000

b. Appropriate $34,000 to Account Number 0100-420-4213-0182

c. Add the following position:
   i. 1 Associate Civil Engineer

BE IT FURTHER RESOLVED that the Finance Director, or 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 10th 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,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST  
JEAN ZAHR City Clerk

APPROVED AS TO FORM:

By:  
RICHARD RUDNANSKY, Interim City Attorney
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO, ACTING AS THE LEGISLATIVE BODY OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2), AUTHORIZING THE SALE AND ISSUANCE OF SPECIAL TAX BONDS OF SAID COMMUNITY FACILITIES DISTRICT, APPROVING DOCUMENTS RELATING THERETO AND AUTHORIZING AND DIRECTING CERTAIN RELATED ACTIONS

WHEREAS, the City Council of the City of Modesto acting as the legislative body of City of Modesto Community Facilities District No. 2004-1 (Village One #2) (hereinafter sometimes referred to as the “legislative body of the Community Facilities District” or the “City Council”) has heretofore undertaken proceedings and declared the necessity to issue bonds on behalf of City of Modesto Community Facilities District No. 2004-1 (Village One #2) (the “Community Facilities District”) pursuant to the terms and provisions of the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Part 1, Division 2, Title 5, of the Government Code of the State of California (the “Act”); and

WHEREAS, based upon a resolution adopted by the legislative body of the Community Facilities District on April 6, 2004 and an election held on April 6, 2004 authorizing the issuance of bonds by the Community Facilities District, the Community Facilities District is now authorized to issue bonds in one or more series, pursuant to the Act, in an aggregate principal amount not to exceed $75,000,000; and

WHEREAS, the legislative body of the Community Facilities District intends to accomplish the financing of certain public improvements and appurtenances and
appurtenant work in connection with the foregoing, including acquisition and
construction costs thereof (the “Facilities”), and the incidental expenses incurred and to
be incurred in connection with financing the facilities, including costs associated with the
formation of the Community Facilities District and the issuance of bonds and the
establishment of a bond reserve fund (the “Incidental Expenses”) through the issuance of
bonds designated as the “City of Modesto Community Facilities District No. 2004-1
(Village One #2) Special Tax Bonds, Series 2006” (the “Bonds”); and

WHEREAS, the Community Facilities District has determined all requirements of
the Act for the issuance of the Bonds have been satisfied; and

WHEREAS, in connection with the authorization, sale and issuance of the Bonds
and the acquisition and construction of the facilities, forms of the following documents
have been presented to this City Council for approval:

1. the Trust Indenture, by and between The Bank of New York Trust
Company, N.A., as trustee (the “Trustee”), and the Community Facilities District (the
“Indenture”);

2. the Continuing Disclosure Agreement, executed by the Community
Facilities District (the “Continuing Disclosure Agreement”);

3. the Preliminary Official Statement relating to the Bonds (the “Preliminary
Official Statement”); and
4. the Bond Purchase Agreement relating to the Bonds (the “Bond Purchase Agreement”) by and between the Community Facilities District and UBS Securities LLC (the “Underwriter”); and

WHEREAS, all acts, conditions and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the issuance of the Bonds do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the Community Facilities District is now authorized and empowered, pursuant to each and every requirement of law, to authorize the execution and delivery of certain documents in order to sell the Bonds in the manner and upon the terms herein provided;

WHEREAS, it appears that each of the documents which is now before the City Council is in appropriate form and is an appropriate document to be executed and delivered for the purpose intended.


SECTION 1. The above recitals, and each of them, are true and correct.

