MODESTO CITY COUNCIL
RESOLUTION NO. 2006 - 748

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO PURCHASE 81 MOBILE DIGITAL COMPUTERS (MDCs) BY ACCESSING THE TERMS (PIGGYBACKING) OF A COMPETITIVELY BID SACRAMENTO POLICE DEPARTMENT CONTRACT WITH RAYMAR INFORMATION SOLUTIONS OF SACRAMENTO, CA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS.

WHEREAS, the Modesto Police Department utilizes Mobile Data Computers (MDCs) in their vehicles that were purchased in 2000, and

WHEREAS, the units moved past their service-life and warranty in the year 2003, and have increasingly fallen behind the technology-curve and upgradeability, and

WHEREAS, this limits the Police Department’s ability to integrate modern technologies into the field such as license plate readers, in-car video and full deployment of digital fingerprint readers, and

WHEREAS, this technology will provide officers with the most current information regarding crime activity, which will allow them to be more proactive in their problem solving strategies, and

WHEREAS, the Sacramento Police Department has an existing competitively bid contract for the ITRONIX units, contract IFB B062142012, awarded to Raymar out of Sacramento, who has provided the City a letter stating they will honor Sacramento Police Department pricing, and

WHEREAS, the City has also received correspondence from the manufacturer stating Raymar is the only vendor that can sell at the Sacramento pricing, and

WHEREAS, there are no Modesto resellers for their product, and
WHEREAS, at its meeting of November 6, 2006, the Safety and Communities Committee recommended approval to the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to purchase 81 Mobile Digital Computers (MDCs) by accessing the terms (piggybacking) of a competitively bid Sacramento Police Department contract with Raymar Information Solutions of Sacramento, CA.

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 5th day of December, 2006, by Councilmember O’Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING A LOAN FROM THE FLEET FUND TO THE GENERAL FUND FOR THE PURCHASE OF 81 MOBILE DIGITAL COMPUTERS WITH REPAYMENT OF LOAN OVER THE NEXT FOUR AND ONE-HALF YEARS.

WHEREAS, the Modesto Police Department utilizes Mobile Data Computers (MDCs) in their vehicles that were purchased in 2000, and

WHEREAS, the units moved past their service-life and warranty in the year 2003, and have increasingly fallen behind the technology-curve and upgradeability, and

WHEREAS, this limits the Police Department’s ability to integrate modern technologies into the field such as license plate readers, in-car video and full deployment of digital fingerprint readers, and

WHEREAS, this technology will provide officers with the most current information regarding crime activity, which will allow them to be more proactive in their problem solving strategies, and

WHEREAS, the Sacramento Police Department has an existing competitively bid contract for the ITRONIX units, contact IFB B062142012, awarded to Raymar out of Sacramento, who has provided the City a letter stating they will honor Sacramento Police Department pricing, and

WHEREAS, the City has also received correspondence from the manufacturer stating Raymar is the only vendor that can sell at the Sacramento pricing, and

WHEREAS, there are no Modesto resellers for their product, and
WHEREAS, at its meeting of November 6, 2006, the Safety and Communities Committee recommended approval to City Council, and

WHEREAS, in accordance with MMC Section 8-3.204(d), the Purchasing Manager, by accessing the terms (Piggybacking) of the competitively bid Sacramento Police Department contract will purchase 81 Mobile Digital Computers, thereby insuring that the City will be paying the lowest possible cost, commensurate with the desired quality, and also saving the cost of a formal bid process, and

WHEREAS, the Fleet Fund will purchase the Mobile Data Computers at this time and will increase its equipment replacement charges to the Police Department starting in Fiscal Year 2007-2008, recovering the cost, with interest, over a period of four and one-half years,

WHEREAS, the cost of on-going replacement of these units, every three years, has been estimated to be $182,313.00, and

WHEREAS, this amount coupled with the payback to the Fleet Fund, will add approximately $299,514 to the annual fleet charges billed to the Police Department for the years between FY 2007-2008 and FY 2010-2011,

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

Expense: 7210-800-8000-8003 ($434,079)
Expense: 7210-480-5814-5 $434,079

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 5th day of December, 2006, by
Councilmember O’Bryant, who moved its adoption, which motion being duly seconded
by Councilmember Hawn, was upon roll call carried and the resolution adopted by the
following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006 - 750

A RESOLUTION APROVING AN AGREEMENT WITH STANISLAUS COUNTY, BEHAVIORAL HEALTH AND RECOVERY SERVICES (BHRS), IN THE AMOUNT OF $41,500, TO PROVIDE PARTY PATROL POLICE OFFICERS AND CONDUCT JUVENILE ALCOHOL EDUCATION, PREVENTION AND INTERVENTION PROGRAMS FOR THE CITY OF MODESTO AND STANISLAUS COUNTY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, Stanislaus County, Behavioral Health and Recovery Services (BHRS) requires Party Patrol Police Officers to contact, identify and hold accountable minors drinking illegally at home parties and in violation of the law, and

WHEREAS, the Modesto Police Department has developed a first-time offender juvenile alcohol education, prevention and intervention program, and,

WHEREAS, minors contacted by the Party Patrol will be cited and required to attend diversion classes with their parents, and

WHEREAS, the goal of the class is to make minors and parents aware of the dangers related to minors consuming alcohol, and

WHEREAS, the Modesto Police Department has seen a reduction in alcohol related injuries and deaths related to juveniles and alcohol since Party Patrol was established, and

WHEREAS, The Modesto Police Department will also provide a marketing campaign, including placing ads in newspapers, yearbooks as well as produce posters to educate youth about harmful effects of alcohol, and

WHEREAS, the Modesto Police Department shall prepare reports on enforcement actions taken related to juvenile alcohol consumption offenses; and
WHEREAS, the term of this agreement is December 1, 2006 through September 30, 2007, and

WHEREAS, the City shall be compensated $41,500 for the services of Party Patrol Police Officers and the juvenile alcohol education, prevention and intervention program, and

WHEREAS, there is no fiscal impact to the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Stanislaus County, Behavioral Health and Recovery Services (BHRS) in the amount of $41,500 for the provision of Party Patrol Police Officers and the juvenile alcohol education, prevention and intervention program for the City of Modesto and Stanislaus County.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreements.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of December, 2006, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk
(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2006 - 751

A RESOLUTION AMENDING THE FISCAL YEAR 2006/2007 OPERATING BUDGET, ESTIMATING REVENUE OF $41,500, AND APPROPRIATING FUNDS FOR OVERTIME PARTY PATROL OFFICERS AND PROGRAM COSTS.

WHEREAS, Stanislaus County, Behavioral Health and Recovery Services (BHRS) requires Party Patrol Police Officers to contact, identify and hold accountable minors drinking illegally at home parties and in violation of the law, and

WHEREAS, minors contacted by the Party Patrol will be cited and required to attend diversion classes with their parents, and

WHEREAS, the goal of the class is to make minors and parents aware of the dangers related to minors consuming alcohol, and

WHEREAS, the Modesto Police Department has seen a reduction in alcohol related injuries and deaths related to juveniles and alcohol since Party Patrol was established, and

WHEREAS, the term of this agreement is December 1, 2006 through September 30, 2007 and

WHEREAS, the City shall be compensated $41,500 for the services of overtime Party Patrol Police Officers and the juvenile alcohol education, prevention and intervention program, and

WHEREAS, the 2006/2007 Operating Budget will be amended as indicated:

| Expense: | To: 0420-190-2092-0130 | $41,500 | Officers’ Overtime Hours Cost |
| Revenue: | To: 0420-190-2092-3730 | $41,500 | School/County Contribution |
WHEREAS, due to the contract date, this should be set up as a multi-year appropriation.

WHEREAS, there is no fiscal impact to the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of that it hereby approves the agreement with Stanislaus County, Behavioral Health and Recovery Services (BHRS) in the amount of $41,500 for the provision of Party Patrol Police Officers and the juvenile alcohol education, prevention and intervention program for the City of Modesto and Stanislaus County.

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 5th day of December, 2006, by Councilmember O’Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006 - 752


WHEREAS, plans and specifications have been prepared for the “Modesto Police Department Training Center Block Wall Extension” and City staff recommends approval to the City Council, and

WHEREAS, the bids received for “Modesto Police Department Training Center Block Wall Extension” were opened at 11:00 a.m. on November 14, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $19,849.50 received from McPhee Masonry, Inc., be accepted as the lowest responsible bid and the contract be awarded to McPhee Masonry, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the “Modesto Police Department Training Center Block Wall Extension.”

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of $19,849.50, and hereby awards McPhee Masonry, Inc., the contract titled “Modesto Police Department Training Center Block Wall Extension.”

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 5th day of December 2006, by Councilmember
O'Bryant, who moved its adoption, which motion being duly seconded by
Councilmember Hawn, was upon roll call carried and the resolution adopted by the
following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By ______________________
SUSANA ALCALA WOOD, City Attorney

ATTEST: ______________________
JEAN MORRIS, City Clerk
A RESOLUTION APPROVING RESCISSION OF PURCHASE AGREEMENT
DATED AUGUST 2, 2006, BETWEEN THE CITY OF MODESTO AND ALAN G.
MANGINI, SUCCESSOR TRUSTEE OF THE DECIA FAMILY TRUST DATED
3/26/91, AND AUTHORIZING THE CITY MANAGER TO EXECUTE
RESCISSION AGREEMENT RESCINDING SAID PURCHASE AGREEMENT
DATED AUGUST 2, 2006

WHEREAS, on April 6, 2004, by Resolution No. 2004-176 the City Council
authorized staff to proceed with the expansion of City’s water distribution system, and

WHEREAS, as part of the expansion, aboveground water storage tanks must be
constructed in each quadrant of the City to support increased water flow, and

WHEREAS, a minimum of five (5) acres of land is necessary to accommodate
each tank and appurtenances for operation, along with an access utility easement, and

WHEREAS, staff identified a parcel owned by Alan Mangini, Successor Trustee
Of The Decia Family Trust dated 3/26/91 (APN: 007-038-015) of sufficient size and
optimum location for the water tank project and said property was appraised to determine
fair market value, and

WHEREAS, on August 2, 2006, by Resolution No. 2006-477 the City Council
directed staff to enter into negotiations with Alan Mangini to purchase a portion of his
real property (hereafter the “subject property”) for the Water Downstream Improvements:
Tier Two West Tank Project, including an access utility easement, and

WHEREAS, staff notified the California Department of Conservation and the
County of Stanislaus of City’s interest in acquisition of the Mangini property and the
reasons justifying said acquisition, and
WHEREAS, because of Williamson Act issues, staff sought alternate sites and identified four possible alternate parcels. Each of the four alternate sites were evaluated and staff concluded that each of the four alternate sites were inferior and did not satisfy City’s needs to locate, construct and operate the water storage tank, and

WHEREAS, on August 2, 2006, by Resolution No. 2006-477 the City Council made special findings as required by California Government Code Section 51292 relating to the Williamson Act, specifically that (1) the acquisition of the 5-acre portion of the Mangini parcel and the access easement was not based primarily on consideration of the lower cost of acquiring land in an agricultural preserve, (2) that none of the alternate parcels considered were reasonably feasible to locate, construct and operate the water tank, and (3) that acquisition of any of the alternate sites would likely cause significant private injury, and

WHEREAS, on August 2, 2006, by Resolution No. 2006-577 the City Council approved an agreement with Alan Mangini for acquisition of the property sending the acquisition into escrow, and

WHEREAS, on or about August 2, 2006, the City of Modesto and Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/26/91 entered into a Purchase Agreement for sale/purchase of 5-acre portion of the Mangini parcel and access and utility easement, and

WHEREAS, the City of Modesto Survey Crew staked the proposed property and Alan Mangini noticed difficulty in harvesting a small portion of his agricultural crop unless a minor adjustment in the proposed Lot Line was made, and
WHEREAS, a similar minor adjustment in the Lot Line is needed to provide vehicular access to the Modesto Irrigation District Lateral No. 5, and

WHEREAS, the Lot Lines were adjusted to accommodate both requests, and

WHEREAS, the boundary lines of the 5-acre parcel were slightly modified so that the north boundary line moved 6.5 feet and the west boundary line moved 10.1 feet. The total square footage of the fee acquisition remains the same as that of the original purchase of August 2, 2006, and

WHEREAS, the subject property needs to be acquired for this Water Tank project, and

WHEREAS, it is necessary to rescind the original Purchase Agreement dated August 2, 2006 and to execute a new Purchase Agreement for acquisition of the subject property as modified by the lot line adjustments,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves rescission of the Purchase Agreement dated August 2, 2006, between Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/26/91 and the City of Modesto and that the City Manager is hereby authorized to execute Rescission Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of December, 2006, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING AN AGREEMENT FOR THE PURCHASE BY THE CITY OF MODESTO OF (1) A FEE INTEREST IN A PORTION OF A PARCEL ALONG MID LATERAL NO. 4, SOUTH OF ELM AVENUE AND WEST OF ROSEMORE AVENUE OWNED BY ALAN G. MANGINI, SUCCESSOR TRUSTEE OF THE DECIA FAMILY TRUST DATED 3/26/91 (APN: 007-038-015) AND (2) A PERMANENT ACCESS AND UTILITY EASEMENT ON A PORTION OF A PARCEL ALONG MID LATERAL NO. 4, SOUTH OF ELM AVENUE AND WEST OF ROSEMORE AVENUE OWNED BY ALAN MANGINI (APN: 007-038-015) FOR THE WATER DOWNSTREAM IMPROVEMENTS: TIER TWO WEST TANK PROJECT, FOR A TOTAL PURCHASE PRICE OF $252,500, AND MAKING CERTAIN FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 51292 RELATING TO THE WILLIAMSON ACT AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT

WHEREAS, on April 6, 2004, by Resolution No. 2004-176 the City Council authorized staff to proceed with the expansion of City’s water distribution system, and

WHEREAS, as part of the expansion, aboveground water storage tanks must be constructed in each quadrant of the City to support increased water flow, and

WHEREAS, a minimum of five (5) acres of land is necessary to accommodate each tank and appurtenances for operation, along with an access utility easement, and

WHEREAS, staff identified a parcel owned by Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/26/91 (APN: 007-038-015) of sufficient size and optimum location for the water tank project and said property was appraised to determine fair market value, and

WHEREAS, staff notified the California Department of Conservation and the County of Stanislaus of City’s interest in acquisition of the Mangini property and the reasons justifying said acquisition, and
WHEREAS, because of Williamson Act issues, staff sought alternate sites and identified four possible alternate parcels. Each of the four alternate sites were evaluated and staff concluded that each of the four alternate sites were inferior and did not satisfy City's needs to locate, construct and operate the water storage tank, and

WHEREAS, on August 2, 2006, by Resolution No. 2006-477 the City Council made special findings as required by California Government Code Section 51292 relating to the Williamson Act, specifically that (1) the acquisition of the 5-acre portion of the Mangini parcel and the access easement was not based primarily on consideration of the lower cost of acquiring land in an agricultural preserve, (2) that none of the alternate parcels considered were reasonably feasible to locate, construct and operate the water tank, and (3) that acquisition of any of the alternate sites would likely cause significant private injury, and

WHEREAS, on August 2, 2006, by Resolution No. 2006-577 the City Council approved an agreement with Alan Mangini for acquisition of the property sending the acquisition into escrow, and

WHEREAS, on or about August 2, 2006, the City of Modesto and Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/26/91 entered into a Purchase Agreement for sale/purchase of 5-acre portion of the Mangini parcel and access and utility easement, and

WHEREAS, the City of Modesto Survey Crew staked the proposed property and Alan Mangini noticed difficulty in harvesting a small portion of his agricultural crop unless a minor adjustment in the proposed Lot Line was made, and
WHEREAS, a similar minor adjustment in the Lot Line is needed to provide vehicular access to the Modesto Irrigation District Lateral No. 5, and

WHEREAS, the Lot Lines were adjusted to accommodate both requests, and

WHEREAS, the boundary lines of the 5-acre parcel were slightly modified so that the north boundary line moved 6.5 feet and the west boundary line moved 10.1 feet. The total square footage of the fee acquisition remains the same as that of the original purchase of August 2, 2006, and

WHEREAS, the subject property needs to be acquired for this Water Tank project, and

WHEREAS, staff has reviewed the subject property as it relates to the Williamson Act (Government Code Section 51200 et seq.) and recommends making certain findings pursuant to Government Code Section 51292 relating to the Williamson Act Contract ("preserve") and to other relevant codes as follows:

a. Acquisition of the subject property for the water tank site location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve.

b. There is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement.

c. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

and

WHEREAS, an agreement is needed for the acquisition of the subject property,

and
WHEREAS, a Phase I environmental review has been completed on this proposed property acquisition which indicates no known contamination and now Phase II review is required, and

WHEREAS, on July 12, 2005, the Council adopted Resolution No. 2005-378 certifying the Subsequent Environmental Impact Report ("SEIR") (SCH No. 2004022013), and

WHEREAS, it has been determined that, pursuant to Sections 15168(c) and 15182 of the California Environmental Quality Act Guidelines (CEQA), this project is within the scope of the SEIR of the Modesto Regional Water Treatment Plant Phase II Expansion and the City of Modesto Downstream Improvements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Council hereby makes the following special findings:

a. The subject property as the water storage tank site location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve.

b. There is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvements.