SECTION 2. The proposed forms of the Indenture and the Continuing Disclosure Agreement are hereby approved; and each of the Mayor of the City and his or his designee and the District Administrator or his or her designee (the “Authorized
Officers”), acting alone, and the City Clerk are hereby authorized and directed for and in the name and on behalf of the Community Facilities District to execute, acknowledge and deliver to the respective other parties, the Indenture and the Continuing Disclosure Agreement in substantially said forms, with such additions thereto, completions thereof and/or changes therein as the officers executing the same may approve as necessary or desirable (consistent with the provisions of this Resolution and with form of the Bond Purchase Agreement approved pursuant hereto), such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 3. The issuance of the Bonds pursuant to the Indenture in an aggregate principal amount (not in excess of $40,000,000) approved by the District Administrator or his or her designee as being necessary and appropriate in order to provide financing for the Facilities and the Incidental Expenses and to fund the various funds and accounts created by the Indenture in the amounts described in the Preliminary Official Statement (or as determined by the District Administrator or his or her designee), is hereby authorized. The Bonds shall mature on the dates and in the amounts, and bear interest at the rates, set forth in the Bond Purchase Agreement to be executed on behalf of the Community Facilities District in accordance with Section 9 hereof. The sum of (i) the aggregate principal amount of the Bonds so authorized plus (ii) the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Act on property within the Community Facilities District or a special assessment levied on such property (as shown in the Preliminary Official Statement under the caption “THE COMMUNITY FACILITIES DISTRICT – Direct and Overlapping Debt”) does not exceed one-third of the value of the property within the Community Facilities District.
that will be subject to the Special Tax, as such value is estimated in an appraisal prepared for the Community Facilities District by Bender Rosenthal, Inc. of Sacramento, California (a copy of which is set forth in Appendix B to the Preliminary Official Statement).

SECTION 4. In connection with the issuance of the Bonds, each of the Authorized Officers, acting alone, and the City Clerk are hereby authorized and directed for and in the name and on behalf of the Community Facilities District to execute, acknowledge and deliver to the respective other parties such additional agreements, as the officers executing the same may approve (including, but not limited to an Investment Agreement, as defined in the Indenture) as necessary or desirable to provide reductions in the yields of Bonds or additional debt service relief or cash flow savings or increased payments to the Community Facilities District, such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 5. The Community Facilities District will covenant, for the benefit of the owners of the Bonds, to commence and diligently pursue to completion any judicial foreclosure proceedings regarding delinquent special taxes for the payment of interest or principal of the Bonds, such foreclosure action to be commenced, paid for and pursued as more completely set forth in the Indenture.

SECTION 6. The form of the Bonds, as set forth in the form of the Indenture (as the Indenture may be modified pursuant to Section 2 hereof), is hereby approved; and the Mayor and the City Clerk are hereby authorized and directed to execute them by manual or facsimile signature in the name and on behalf of the Community Facilities District.
SECTION 7. The proposed form of the Preliminary Official Statement is hereby approved with such changes thereto as may be approved by the District Administrator or his or her designee in order to make such Preliminary Official Statement final as of its date, except for the omission of certain information, as permitted by Section 240.15c2-12(b)(1) of Title 17 of the Code of Federal Regulations (the “Rule”); and the distribution of the Preliminary Official Statement in connection with the sale of the Bonds, with such changes included, is hereby authorized. Each of the Authorized Officers, acting alone, is authorized and directed to execute and deliver a certificate relating to compliance with the Rule. Each of the Authorized Officers, acting alone, is authorized and directed to execute and deliver to the Underwriter a final Official Statement in substantially the form of the Preliminary Official Statement hereby approved with such changes as may be approved by the officer executing said document as necessary or desirable, such approval to be conclusively evidenced by the execution and delivery thereof; and the distribution of such final Official Statement in connection with the sale of the Bonds is hereby authorized.

SECTION 8. In accordance with the provisions of Section 53360.4 of the Act, the City Council hereby finds and determines that a negotiated sale of the Bonds to the Underwriter in accordance with the terms of the Bond Purchase Agreement will result in a lower overall cost to the Community Facilities District than a sale conducted pursuant to Section 53360 of the Act.

SECTION 9. The proposed form of the Bond Purchase Agreement and the sale of the Bonds pursuant thereto are hereby approved, provided that (a) the Underwriter’s discount (exclusive of any original issue discount, if any) shall not exceed one and one-
half percent (1.50%) of the original aggregate principal amount of the Bonds, (b) any original issue discount shall conform to the City's policies with respect thereto (c) the true interest cost of the Bonds shall not exceed six and one half percent (6.50%), (d) the final maturity of the Bonds shall be a date not later than thirty-five (35) years from the date the Bonds are issued and (e) the maturity dates and purchase price of and interest rates and original issue discount applicable to the Bonds shall have been approved by the District Administrator or his or her designee; and, subject to such approval, each of the Authorized Officers, acting alone, and the City Clerk are hereby authorized and directed to evidence the Community Facilities District's acceptance of the offer made by said Bond Purchase Agreement by executing and delivering to the Underwriter said Bond Purchase Agreement in said form with such changes therein as the officers executing the same may approve as necessary or desirable, such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 10. In the event that the District Administrator is unavailable to execute and deliver any of the documents that the District Administrator is authorized to execute and deliver pursuant to the terms of this Resolution, then the City Manager or his or her designee is hereby authorized and directed to do so as an Authorized Officer hereunder.