The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves the Purchase Agreement between the City of Modesto and Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/26/91 to purchase in fee the 5-acre portion of the parcel along MID Lateral No. 4, south of Elm Avenue and west
of Rosemore Avenue owned by Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/26/91 and a permanent access and utility easement on said parcel (APN: 007-038-015) for the Water Downstream Improvements: Tier Two West Tank Project in the amount of $252,500.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of December, 2006, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN CERTIFICATES OF ACCEPTANCE OF THE GRANT DEED FOR THE ACQUISITION OF THE FEE INTEREST AND ACCESS AND UTILITY EASEMENT DEED FOR THE ACQUISITION OF SAID EASEMENT IN A PORTION OF A PARCEL ALONG MID LATERAL NO. 4, SOUTH OF ELM AVENUE AND WEST OF ROSEMORE AVENUE OWNED BY ALAN MANGINI (APN: 007-038-015) TO THE CITY OF MODESTO FOR THE WATER DOWNSTREAM IMPROVEMENTS: TIER TWO WEST TANK PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a fee interest and an access and utility easement in a portion of a parcel for the Water Downstream Improvements: Tier Two West Tank Project owned by Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/26/91 (APN: 007-038-015),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager is hereby authorized to sign an acceptance form on behalf of the City of Modesto for (1) Grant Deed for the acquisition of a portion of property owned by Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/26/91 (APN: 007-038-015) and (2) access and utility easement deed of a portion of property owned by Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/16/91 for the Water Downstream Improvements: Tier Two West Tank Project.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 5th day of December, 2006, by Councilmember
O'Bryant, who moved its adoption, which motion being duly seconded by
Councilmember Hawn, was upon roll call carried and the resolution adopted by the
following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ________________
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

_____________________
SUSANA ALCAÍ A WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006 - 756

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED “URANIUM AND ARSENIC INVESTIGATION AT WELL 55 AND WELL 313,” ACCEPTING THE BID AND APPROVING A $94,877.05 CONTRACT WITH LAYNE CHRISTENSEN COMPANY, FOR THE PROJECT TITLED, “URANIUM AND ARSENIC INVESTIGATION AT WELL 55 AND WELL 313,” AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, City staff has prepared the plans and specifications for the project titled “Uranium and Arsenic Investigation at Well 55 and Well 313” and recommends approval to the City Council, and

WHEREAS, the bids received for this project were opened at 11:00 a.m. on November 14, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $94,877.05 received from Layne Christensen Company, be accepted as the lowest responsible bid and the contract be awarded to Layne Christensen Company,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the project titled “Uranium and Arsenic Investigation at Well 55 and Well 313”.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of $94,877.05, and hereby awards Layne Christensen Company, the contract titled “Uranium and Arsenic Investigation at Well 55 and Well 313.”

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of December, 2006, by Councilmember O’Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: ____________________________
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By ____________________________
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006 – 757

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR MAINTENANCE AND CALIBRATION SERVICES FOR SPECIALIZED WASTEWATER EQUIPMENT FOR THE PUBLIC WORKS DEPARTMENT, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $50,000.

WHEREAS, specialized chemical addition equipment at the Secondary Treatment Plant (STP) requires maintenance and calibration services to ensure that the correct amounts of chlorine is dispensed to effectively disinfect the effluent discharge and the correct amount of sulfur dioxide is dispensed to dechlorinate the discharge, and

WHEREAS flow meters that are used for measuring flows at the STP and for ranch irrigation also require these maintenance and calibration services, and

WHEREAS, these calibrations assure that the City meets its NPDES permit requirements for wastewater discharge to the river, and

WHEREAS, the Public Works Department desires to solicit bids for the maintenance and calibration services, and

WHEREAS, funds are budgeted and are available in 6210-480-5214-0235 for these maintenance and calibration services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue formal request for bids for maintenance and calibration services for specialized wastewater equipment for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for an estimated annual costs of $50,000.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of December, 2006, by Councilmember O’Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ___________________________

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: ___________________________

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING SPECIFIC PLAN AMENDMENT NO. 3 TO THE NORTH BEYER PARK SPECIFIC PLAN TO MODIFY THE POLICIES AND STANDARDS, IMPLEMENTATION AND FINANCING AND PUBLIC FACILITIES CHAPTERS FOR DEVELOPMENT OF A SMALL-LOT SUBDIVISION FOR SINGLE-FAMILY HOMES, WITH A MINIMUM OF TWENTY-TWO COVENANT-RESTRICTED AFFORDABLE HOUSING UNITS, ON PROPERTY LOCATED ON THE WEST SIDE OF OAKDALE ROAD, BETWEEN MABLE AND CLARATINA AVENUES (FLORSHEIM)

WHEREAS, Government Code Section 65450 et. seq. permits cities and counties to adopt specific plans for the systematic implementation of the General Plan and to provide for a greater level of detail in planning sites or areas of special interest or value, and

WHEREAS, on November 26, 1996, the City Council by Resolution No. 96-641, adopted the North Beyer Park Specific Plan, and

WHEREAS, Government Code Section 65453 permits the amendment of specific plans as often as deemed necessary by the legislative body, and

WHEREAS, the City Council on November 4, 1997, by Resolution No. 97-628, adopted Specific Plan Amendment No. 1 to the North Beyer Park Specific Plan to add language to allow changes in service providers, and

WHEREAS, the City Council on February 25, 2003, by Resolution No. 2003-102, adopted Specific Plan Amendment No. 2 to the Beyer Park Specific Plan to Expand the Plan Area to Include Approximately 20 Acres at the Northeast Corner of Coffee Road and Claratina Expressway and Specify Development as a Church Site, and

WHEREAS, Florsheim Land Company has filed an application to amend the North Beyer Park Specific Plan to modify the policies and standards, implementation and
financing and public facilities chapters to allow development of a small-lot subdivision for single-family homes, including twenty-two affordable housing units covenant-restricted to moderate income households, on property located on the west side of Oakdale Road, between Mable and Claratina Avenues, to require future development to annex to a new CFD and to require future residential development to comply with the City's dual-use basin policy, and

WHEREAS, on November 20, 2006, at 7:00 p.m. the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered concerning the proposed Village One Specific Plan amendment, and

WHEREAS, after said public hearing, the Modesto City Planning Commission by Resolution No. 2006-69, recommended to the City Council approval of an amendment to the North Beyer Park Specific Plan to modify the policies and standards, implementation and financing and public facilities chapters to allow development of a small-lot subdivision for single-family homes, including twenty-two affordable housing units covenant-restricted to moderate income households, on property located on the west side of Oakdale Road, between Mable and Claratina Avenues, to require future development to annex to a new CFD and to require future residential development to comply with the City's dual-use basin policy, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing on December 5, 2006, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing the Council found and determined that the
proposed amendment to the Specific Plan should be approved, subject to the addition of an express requirement mandating development of the proposed twenty-two units of affordable housing, covenant-restricted to moderate-income households.

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

1. The proposed Specific Plan Amendment is consistent with the Modesto Urban Area General Plan and will not result in any substantive change to the North Beyer Park Specific Plan. The proposed amendment is consistent with the Residential (R) and Mixed Use (MU) land use designations for the site in both type and intensity of development.

2. The development of twenty-two affordable housing units covenant-restricted to moderate-income households furthers the Housing Element Policy calling for the support of housing for all income groups.

3. The proposed amendment to require all residential development to be served by dual-use basins is consistent with and furthers the Dual-Use Basin Policies of the General Plan.