SECTION 11. Each of the Authorized Officers and other officers of the City of Modesto, acting alone, is hereby authorized and directed, jointly and severally, to execute and sign any and all approvals, certificates, statements, requests, requisitions and orders of the Community Facilities District in connection with the issuance of the Bonds; and any action specifically authorized or directed by this Resolution to be undertaken by any
of such officers may be undertaken by either of the others with the same force and effect
as if it had been undertaken by the officer specifically authorized or directed to do so.

SECTION 12. If and to the extent that any provision of this Resolution or of any
of the documents approved pursuant hereto is inconsistent with the City’s policies and
procedures for the formation, annexation and administration of community facilities
districts, said policies and procedures are hereby waived.

SECTION 13. If any section, paragraph or provision of this Resolution shall be
held to be invalid or unenforceable for any reason, the invalidity or unenforceability of
such section, paragraph or provision shall not affect any remaining provisions of this
Resolution.

SECTION 14. All actions heretofore taken by the officers and agents of the
Community Facilities District with respect to the establishment of the Community
Facilities District and the sale and issuance of the Bonds are hereby approved, confirmed
and ratified, and each of the Authorized Officers, acting alone, is hereby authorized and
directed to do any and all things and take any and all actions and execute any and all
certificates, agreements and other documents, which they, or any of them, may deem
necessary or advisable in order to consummate the lawful issuance and delivery of the
Bonds, in accordance with this Resolution, and any certificate, agreement, and other
document described in the documents herein approved.

SECTION 15. This Resolution shall take effect from and after its adoption.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahn, City Clerk

APPROVED AS TO FORM:

By: RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-035

A RESOLUTION DENYING THE APPEAL OF CHARLES EVINS ON BEHALF OF NEW BETHANY MISSIONARY BAPTIST CHURCH FOR PAYMENT OF A FEE INCREASE IN THE FILING FEES FOR AN AMENDMENT TO A CONDITIONAL USE PERMIT

WHEREAS, California Government Code Section 66014 authorizes fees for zoning variances and changes, use permits, building inspections, building permits, and filing and processing applications, and

WHEREAS, Sections 10-2.1704, 10-2.2506, 10-2605, 10-2.2.703 and 10-2.2803 of the Modesto Municipal Code authorizes the Council to establish by resolution the filing fees for each planning application filed pursuant to Chapter 2 of Title 10 of said Code, and

WHEREAS, on June 24, 2003, the Council established a policy to recover most fees at full cost, and

WHEREAS, the Council adopted Resolution No. 2003-446 on August 12, 2003, which established new filing fees for planning applications filed pursuant to Chapter 2 of Title 10 of the Municipal Code, and

WHEREAS, on December 9, 2005, Charles Evins on behalf of New Bethany Missionary Baptist Church has filed an application for an amendment to a conditional use permit and paid the filing fee of $5,273 as established by Council Resolution, No. 2005-278, and

WHEREAS, Charles Evins appealed the payment of the filing fee by a letter submitted to the office of the City Clerk on December 13, 2005, and

WHEREAS, said appeal was set before the City Council on January 10, 2006, and
WHEREAS, after said meeting the City Council determined that the appeal of Charles Evins on behalf of New Bethany Missionary Baptist Church should be denied as being inconsistent with adopted City policy to recover the full costs of providing services on planning applications, as expressed in City Council Resolution No. 2003-466.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby denies the appeal of Charles Evins on behalf of New Bethany Missionary Baptist Church for payment of a fee increase in the filing fees for an amendment to a conditional use permit.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January 2006, by Councilmember O'Bryant, 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: Hawn, Keating, O'Bryant, Mayor Ridenour
NOES: Councilmembers: Dunbar, Marsh, Olsen
ABSENT: Councilmembers: None