4. The proposed amendment to require annexation of all future development to the new CFD is consistent with the General Plan Policy calling for the cost of public infrastructure to serve new development to be financed from revenue attributable to that development.
BE IT FURTHER RESOLVED by the Council of the City of Modesto that the North Beyer Park Specific Plan is hereby amended to modify the policies and standards, implementation and financing and public facilities chapters to allow development of a small-lot subdivision for single-family homes, with a minimum of twenty-two affordable housing units covenant-restricted to moderate income households, on property located on the west side of Oakdale Road, between Mable and Claratina Avenues, to require future development to annex to a new CFD and to require future residential development to comply with the City’s dual-use basin policy. A copy of Amendment No. 3 to the North Beyer Specific Plan is attached hereto as Exhibit "A", and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council that the City Clerk is hereby authorized and directed to send certified copies of this resolution and said amendment to the North Beyer Park Specific Plan to the Board of Supervisors of the County of Stanislaus.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning this Specific Plan Amendment (File No. P-SPA-06-001). The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of December, 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
Chapter 2. Development Policies and Standards

A. LAND USE (SEE FIGURE 2)

1. General Plan Policies

North Beyer Park will be developed in compliance with applicable City General Plan community development, CPD, and related policies. Since the Plan Area is the remaining undeveloped portion of an existing developed neighborhood, land use policies relative to the development of existing neighborhoods apply. City General Plan policies regarding land uses implemented through the Specific Plan are: Overall land use policies based on the City's Zoning Code, Title X of the Modesto Municipal Code (Section III-C(1)), “Neighborhood Plan Prototype” Policies (Section III-C(2)), and the North Beyer Park Specific Plan. City General Plan policies for providing community services and facilities, maintaining public safety, and managing environmental and open space resources are included in subsequent chapters of this Specific Plan.

2. The Specific Plan Overlay Zone

The purpose of the SP-O Zone is to permit development within the North Beyer Specific Plan area under Title X of the Modesto Municipal Code and any exceptions as defined in the Specific Plan.

The City Zoning Map, as allowed by Section 10-2.305 of the Modesto Municipal Code, “The Zoning Map”, shall indicate SP-O zoning for the area of the North Beyer Specific Plan.

3. Subsequent Exceptions to Development Regulations

The Planning Commission may grant exceptions to any of the development regulations listed in this chapter, by resolution, based on the following considerations:

a. Exception Guidelines. Exceptions may be granted to achieve the following purposes:

1. To encourage creative and efficient land uses.

2. To encourage mixed or multiple-use projects.

3. To permit variations from the density, height, and other standards in the various zones.

4. Residential (R)

The R designation accommodates single-family residential uses. The maximum permitted density for an overall land use area is 7.5 dwelling units per acre. Areas designated R utilize the City's R-1 zones as its development regulations with the following exceptions: Lot sizes smaller than 5,000 square feet and senior housing facilities, as an example, are permitted as long as the 1,200 dwelling unit maximum is not exceeded. Lots less than 5,000 square feet and senior housing require approval of a Final Development Plan by the Planning Commission. The existing churches and the
Middle School site are designated R in the General Plan, which is consistent with City policy.

5. Mixed Use (MU)

The mixed-use designation applies to a 10-acre site at the southeast corner of the Coffee Road and Claratina Avenue intersection and also a 14-acre site at the southwest corner of the Oakdale Road and proposed Pelandale Expressway intersection, which would allow a possible neighborhood shopping center at both locations. Professional Office uses are proposed for the area at the northeast corner of the Coffee Road and Mable Avenue intersection. A Stanislaus County approved 50,000-square-foot office building, known as “The Arbors”, has been planned for this site. Also permitted in the Mixed-Use area is R-3, R-2 and R-1 uses according to the City’s Zoning Code, subject to the following exceptions: Lot sizes smaller than 5,000 square feet and senior housing facilities, as an example, are permitted as long as the 1,200 dwelling unit maximum is not exceeded. Lots less than 5,000 square feet and senior housing require approval of a Final Development Plan by the Planning Commission. To develop non-residential areas as residential uses in excess of 1,200 total dwelling units requires a General Plan Amendment. For each of the two Mixed-Use / Neighborhood shopping centers, plot plan approval by the Planning Commission shall be required prior to development. Performance standards deemed necessary by the Commission shall be required at that time.

6. Middle School (MS)

This designation is intended to allow development of an 18.50 acre Middle School facility for the Sylvan Union School District.

7. Storm Drainage (SD)

This designation is intended to permit development for storm drainage facilities to service the project area including basins and related facilities.

8. Church (CH)

The CH designation will permit the construction of a church after the acquisition of a Final Development Plan from the City of Modesto Planning Commission. The development standards shall be as set forth in the City’s R-1 Zone, subject to the exceptions listed below. The only permissible use of the site will be as a church. The existing golf course/driving range is allowed as an interim use until the site is developed.

Exceptions to R-1 Standards

a. Landscape setbacks shall be a minimum of 25 feet along Coffee Road and the Claratina Expressway and 15 feet along the north and east property lines.

b. Walls shall incorporate decorative treatment including a cap treatment, pilasters and finished with materials complementary to the exterior materials on the building. Walls along the north or east property line should transition gradually from the maximum six foot (6’) allowable height to 42” within the setback area.
when the North Trunk becomes available north of the site, sewer flows can be diverted to that trunk line, and the connection to the line in Coffee Road can be abandoned. Figure 3 has been updated to show these sewer lines.

2. Storm Drainage (See Figure 4)

A positive storm drainage system comprised of catch basins, pipelines and storm drain basins is proposed to serve this project. The storm drain basins will be constructed as development occurs. Storm drain basins for residential development shall be constructed and maintained in accordance with the City's Dual-Use Basin Policy. The storm drain collection system and basins will be designed in accordance with the City of Modesto and Stanislaus County Standards and Specifications.

Concurrent with its redevelopment as a church, the Claratina Driving Range property will provide its own on-site storage for storm runoff, adequate to capture storm runoff to City Standards. A line will be stubbed from the site to permit for the future connection of the site to an area-wide storm drainage facility. The size and location of the facilities will be finally determined as part of the Final Development Plan process required for redevelopment of the site.

3. Water (See Figure 3)

City water service will be provided to the entire plan area through connection to the existing water mains in Mable Avenue. An existing 10” water main and a 24” transmission water main, which lie in Mable Avenue, are part of a larger looped water system designed to serve the entire Plan Area. All private wells shall be abandoned and capped at the time of development, in accordance with the City of Modesto, Stanislaus County and Department of Health Services Standards.

The Claratina Driving Range property will connect to the existing City water system for the provision of water to the site. A well site will be provided to the City, subject to reimbursement consistent with current City policy, for the location of a future well. The actual location for the well site will be determined as part of the Final Development Plan process required for the redevelopment of the site. As the entire site is currently served by an existing well for irrigation, domestic and fire flow purposes, this well may remain in service for a period of time, until connection to the City system is deemed appropriate. That connection is proposed to consist of a four to six inch (4-6”) line for domestic service, and an eight-inch (8”) line for fire flow.

C. TRANSPORTATION AND CIRCULATION

1. Overview

The North Beyer Park Plan Area circulation system represents a logical extension of the City's existing arterial and collector street system as specified in the General Plan. The location and classification of streets within this extended street system is shown on Figure 5, Vehicular Circulation Diagram. The plan provides for the dedication of right-of-way (ROW) that is required within the North Beyer Park for the proposed Pelandale Expressway. Additional dedication will be necessary for the expressway, which will be required by the properties north of the Plan Area as future development occurs. The Specific Plan and Mitigated Negative Declaration preparation included a traffic analysis
D. FINANCING

A long range financing strategy for the North Beyer Park Plan Area is provided as part of this Specific Plan, both in accordance with State Government Code Requirements and with the City of Modesto Urban Area General Plan Policy.

A basic concept of the Specific Plan Financing Strategy is that infrastructure improvements are to be constructed in conjunction with individual project development. These infrastructure improvements shall be sized according to identified future needs with compensation from property owners who will receive future benefit. The City of Modesto does require Specific Plans to provide for the installation and maintenance for certain public facilities as identified below (See Item E.2.b on Page 4-4) through participation in a City Mello-Roos Community Facilities District.

The City intends to create one or more Community Facilities Districts ("CFDs") or similar funding mechanism to fund construction and maintenance of backbone infrastructure, community facilities and services necessary to serve the North Beyer Park Specific Plan Area. The purpose of this funding mechanism will be to ensure the City is collecting all funds necessary to construct and maintain the backbone infrastructure, community facilities and services necessary to serve the Specific Plan Area. It is the policy of the City Council that no new development may occur without forming or annexing to the applicable CFD(s) or other capital and maintenance funding mechanisms adopted by the City at the applicable rate(s), and by paying all applicable fees and taxes.

No precise plan, final map, final development plan, building permit or other development entitlement for any vacant or undeveloped property or for any property which redevelops in the future shall be deemed consistent with the North Beyer Park Specific Plan until and unless the affected parcel is required to form or annex to North Beyer Park CFD #2 and pay all applicable CFD taxes at the rates established by North Beyer Park CFD #2.