ATTEST: [Signature]
JEAN ZAHN, City Clerk

APPROVED AS TO FORM

By: [Signature]
RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-036

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR TWO (2), NEW, CURRENT YEAR/MODEL, HYBRID GASOLINE/ELECTRIC, TOYOTA PRIUS SEDAN VEHICLES TO GEWEKE TOYOTA SCION OF LODI, CA., FOR A TOTAL ESTIMATED AMOUNT OF 54,109.31 AND REJECTING THE BID OF GEWEKE TOYOTA SCION OF LODI, CA., FOR ONE (1) TOYOTA HIGHLANDER, SPORT UTILITY VEHICLE

WHEREAS, the Public Works Department-Fleet Services has requested the purchase of two (2), new, current year/model, hybrid Toyota Prius Sedan vehicles, and one (1) new, current year model, hybrid gasoline/electric, Toyota Highlander Sport Utility vehicle, and

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

WHEREAS, the Toyota Prius Sedans will be used by the Modesto Police Department Records Division for work such as issuing subpoenas and other miscellaneous work completed by police assistance employees, and

WHEREAS, current performance guidelines call for us to explore new technology and implement when it is prudent to do so, and

WHEREAS, the Fleet Services Division fully expects the state to impose new mandates for alternative fuel vehicles in municipal fleets, and

WHEREAS, in preparation to meet those mandates we are researching our options and developing a plan for integration of those vehicles into our fleet, and
WHEREAS, our first purchase of a Toyota Prius in 2001 has given us operating data to support the reliability of this equipment, and

WHEREAS, these purchases will expand the use to the records division of the Police Department for multiple local users including the issuance of subpoenas, and

WHEREAS, these purchases will be “banked” as credits toward future mandates, and

WHEREAS, the Toyota Prius is extremely fuel efficient and shows our community our desire to be environmentally responsible, and

WHEREAS, the Toyota Highlander was targeted for use by the wastewater treatment plant for miscellaneous transportation to complete errands throughout the City and between treatment sites, and

WHEREAS, the Purchasing Division solicited formal bids for two (2), new, current year/model, hybrid gasoline/electric, Toyota Prius Sedan vehicles and one (1), new, current year/model, hybrid gasoline/electric, Toyota Highlander, Sport Utility vehicles on Request for Bid (RFB) 0506-15, and

WHEREAS, fourteen (14) vendors were solicited, two (2) of which were local vendors, and

WHEREAS, out of the fourteen (14) vendors solicited, one (1) chose to respond, and

WHEREAS, the Purchasing Division and the Public Works-Fleet Services staff evaluated bids, and
WHEREAS, the total approximate cost for the two (2), new, current year/model hybrid gasoline/electric, Toyota Prius Sedan vehicles is approximately $54,109.31 including freight and sales tax, and

WHEREAS, Geweke Toyota Scion of Lodi, CA., is the lowest responsive an responsible bidder, and

WHEREAS, the bid received on RFB 0506-15 from Geweke Toyota Scion of Lodi, CA., for one (1), new, current year/model, hybrid gasoline/electric, Toyota Highlander, Sport Utility Vehicle is over the budgeted amount of $25,000.00, and

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

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

WHEREAS, the City Council has appropriated funds for two (2), new, current year/model, hybrid gasoline/electric, Toyota Prius Sedan vehicles and one (1), new, current year/model, hybrid gasoline/electric, Toyota Highlander Sport Utility Vehicle in account numbers: 7210-480-5814-5327 and 6210-480-5212-5700 (FLEET EQUIPMENT REPLACEMENT), and

WHEREAS, the Purchasing Division has coordinated the solicitation of and evaluation of bids for two (2), new, current year/model, hybrid gasoline/electric, Toyota Prius Sedan vehicles and one (1), new, current year/model, hybrid gasoline/electric, Toyota Highlander, Sport Utility vehicle with the Public Works Department-Fleet Services staff, and
WHEREAS, City staff has recommended that the bid for one (1) Toyota Highlander, Sport Utility vehicle be rejected,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid and contract for two (2) new, current year/model, hybrid gasoline/electric, Toyota Prius vehicles to Geweke Toyota Scion of Lodi, CA., for a total estimated annual cost of $54,109.31.