Therefore, as a condition of approval for development of any parcel within the North Beyer Park Specific Plan area, the property owner and/or developer shall be required to take all actions necessary to impose all CFD taxes on the land as are required of parcels within North Beyer Park CFD #2, including but not limited to securing and establishing North Beyer Park CFD #2 or annexing to North Beyer Park CFD #2 if North Beyer Park CFD #2 has already been established and actually paying all CFD taxes assessed based on the tax rates established for North Beyer Park CFD #2. The property owner shall be required to secure and establish North Beyer Park CFD #2, or annex to North Beyer Park CFD #2 at the tax rates established for North Beyer Park CFD #2 prior to recordation of a final map or issuance of a building permit, whichever occurs first, for any property located within Tax Area B. Payment of the CFD tax at the rates established for North Beyer Park CFD #2 shall be required prior to issuance of a building permit. Each parcel shall also be required to pay all CFF, sewer and water fees and other development fees applicable to the property in accordance with City ordinances, resolutions, regulations, policies and procedures.

While the Claratina Driving Range property has been added to the North Beyer Specific Plan to permit its immediate development as a church, it is more connected to the Hetch Hetchy CPD relative to the provision of future Master Storm Drainage, Sewer and other infrastructure. As such, while the Claratina Driving Range site may redevelop, paying for the cost of providing the services needed for the project today, consistent with City standards and policies, the Claratina Driving Range will be required to form a Mello-Roos Community Facilities District for the Hetch Hetchy CPD (the "CFD") prior to issuance of a building permit for a church use on the Claratina Driving Range property.
NOTE: ALL STORM BASINS FOR RESIDENTIAL DEVELOPMENT SHALL COMPLY WITH THE CITY'S DUAL USE BASIN POLICY.
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): SPECIFIC PLAN AMENDMENT NO. 3 TO THE NORTH BEYER PARK SPECIFIC PLAN TO MODIFY THE POLICIES AND STANDARDS, IMPLEMENTATION AND FINANCING AND PUBLIC FACILITIES CHAPTERS TO ALLOW DEVELOPMENT OF A SMALL-LOT SUBDIVISION FOR SINGLE-FAMILY HOMES ON PROPERTY LOCATED ON THE WEST SIDE OF OAKDALE ROAD, BETWEEN MABLE AND CLARATINA AVENUES, TO REQUIRE FUTURE DEVELOPMENT TO ANNEX TO A NEW CFD AND TO REQUIRE FUTURE RESIDENTIAL DEVELOPMENT TO COMPLY WITH THE CITY’S DUAL-USE BASIN POLICY. (FLORSHEIM)

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, an application has been filed by Florsheim Land Company for an amendment to the North Beyer Park Specific Plan to modify the policies and standards, implementation and financing and public facilities chapters to provide the ability and procedure to develop a small-lot subdivision for single family homes on property located on the west side of Oakdale Road, between Mable and Claratina Avenues, to require future development to annex to a new CFD and to require future residential development to comply with the City’s dual-use basin policy, 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. 2006-66 (“Initial Study”) reviewed the proposed amendment to the Zoning Map from Specific Plan Overlay Zone, (SP-O), to Planned Development Zone, P-D(576), 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, in accordance with CEQA guidelines on November 13, 2006, the City caused to be published a 20-day notice of the City’s intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, the Planning Commission, by Resolution No. 2006-69 recommended to the City Council approval of the application of Florsheim Land Company for an amendment to the North Beyer Park Specific Plan to modify the policies and standards, implementation and financing and public facilities chapters to allow development of a small-lot subdivision for single-family homes on property located on the west side of Oakdale Road, between Mable and Claratina Avenues, to require future development to annex to a new CFD and to require future residential development to comply with the City’s dual-use basin, and
WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on December 5, 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 the North Beyer Park Specific Plan to modify the policies and standards, implementation and financing and public facilities chapters to allow development of a small-lot subdivision for single-family homes, to require future development to annex to a new CFD and to require future residential development to comply with the City’s dual-use basin policy, 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 type of project is described in Chapter II of the Master Urban Area General Plan Master EIR (MEIR).

2. 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.

3. 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.

4. 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 identified in the MEIR.
b. No new or additional mitigation measures or alternatives are required.

5. The Initial Study, Environmental Assessment No. EA/C&ED 2006-66, provides the substantial evidence to support findings 1-4, noted above.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of December, 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2006-66

For the proposed:

SPA, FDP, VTSM & VTPM – Rose Villas

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

10/20/06
I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City’s Master EIR. The North Beyer Park Specific Plan was one of the anticipated subsequent projects in the MEIR. A mitigated negative declaration (MND), tiered off the MEIR, was prepared for the North Beyer Park Specific Plan. This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the proposed project, SPA, FDP, VTSM and VTPM, 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) as supplemented by the North Beyer Park Specific Plan MND (SCH# 96102053). 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: SPA, FDP, VTSM & VTPM – Rose Villas

B. Address or Location: NWC Oakdale Road and Mable Avenue

C. Applicant: Florsheim Land Company, LLC, 1701 W. March Lane, Stockton, Ca. 95207

D. City Contact Person: Josh Bridegroom

Project Manager: Josh Bridegroom
Department: Community and Economic Development Department
Phone Number: (209) 577-5267
E-mail address: jbridegroom@modestogov.com

E. Current General Plan Designation(s): R & MU

F. Current Zoning Classification(s): SP-O

G. Surrounding Land Uses: North: Claratina Avenue
South: Mable Avenue & Single Family Residential  
East: Oakdale Road  
West: Single Family 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):

This project is defined by Section II.C of the Master EIR as Zoning and Subdivisions.

This is an application for a Specific Plan Amendment, Final Development Plan, Vesting Tentative Subdivision Map and Vesting Tentative Parcel Map to provide for the development of a 142 small-lot single-family development. A dual-use basin is proposed in accordance with City Standards on the northern portion of the development to provide the storm drainage solution for the development as well as some common open space for the residents. The development proposes twenty-two shared-wall units that will be covenant restricted to remain affordable to moderate-income families. Dedication and improvements consistent with City Standards are proposed along the Claratina Avenue, Oakdale Road and Mable Avenue street frontages.

I. Other Public Agencies Whose Approval is Required: None

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

1. X Within the Scope - The project is within the scope of the Master EIR, as supplemented by the North Beyer Park Specific Plan MND, 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, as supplemented by the North Beyer Park Specific Plan MND, 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, as supplemented by the North Beyer Park Specific Plan MND, 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.

City of Modesto Finding of Conformance  
General Plan Master EIR  
Initial Study  
EA/C&ED No. 2006-66  
October 21, 2006
2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

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

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

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

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

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

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

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

[Signature]
Project Manager

[Signature]
ASSOCIATE PLANNER

Date

October 21, 2006
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.

YES NO

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

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

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

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

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

(6) Development within the project will comply with all mitigation measures identified in the General Plan Master EIR, as supplemented by the North Beyer Park Specific Plan MND. X □

5. Currency of the Master EIR Document

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

YES NO

(1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project. X □
(2) This project was described in the Master EIR, as supplemented by the North Beyer Park Specific Plan MND, and its approval will not affect the adequacy of the Master EIR, as supplemented by the North Beyer Park Specific Plan MND, for any subsequent project because the City can make the following findings:

(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 remain in place that require site-specific mitigation, and 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, as supplemented by the North Beyer Park Specific Plan MND, 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 and in the North Beyer Park Specific Plan MND on pages 20-22. 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, as supplemented by the MND.

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

YES NO

(1) The project exceeds the Master EIRs traffic generation assumptions for this site and City Engineering and Transportation staff has determined that the project would have additional project-specific effects that are not avoided or reduced by the Master EIRs program of mitigation measures, as supplemented by the North Beyer Park Specific Plan MNDs program of mitigation measures.

(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:

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

A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR as supplemented by the North Beyer Park Specific Plan MND. No traffic study is required.

B. A site access study is not required for this project.

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

(3) Fire and Police Staff have reviewed this proposal and have determined that the existing layout does not create an emergency access problem.

(4) The project meets City Standards in terms of the number of parking spaces required on-site, which is two per unit.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

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

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

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

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

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: AQ-17

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

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

YES NO
(1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines. X
(1) The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD. X
(2) The project does not comply with the air quality policies of the Modesto Urban Area General Plan. X
(4) The project would expose sensitive receptors to substantial pollutant concentrations. X
(5) The project would create objectionable odors affecting a substantial number of people. X

DISCUSSION:
(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.
(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPCD (see mitigations measures above).
(3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).
(4) The project is not a significant contributor to pollution levels. The main source of pollution that would come with the development is traffic related. Since the traffic impacts are within the scope of the MEIR, as supplemented by the MND, so are the traffic-related pollution concentration impacts. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measure listed above.
(5) The proposed project will not produce objectionable odors.

3. Noise

a. Significant Effects Identified in the Master EIR
The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

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

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

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

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

**DISCUSSION:**

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

**c. Project-Specific Effects**

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

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

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

**DISCUSSION:**

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.
(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan MEIR are incorporated into the conditions of approval for the project.

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

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

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION: There are no mitigation measures applicable to this project.
c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>X</td>
</tr>
</tbody>
</table>

(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

DISCUSSION:

(1) The project is consistent with the General Plan land use policies. It is a residential development that is consistent in intensity to what was assumed by the General Plan as supplemented by the North Beyer Park Specific Plan.

(2) The project will not result in the development of land outside the March 2003 planning area boundaries.

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

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. All of the land surrounding the project is designated for future urban uses.

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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

**DISCUSSION:**

There are no mitigation measures applicable to this project.

c. **Project-Specific Effects**

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

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

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
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<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

**DISCUSSION:**

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

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

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-6-4 through V-6-7 MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>1.</td>
<td>☐ X</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>☐ X</td>
<td></td>
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</tbody>
</table>

(1) The project is inconsistent with the Modesto Urban Area General Plan.
(2) The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments.

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
(2) The project was referred to Engineering and Transportation for comment and there was no indication that there is insufficient capacity to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

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

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

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

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

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:
DISCUSSION:

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

c. Project-Specific Effects

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

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

YES NO

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

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

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

DISCUSSION:

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

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

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

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

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

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.
Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

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

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

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND.

DISCUSSION:

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

c. Project-Specific Effects

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

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

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

DISCUSSION:

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

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

a. Significant Effects Identified in the Master EIR

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

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

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

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8 of the MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND.

DISCUSSION:

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

c. Project-Specific Effects

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

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:
The project is inconsistent with the Modesto Urban Area General Plan.

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

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

DISCUSSION:

The project is consistent with the Modesto Urban Area General Plan R (Residential Land Use) and MU (Mixed Use) designations in both land use and intensity.

The project proposes to increase the rate or amount of impervious surface, but not beyond that which is anticipated by the MEIR, in that the land use and intensity is consistent with that which is assumed under the MEIR, as supplemented by the MND. The project will meet the standards contained in the “Guidance Manual for New Development-Storm Water Quality Control Measures,” adopted by the City as required by the above-listed mitigation measures.

The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system. The project includes storm drainage facilities designed in accordance with City Standards, to accommodate the runoff. Public Works staff have reviewed the plan and have determined that it will not create on or off-site flooding.

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. No mitigation measures were
required as a result of the North Beyer Park Specific Plan MND. All feasible measures
appropriate to the project have been incorporated into the conditions of approval.

DISCUSSION:

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

c. Project-Specific Effects

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

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

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

DISCUSSION:

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

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures. See MEIR mitigation imposed on the project, as cited above.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff. See MEIR mitigation imposed on the project, as cited above.

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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project, are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project. It is not near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.
c. Project-Specific Effects

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

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

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

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

DISCUSSION:

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

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

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

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

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

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

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the
project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

**DISCUSSION:**

There are no mitigation measures applicable to this project.

c. **Project-Specific Effects**

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

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

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

**DISCUSSION:**

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

(2) The project was referred to Modesto City Schools who indicated no opposition to the project. The appropriate school impact fees will be assessed on the development in accordance with SB 50.

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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

**DISCUSSION:**

No mitigation measures are applicable to this project.

c. **Project-Specific Effects**

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

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

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>X</td>
</tr>
<tr>
<td>(2) The project would 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>X</td>
</tr>
</tbody>
</table>

**DISCUSSION:**

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

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

**14. FIRE SERVICES**

a. **Significant Effects Identified in the Master EIR**

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

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

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

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

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

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

YES NO

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

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

DISCUSSION:

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

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

15. SOLID WASTE

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

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

**Effect:** New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. *This impact is significant and unavoidable.*

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

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-15-5 and V-15-6 MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

**DISCUSSION:**

No mitigation measures are applicable to this project.

**c. Project-Specific Effects**

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

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

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

**DISCUSSION:**

(1) The project is consistent with the Modesto Urban Area General Plan designation in both land use and intensity.
This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

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

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

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

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

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>Threshold</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(2) The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
(3) The project contains a contaminated site not identified as of March 2003. ☐ X

(4) The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. ☐ X

(5) The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment. ☐ X

DISCUSSION:

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

(2) No hazardous materials will be involved with this project.

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

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

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

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

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

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

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

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.
Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

**DISCUSSION:**

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>☐</td>
</tr>
<tr>
<td>(2)</td>
<td>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.</td>
<td>☐</td>
</tr>
</tbody>
</table>

**DISCUSSION:**

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

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

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

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

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

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

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

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

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

19. PLANNING AND LAND USE

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

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-less-than significant unless:
YES  NO

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

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan designation in both land use and intensity.
(2) No amendment to the General Plan is required by this project.
(3) The project will complete a community plan. It will not divide an established community.

20. AESTHETICS

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

a. Project-Specific Effects

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

YES  NO

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

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.
(2) The project will not have a substantial adverse effect on a scenic vista. It is not near any rivers, mountains or other vistas of interest.
The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.

The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area. The development will be consistent with all City standards and regulations.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

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

All applicable and appropriate mitigation measures have been applied to the project.

Traffic and Circulation Measures:

1. Prior to recordation of the subdivision, the developer shall provide dedication and improvements along Claratina Avenue, Oakdale Road and Mable Avenue in accordance with City Standards, and as required by the City Traffic Engineer.

Air Quality Measures:

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

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

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

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

5. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.
6. Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

7. The developer shall implement measures to prevent carryout or trackout that may otherwise occur in conjunction with construction activities.

**Noise Measures:**

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

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

   A. A hammer, or any other device or implement used to pound or strike an object.
   
   B. An impact wrench, or other tool or equipment powered by compressed air.
   
   C. A hand-powered saw.
   
   D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
   
   E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
   
   F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
   
   G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.
   
   H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers’ recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.
Agricultural Land Measures:
N/A

Water Supply Measures:
N/A

Sanitary Sewer Service Measures:
N/A

Sensitive Wildlife and Plant Habitat Measures:
N/A

Archaeological or Historic Sites Measures:

If archeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criterial presented in Appendix K of the MEIR.

Storm Drainage Measures:

1. Prior to the issuance of a building permit for any portion of the small-lot development or recordation of the subdivision map, the developer shall submit a plan for approval by the Operations and Maintenance Director to provide on-site treatment of storm water in accordance with the guidance manual for new development stormwater quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.

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

Flooding and Water Quality Measures:

1. Prior to the issuance of a building permit for any portion of the small-lot development or recordation of the subdivision map, the developer shall submit a plan for approval by the Operations and Maintenance Director to provide on-site treatment of storm water in accordance with the guidance manual for new development stormwater quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.

2. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.
Parks and Open Space Measures:
N/A

Schools Measures:
N/A

Police Services:
N/A

Fire Services:
N/A

Generation of Solid Waste
N/A

Generation of Hazardous Materials
N/A

Potential for Landslides and Seismic Activity
N/A

Energy
N/A

Planning and Land Use
N/A

Aesthetics
N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: None.
A RESOLUTION AFFIRMING THE TERMS OF THE EXISTING CABLE FRANCHISE AGREEMENT IN RESPECT TO THE DEFERRED COLLECTION OF FRANCHISE AND PEG GRANT FEES.