BE IT FURTHER RESOLVED that the Purchasing Division is hereby authorized to issue a purchase order for two (2), new, current year/model, hybrid gasoline/electric, Toyota Prius vehicles for a total estimated cost of $54,109.31.

BE IT FURTHER RESOLVED that the bid from Geweke Toyota Scion of Lodi, CA., for one (1) Toyota Highlander Sport Utility vehicle is hereby rejected.

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  City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-037

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR SEVEN (7), NEW, CURRENT YEAR/MODEL, HONDA POLICE MOTORCYCLES TO HONDA OF MODESTO FOR A TOTAL ESTIMATED AMOUNT OF 102,777.20

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of seven (7), new, current year/model, Honda Police Motorcycles, and

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

WHEREAS, the Modesto Police Department currently has sixteen (16) Harley Davidson Police motorcycles, and

WHEREAS, based on a two (2) year replacement cycle, seven (7) of those motorcycles are scheduled to be replaced this year, and

WHEREAS, the two year warranty and current rotation replacement cycle results in lower operational costs on these motorcycles, and

WHEREAS, in October 2005, Fleet Service Division in conjunction with the Modesto Police Department did an analysis of the Harley and Honda motorcycles, and

WHEREAS, the analysis showed the Honda ST1300 outperformed the Harley in terms of rideability, performance, and braking efficiency as demonstrated in the following areas: more efficient braking system; capable of shorter stopping distances; 200 pounds lighter in weight; water-cooled engine; equipped with body panels that direct engine heat
away from the officer; more maneuverable; tighter turning radius; better around
clearance; larger saddlebags; and protects better from the elements, and

WHEREAS, the Purchasing Division solicited formal bids for seven (7), new,
current year/model, Honda Police motorcycles on Request for Bid, 0506-16, and

WHEREAS, twelve (12) vendors were solicited, one (1) of which is a local
vendor, and

WHEREAS, out of twelve (12) vendors solicited, three (3) chose to respond, and

WHEREAS, one (1) bid received was deemed to be non-responsive because the
vendor only submitted one signed original bid, and

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

WHEREAS, the total cost for the seven (7), new, current year/model, Honda
Police motorcycles is approximately $102,777.20 including freight and sales tax, and

WHEREAS, Honda of Modesto was deemed to be the lowest responsive an
responsible bidder, and

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

WHEREAS, this Request for Bid (RFB) process conforms to City code, and

WHEREAS, the City Council has appropriated funds for seven (7), new, current
year/model, Honda Police motorcycles in account numbers: 7210-480-5814-5322
(FLEET EQUIPMENT REPLACEMENT), and
WHEREAS, the Purchasing Division has coordinated the solicitation of and evaluation of bids for seven (7), new, current year/model, Honda Police motorcycles with the Public Works Department-Fleet Services staff,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid and contract for seven (7) new, current year/model, Honda Police motorcycles to Honda of Modesto for a total estimated cost of $102,777.20.

BE IT FURTHER RESOLVED that the Purchasing Division is hereby authorized to issue a purchase order for seven (7), new, current year/model, Honda Police motorcycles for a total estimated cost of $102,777.20.

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_
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: _Richard Rudnansky_, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-038

A RESOLUTION 1) APPROVING A GRANT APPLICATION FOR $301,500 FROM THE STATE OF CALIFORNIA’S DEPARTMENT OF WATER RESOURCES’ CALFED WATERSHED PROGRAM 2005 TO HELP CONTINUE THE TUOLUMNE RIVER COALITION INTO A SECOND PHASE OF WORK WITH THE TUOLUMNE RIVER AND 2) AUTHORIZING THE CITY OF MODESTO TO ACT AS THE FISCAL AGENT FOR THE TUOLUMNE RIVER COALITION FOR THE PROCUREMENT AND MANAGEMENT OF A PROJECT COORDINATOR FOR A PERIOD OF THREE YEARS

WHEREAS, the State of California’s Department of Resources’ CALFED Watershed program has made funding available through its Watershed Program 2005 through Proposition 50, and

WHEREAS, the continuation and development of the Tuolumne River Coalition is consistent with the CALFED Watershed Program and the City of Modesto’s interest in the Coalition and its effect on the Tuolumne River Regional Park, and

WHEREAS, said procedures established by the State of California’s Department of Water Resources’ CALFED program require the applicant’s governing body to certify by resolution the approval of the applicant before submission of said application to the State, and

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

WHEREAS, in order to complete the project submitted to the CALFED Program the City of Modesto will act as the fiscal agent for the Tuolumne River Coalition for the procurement and management of a project coordinator for a period of three years,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby:
1. Approves the filing of an application for $301,500 in local assistance funds from the State of California's Department of Water Resources through the CALFED Watershed program 2005; and

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

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

4. Authorizes the City of Modesto to act as the fiscal agent for the Tuolumne River Coalition for the procurement and management of a project coordinator for a period of three years.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 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. 2006-039

A RESOLUTION ACCEPTING $100,000 IN REMOVE II PROGRAM FUNDING FROM THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT FOR THE VIRGINIA CORRIDOR CLASS I BIKE PATH ALONG VIRGINIA ST. BETWEEN NEEDHAM ST. AND BRIGGSMORE AVE. AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT CONTRACT

WHEREAS, staff has been notified by the San Joaquin Valley Air Pollution Control District that the City of Modesto has been awarded $100,000 in funding from the REMOVE II program, and

WHEREAS, said funding will allow for construction of a Class I Bike path within the designated Virginia Corridor Class I Bike Path along Virginia Street, between Needham Street and Briggsmore Avenue, and

WHEREAS, the REMOVE II funding does not require a local match, and

WHEREAS, in order to accept the funding, the City Manager or his designee must be authorized to execute the Grant Contract,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts $100,000 in funding from the San Joaquin Valley Air Pollution Control Board for construction of a Class I Bike Path between Needham Street and Briggsmore Avenue, within the Virginia Corridor Class I Bike Path.

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

JBAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-040

A RESOLUTION AMENDING THE FISCAL YEAR 2005-06 CAPITAL IMPROVEMENT PROGRAM TO ESTIMATE $100,000 IN REMOVE II PROGRAM FUNDING FROM THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT AND TO APPROPRIATE SAID FUNDING TO PROJECT 2300-310-P713, VIRGINIA CORRIDOR, PHASE III

WHEREAS, staff has been notified by the San Joaquin Valley Air Pollution Control District that the City of Modesto has been awarded $100,000 in funding from the REMOVE II program, and

WHEREAS, said funding will allow for construction of a Class I Bike path within the designated Virginia Corridor Class I Bike Path along Virginia Street, between Needham Street and Brigsgmore Avenue, and

WHEREAS, the REMOVE II funding does not require a local match, and

WHEREAS, in order to appropriate the funding, the Fiscal Year 05-06 Capital Improvement Program needs to be amended,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 05-06 Capital Improvement Program to estimate $100,000 in REMOVE II program funding and appropriate said funding to Project 2300-310-P713, Virginia Corridor Phase III.

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, City Clerk

APPROVED AS TO FORM:

By:  
RICHARD RUDNANSKY, Interim City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-041  

A RESOLUTION ACCEPTING $400,000 IN FEDERAL HIGHWAY FUNDS FROM THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR THE VIRGINIA CORRIDOR PHASE III PROJECT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE FUNDING CONTRACT  

WHEREAS, staff has been notified by the State of California Department of Transportation that the City of Modesto has been awarded $400,000 in funding from the Federal Highway funds, and

WHEREAS, said funding will allow for construction of a Class I Bike path within the designated Virginia Corridor Phase III, and

WHEREAS, the Federal Highway funds do not require a local match, and

WHEREAS, in order to accept the funding, the City Manager or his designee must be authorized to execute the Contract,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts $400,000 in funding from the State of California Department of Transportation for the Federal Highway funds for the Virginia Corridor Phase III project.