WHEREAS, the Governor has signed the Digital Infrastructure and Video Competition Act of 2006 (the "Act"), and

WHEREAS the Act, effective January 1, 2007, provides for state issued video franchises, provides for the obligations and conditions of these franchises and permits existing local cable television franchisees to abrogate their existing franchises and opt into the state franchises, and

WHEREAS, the Act provides for a state franchise fee payable as rent or toll for the use of the public right-of-way by holders in the amount of 5 percent of gross revenues, or the percentage applied by the local agency to the gross revenue of the incumbent cable operators, whichever is less, and

WHEREAS, the existing Franchise Agreement, adopted by ordinance, does impose a franchise fee of three percent, and

WHEREAS three percent franchise fee is required, council has deferred collection of the maximum amount of five percent and reserves the right to initiate collection of the maximum amount at some point in the future, and

WHEREAS, The Act authorizes a PEG fee of one percent (1%) of gross revenues that may be imposed at any time and permits local agencies that are imposing a PEG fee in excess of 1% on December 31, 2006, to then establish by ordinance and collect a PEG fee in excess of one percent but not to exceed three percent (3%), and
WHEREAS, the existing Franchise Agreement, adopted by ordinance, imposes a PEG grant in excess of 1% and that this PEG grant has been and is currently imposed on the cable franchisee, however council’s has deferred collection thus far.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto affirming that the existing Franchise Agreement, adopted by ordinance 3223-C.S, imposes a franchise fee of three percent and deferred collection of the maximum amount and reserves the right to initiate collection of the maximum amount at some point in the future. Furthermore, the Franchise Agreement, adopted by ordinance 3223-C.S, imposes a PEG grant in excess of 1% and that this PEG grant has been and is currently imposed on the cable franchisee. However the Council’s has deferred collection thus far and reserves the right to collect it at any time in the future.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of December, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmemebber Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Wood, Interim City Attorney

120506/TT/G'cook/item14
MODESTO CITY COUNCIL
RESOLUTION NO. 2006 - 761

A RESOLUTION RECOGNIZING RAY SIMON FOR HIS 32 YEARS OF
PUBLIC SERVICE TO THE CITIZENS OF MODESTO AND
STANISLAUS COUNTY

WHEREAS, Ray Simon moved to Modesto, California to join his family after
service in the military and enrolled at Modesto Junior College where he earned his
Associates of Arts degree, and

WHEREAS, Ray transferred to the University of California at Berkeley where he
graduated with a degree in Criminology. His early and continuing interest in public
safety are part of the enormous contributions he has made to the citizens of Stanislaus
County.

WHEREAS, after graduation and a period of working with the FBI and CIA in
intelligence, Ray returned to Modesto and entered the insurance business as an adjuster
for Bud Gianelli. He later purchased the business and started Pegasus Risk Management,
Status Medical Management and the Consolidated Status Investigative Group.

WHEREAS, in 1966, Ray was appointed to the City of Modesto Planning
Commission by Mayor Don Hammond and in 1967, he was elected to the Modesto City
Council where he served two terms,

WHEREAS, Ray’s interest in the regional effects of growth, traffic and crime
soon lead him to run for the Stanislaus Board of Supervisors, and in 1973, he was elected
to the Stanislaus County Board of Supervisors.

WHEREAS, Ray is a leader in promoting regional advanced law enforcement
training. The Ray Simon Regional Criminal Justice Training Center is named in
his honor and is the first in the State and is being replicated throughout the State of California.

NOW, THEREFORE, the Modesto City Council extends it sincere gratitude to Ray Simon for his 32 years of public service, leadership and dedication to the citizens of Modesto and Stanislaus County.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December, 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST: [Signature]
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

[Signature]
SUSANA ÁLCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006 - 762

A RESOLUTION APPROVING AN ADVANCED FUNDING AGREEMENT FOR THE WOODGLEN SPECIFIC PLAN AREA BETWEEN THE CITY OF MODESTO AND FITZPATRICK LAND DEVELOPMENT, A LIMITED LIABILITY COMPANY, FOR THE PREPARATION OF A FACILITIES MASTER PLAN, AND INFRASTRUCTURE FINANCE PLAN AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE WOODGLEN SPECIFIC PLAN AREA, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, Fitzpatrick Land Development, a Limited Liability Company (the “Applicant”) has agreed to advance all funds necessary to prepare a Facilities Master Plan and Infrastructure Finance Plan (“FMP/IFP”) and for formation of a Community Facilities District (“CFD”) for the Woodglen Specific Plan Area, and

WHEREAS, the parties agreed to enter into an Advanced Funding Agreement for the Woodglen Specific Plan Area by and between the City and the Applicant relating to advances made and to be made by the Applicant to the City, and providing for potential reimbursement to the Applicant if and when certain funds from the Woodglen CFD become available, a copy of which is attached as Exhibit A,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Advanced Funding Agreement for the Woodglen Specific Plan Area between the City of Modesto and Fitzpatrick Land Development, a Limited Liability Company, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Advanced Funding Agreement.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney

ATTEST: 
JEAN MORRIS, City Clerk
ADVANCED FUNDING AGREEMENT
FOR THE WOODGLEN SPECIFIC PLAN AREA

THIS ADVANCED FUNDING AGREEMENT FOR THE WOODGLEN SPECIFIC PLAN AREA (this “Agreement”), dated as of __________, 2006, is entered into by and between the CITY OF MODESTO, a municipal corporation of the State of California (the “City”) and Fitzpatrick Land Development, A Limited Liability Company (the “Applicant”).

RECITALS:

A. Applicant has a legal interest in real property located within a portion of the Woodglen Specific Plan Area (“Specific Plan”), shown in Exhibit A attached hereto and incorporated herein by this reference, and is interested in pursuing development of properties in the Specific Plan.

B. Applicant has requested that the City prepare a Facilities Master Plan and Infrastructure Finance Plan (“FMP/IFP”), and create an appropriate financing mechanism, such as a community facilities district (“CFD”) for the principal purpose of master planning and financing the various public facilities and services which are necessary to serve or desirable for the development of the Specific Plan (collectively the “Project”).

C. City has either retained, or will retain outside consultants, to assist it with the Project and, if the City determines to proceed with the formation of a CFD, to assist it in connection therewith and with the possible issuance of bonds.

C. The scope of work for the Project (“Scope”), including the estimated costs for completing the Project (“Estimated Costs”), is attached as Exhibit B.

E. Applicant is prepared to deposit with the City the amount needed to fund the Scope plus 30% for staff time and expenses in order to provide the City with an initial source of funds with which to pay expenses expected to be incurred in connection with the Project. Additional deposits will be provided by Applicant, as required by the City.

F. The City and Applicant are desirous of entering into this Agreement in order to provide monies for the City’s costs for the preparing the Project on a time and materials basis, to provide mechanisms by which the funds deposited under this Agreement shall be applied and by which Applicant may make additional deposits, and to reimburse Applicant for monies advanced for the benefit of other landowners in the Project.

G. Pursuant to California Government Code Section 53314.9 and the City’s CFD Policies and Procedures, the City Council of the City is authorized to accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or work-in-kind for any authorized purpose, including, but not limited to, paying any costs incurred in connection with the planning and formation of a community facilities district. The City Council of the City is also authorized to enter into an agreement, by resolution, with the person or entity advancing the funds or work-in-kind to repay all or a portion of the funds advanced or to reimburse the person or entity for the cost or value of the work-in-kind provided that certain conditions are met. The conditions to be satisfied with respect to funds advanced require that (1) the proposal to repay the funds or to pay the cost or value...
of the work-in-kind must be included in the resolution of intention for the proposed community facilities district and in the resolution of formation for the proposed community facilities district, (2) any proposed special tax is approved by the qualified electors of the community facilities district and, if a proposed special tax is not approved, any funds advanced which have not been committed for any authorized purpose by the time of the election must be returned to the person or entity advancing funds and (3) any work-in-kind accepted shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the local agency.

H. The City and the Applicant are desirous of entering into this Agreement in accordance with Government Code Section 53314.9 and the City’s CFD Policies and Procedures in order to provide a mechanism by which the Applicant may make additional deposits if determined necessary pursuant to the City’s CFD Policies and Procedures and, when and if bonds are issued and proceeds are available, the CFD can reimburse the Applicant for the amounts advanced by the Applicant.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. Recitals. Each of the above recitals is incorporated herein and is true and correct.


   a. Applicant agrees to pay all costs of preparing, processing and approving the FMP/IFP.

   b. Within ten (10) calendar days after the City Council approves this Agreement, Applicant shall deposit with the City the sum of $568,230 (“Initial Deposit”) to fund the Scope of work for the Project. The Initial Deposit will be held in trust by the City and used solely for the purposes set forth in this Agreement. Upon receipt by the City of the Initial Deposit and all documents deemed necessary by the City to proceed with the Project, the City will commence work on the Project on a time and materials basis and will provide a Notice to Proceed to its Consultant to proceed with the Project. In connection therewith, the City has either retained, or will retain, the consultants that the City determines necessary or convenient to assist it with the Project and, if the City determines to proceed with the formation of the CFD, to assist it in connection therewith and with the possible issuance of bonds.