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

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-042

A RESOLUTION AMENDING THE FISCAL YEAR 2005-06 CAPITAL IMPROVEMENT PROGRAM TO ESTIMATE $400,000 IN FEDERAL HIGHWAY FUNDING FROM THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION AND TO APPROPRIATE SAID FUNDING TO PROJECT 2300-310-P713, VIRGINIA CORRIDOR, PHASE III

WHEREAS, staff has been notified by the State of California Department of Transportation that the City of Modesto has been awarded $400,000 in funding from the Federal Highway funds, and

WHEREAS, said funding will allow for construction of a Class I Bike path within the designated Virginia Corridor Phase III, and

WHEREAS, the Federal Highway funds do not require a local match, and

WHEREAS, in order to appropriate the funding, the Fiscal Year 05-06 Capital Improvement Program needs to be amended,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 05-06 Capital Improvement Program to estimate $400,000 in Federal Highway funding and appropriate said funding to Project 2300-310-P713, Virginia Corridor Phase III.

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, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-043

A RESOLUTION APPROVING A THIRD AMENDMENT TO THE AGREEMENT WITH CALLANDER ASSOCIATES LANDSCAPE ARCHITECTURE, INC., INCREASING THE CONTRACT AMOUNT BY $14,340, PLUS $10,000 FOR CONTINGENCIES, TO PROVIDE ADDITIONAL SERVICES RELATED TO THE BIDDING AND CONSTRUCTION ADMINISTRATION FOR THE ROTARY CENTENNIAL JUNCTION PHASE OF THE VIRGINIA AVENUE CORRIDOR BIKE TRAIL PROJECT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE THIRD AMENDMENT

WHEREAS, the Virginia Avenue Corridor Trail Project ("Project") consists of conversion of the abandoned, 4.2 mile Union Pacific Railroad corridor – from City’s central business district at Needham Avenue to the northern City boundary at Bangs Avenue – to a premier linear park with Class I bikeway and pedestrian trail, and

WHEREAS, the City has hired Callander and Associates, a landscape architecture firm, to prepare the Specific Plan for the project, and

WHEREAS, the original Agreement included a professional service fee to Callander of $304,000 and was approved by City Council on October 8, 2001, and

WHEREAS, since that time, the Agreement has been amended twice: first, for additional services related to the preparation of environmental documents; and second, for additional services related to construction documents for the first trail construction phase, also known as the Rotary Centennial Junction trail project, and

WHEREAS, a Third Amendment to the Agreement is needed so that Callander Associates may continue to devote the necessary staff time for construction support tasks associated with the Rotary Centennial Junction trail project, and
WHEREAS, the Transportation Policy Committee met on September 20, 2001, and recommended awarding a professional service contract to Callander Associates Landscape Architecture for the preparation of a Specific Plan for the 4.2 mile linear park/Class I bikeway in the Virginia Avenue Corridor, and

WHEREAS, the Safety and Communities Committee met on March 31, 2003, and recommended approval of an Amendment to the Agreement with Callander Associates to provide additional services related to the preparation of environmental documents for the Virginia Avenue Corridor Specific Plan project, and

WHEREAS, the Safety and Communities Committee met on November 3, 2003, and recommended approval of the Specific Plan, a Second Amendment to the Agreement with Callander Associates and expenditure of Proposition 40 Per Capita Funds in the amount of $116,000 to fully fund this phase of project 0520-310-M139, and

WHEREAS, the Modesto Planning Commission met on December 15, 2003, and adopted resolutions to recommend that the City Council approve the Specific Plan and adopt the Mitigated Negative Declaration/Findings of No Significant Impact for the proposed Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Third Amendment to the Agreement with Callander Associates Landscape Architecture, Inc., increasing the contract amount by $14,340, plus $10,000 for contingencies, to provide additional services related to the bidding and construction administration for the Rotary Centennial Junction phase of the Virginia Avenue Corridor bike trail project.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby
authorized to execute the amendment to the agreement.

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. 2006-044

A RESOLUTION AMENDING THE FISCAL YEAR 2005-06 CAPITAL IMPROVEMENT PROGRAM TO TRANSFER $55,350 FROM 1350-800-8000-8003, PARKS CFF RESERVE, TO 1350-310-P406, STOCKARD COFFEE SHADE STRUCTURE

WHEREAS, Stockard Coffee Neighborhood Park, located at 1800 Mable Avenue, is a 5-acre park sited next to Stockard Coffee Elementary School, and

WHEREAS, initial park development occurred in 2001 and included landscaping, a basketball court, play equipment, drinking fountain, picnic tables, pathways and space for a future shade structure and group picnic area, and

WHEREAS, staff now desires to develop the shade structure, and

WHEREAS, funding is available in 1350-800-8000-8003, the Parks Capital Facilities Fees Reserve,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2005-06 Capital Improvement Program to transfer $55,350 from 1350-800-8000-8003, Parks CFF Reserve, to 1350-310-P406, Stockard Coffee Shade Structure.

BE IT FURTHER RESOLVED that the Finance Director, or her 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, Interim City Attorney
A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO

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

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

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

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

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

Supervising Animal Control Officer

The job specification for this classification is being created to serve as a first level supervisor to the Animal Control Unit. The job specification for the classification of Supervising Animal Control Officer, as shown on the attached Exhibit “A,” which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and 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: 

APPROVED AS TO FORM:

By: 

RICHARD RUDNANSKY, Interim City Attorney
SUPERVISING ANIMAL CONTROL OFFICER

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

DEFINITION

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

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

DISTINGUISHING CHARACTERISTICS

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

SUPERVISION RECEIVED AND EXERCISED

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

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

   Essential Functions:

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

Exhibit "A"
Essential Functions: (Continued)

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

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

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

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

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

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

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

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

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

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

Exhibit "A"
Essential Functions: (Continued)

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

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

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

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

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

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

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

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

Principles and practices of humane apprehension and care of animals.

Physical and behavioral characteristics of common breeds of domestic animals.

Police protocols and standard operating procedures.

First aid and CPR procedures and practices.

Symptoms of common animal diseases.

Exhibit "A"
Knowledge of: (Continued)

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

General safety requirements.

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

Basic personal computer operation.

Ability to:

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

Exercise independent judgment and make sound decisions in emergency situations.

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

Evaluate and establish priorities; handle simultaneous events effectively.

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

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

Administer humane euthanasia to animals, as necessary.

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

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

Enforce animal regulations and ordinances.

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

Exhibit "A"
Ability to: (Continued)

Interpret and apply applicable laws, ordinances and regulations.

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

Use maps and learn City geography.

Use and care for firearms.

Experience and Training Guidelines

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

License or Certificate:

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

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

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

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

Experience:

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

OR

Two (2) years as an Animal Control Officer II with the City of Modesto.

Exhibit "A"
Training:
Equivalent to the completion of the twelfth grade.

WORKING CONDITIONS

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

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

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

Must be able to pass a police background investigation.
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-046

A RESOLUTION AMENDING EXHIBIT “A” OF RESOLUTION NO. 2005-494 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO ADD SUPERVISING ANIMAL CONTROL OFFICER AT RANGE 426

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

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2005-494. Resolution No. 2005-494 effective October 4, 2005, is hereby amended as shown on the amended Exhibit “A” entitled “City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes effective January 24, 2006”, which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit “A” adds the classification of Supervising Animal Control Officer at Salary Range 426 ($3,977 - $4,846 per month).

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 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

<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 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"
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 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 Supervisor I  
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  
Senior Community Development Program Specialist |

Exhibit "A"
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 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  
Events Supervisor II  
Environmental Laboratory Supervisor  
Operations Supervisor  
Regulatory Compliance Supervisor  
SCADA Supervisor  
Senior Housing Rehabilitation Specialist  
Software Analyst II  
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>
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 438   | Budget Officer  
       | Housing Program Supervisor  
       | Land Surveyor  
       | Property Agent  
       | Purchasing Supervisor  
       | 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  
       | Recreation Superintendent  
       | Solid Waste Program Manager  
       | Streets Superintendent  
       | Transit Manager  
       | 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"
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>445</td>
<td>Accounting Division Manager</td>
</tr>
</tbody>
</table>
| 446   | Water Quality Control Superintendent  
Information Technology Unit Manager |
| 447   | Business Development Division Manager  
Chief Building Official  
Planning Division Manager  
Senior Civil Engineer  
Traffic Engineer |
| 448   |       |
| 449   |       |
| 450   |       |
| 451   |       |
| 452   |       |
| 453   |       |
| 455   |       |