   After the Initial Deposit has been expended on the Project, Applicant shall make additional advances to the City as provided by subparagraph (d), below, until the Project has been completed or terminated, and all costs associated with the Project have been fully paid. City will commence work on subsequent Tasks as identified in the Scope on a time and materials basis and will provide a Notice to Proceed to Consultant for each such Task within ten (10) calendar days after it has received an additional deposit sufficient to cover the estimated costs for said Task plus 30% for staff time and expenses associated with said Task.
c. The consultants shall submit invoices to the City for payments based on work completed; such invoices will be promptly sent by the City to the Applicant, which will have five (5) business days to challenge the work performed, and the City will in good faith consider the position of the Applicant prior to approving payment. Applicant understands and agrees that City shall have the right, in its sole discretion, to approve and pay all such consultant invoices, and may do so without obtaining Applicant’s approval.

Applicant shall make additional advances to the City within ten (10) business days following receipt from the City of a request for an additional advance to cover the costs referred to herein. In the event that Applicant does not deliver the requested amount to the City within such ten (10) business day period, the City will have no obligation to proceed with any activity relating to the Project. The Applicant may notify the City at any time, in writing, of its intention to abandon the Project. Immediately upon City’s receipt of such notice, but in no case later than two (2) business days, the City shall instruct in writing its consultants to cease work immediately. The Applicant shall be responsible for all costs and expenses incurred by the City or any City consultant or advisors relating to the Project until City issues this cease work.

d. Within 60 calendar days after issuance of a cease work notice, City agrees to return to Applicant all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by City relating to the Project.

e. Applicant agrees that, notwithstanding the Applicant’s funding and reimbursement obligation under this Agreement, the consultants selected by the City shall be the contractors exclusively of the City and not of the Applicant. Except for those disclosures required by law including, without limitation the Public Records Act, all conversations, notes, memoranda, correspondence, and other forms of communication by and between the City and its consultants shall be, to the extent permissible by law, privileged and confidential and not subject to disclosure to the Applicant. Applicant agrees that it shall have no claim to, nor shall it assert any right in any reports, correspondence, plans, maps, drawings, news releases or any and all other documents or work project produced by City’s consultants. Applicant understands that it will not be a third party beneficiary to City’s contracts with the consultant. City will consult with Applicant prior to replacing its current consultants; however, Applicant agrees that City may select other consultants to replace its current consultants and may do so without obtaining Applicant’s approval.

f. City and Applicant shall work cooperatively and in good faith to facilitate completion of Project as quickly as possible and in the most cost effective way. City and Applicant shall meet and consult on dates and times as may be mutually agreed upon to discuss the progress and any key issues involved in the Project; provided, however, that Applicant’s role is advisory only and that City shall control all aspects of the Project. The final work product to be produced by City’s consultants shall be subject to the City’s sole approval and control.
3. **Proposed Formation of the CFD and Issuance of Bonds.**

a. Applicant agrees to pay all costs of preparing, processing and forming a CFD for the Specific Plan area.

b. Upon receipt by the City of a completed application for the formation of the CFD, the formation deposit for the CFD, and all documents related thereto as described in the City’s CFD Policies and Procedures, the City will undertake to analyze the appropriateness of forming the CFD and the issuance of bonds by it. In connection therewith, the City has either retained or will retain, at the Applicant’s expense, the consultants that the City determines necessary or convenient to assist it in studying the proposed formation of the CFD and, if the City determines to proceed with the formation of the CFD, to assist it in connection therewith and with the possible issuance of bonds.

c. Pursuant to the City’s CFD Policies and Procedures, the Applicant shall make additional advances to the City within ten (10) days following receipt from the City of a request for an additional advance to cover the costs referred to herein. In the event the Applicant does not deliver the requested amount to the City within such ten (10) day period, the City will have no obligation to proceed with any activity relating to the formation of the CFD and/or the issuance of bonds. The Applicant may notify the City at any time, in writing, of its intention to abandon the formation of the CFD or the issuance of bonds. Upon receipt of such notice, the City shall instruct its consultants to cease work as soon as practicable. The Applicant shall be responsible for all costs and expenses incurred by the City or any City consultant or advisor relating to the proposed formation of the CFD and/or bond issuance until work with respect to the proposed formation or bond issuance ceases following the receipt of the Applicant’s notice of abandonment. Within 60 calendar days after receipt of the Applicant’s notice of abandonment, City agrees to return to Applicant all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by City relating to the Project.

4. **Reimbursement Procedure.** If the CFD is formed and bonds are issued, bond proceeds in excess of the amount determined by the City’s District Administrator to be required in order to satisfy the requirements of the City’s CFD Policies and Procedures with respect to capitalized interest and reserves and to pay for the Facilities and other Incidental Expenses may be used to reimburse the Applicant for the amounts that the Applicant has advanced to the City in connection with this Agreement, all as provided for in the City’s CFD Policies and Procedures. In the event that the CFD is not formed for any reason, or in the event that the CFD is formed and bonds are not issued for any reason, the City shall return any funds which have been advanced by the Applicant pursuant to this Agreement and which have not been expended, obligated or otherwise committed for any authorized purpose, subject to the complete reimbursement to the City of all of its direct and indirect costs. If the amounts previously advanced by the Applicant are insufficient to fully reimburse the City for all of its direct and indirect costs, the Applicant shall promptly pay to the City the amount of the deficiency. The City shall be entitled to pay any refund required pursuant to the provisions hereof to the entity that is the signatory to this Agreement irrespective of any changes in the ownership of the property or the organization of the Applicant, and the City shall not be required to pay interest on any amount required to be refunded pursuant to this Agreement.

(Woodglen).DOC

FMP-IFP Advanced Funding Agreement
5. **Abandonment of the Project.** The Applicant understands that, subject to the satisfaction of all applicable legal requirements, the decision to review, process, prepare or approved the proposed Project, shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to review, process, prepare or approve the proposed Project. The City shall have no liability to Applicant for a decision not to review, process, prepare or approve the proposed Project.

6. **Abandonment of Proposed CFD.** The Applicant understands that, subject to the satisfaction of all applicable legal requirements, the decision to form the CFD and the decision to issue bonds shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to form the CFD or to issue bonds. Should the proceedings to form the CFD be abandoned for any reason, the City shall provide written notification of such abandonment to the Applicant and shall return to the Applicant all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by the City relating to formation of the CFD. Said monies shall be returned within 60 days of the issuance of the written notice of abandonment. Except for such reimbursement, the City shall have no liability to Applicant for a decision not to form the CFD or issue bonds.

7. **Indemnification and Hold Harmless.** The Applicant hereby assumes the defense of, and indemnifies and saves harmless, the City and each of its officers, directors and employees, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of or arising out of any acts or omissions of the Applicant or any of the Applicant's officers, employees, contractors and agents in connection with the proposed formation of the CFD or any work-in-kind provided by or on behalf of the Applicant or its consultants, except for any action, damages, claims, losses or expenses arising out of the sole negligence or willful misconduct of the City, its officers, directors, employees or agents.

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

**Applicant:**
Fitzpatrick Land Development, LLC  
4216 Kiernan Avenue, Suite 100  
Modesto, CA 95356  
Attention: Shawn Fitzpatrick  
Phone: (209) 543-1608  
Fax: (209) 543-1614

**City:**
City of Modesto  
1010 Tenth Street, Suite 6100  
Modesto, California 95353  
Attention: IFP Administrative Officer  
Phone: 209-577-5211  
Fax: 209-571-5128
Each party may change its address for delivery of notice by delivering written notice of such change of address to the other party.

9. **Assignment.** The Applicant may not assign its interest in this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld. Any assignment or attempt to assign this Agreement without the prior written consent of City shall be deemed null and void as of the date of the purported assignment. All covenants, stipulations, and agreements in this Agreement shall bind any such representatives, successors and assigns.

10. **Severability.** If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent permitted by law.

11. **Entire Agreement.** This Agreement contains the entire agreement between the parties with respect to the matters provided for herein. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

12. **Amendments.** This Agreement may be amended or modified only by written instrument signed by all parties. Any amendment or addendum to this Agreement shall expressly refer to this Agreement.

13. **Governing Law.** This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

14. **No Third Party Beneficiaries.** No person or entity shall be deemed to be a third party beneficiary hereof; and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the City (and its officers, directors, employees and agents providing services under this Agreement) and the Applicant, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

15. **Singular and Plural; Gender.** As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

16. **Termination.** This Agreement shall terminate and be of no further force and effect on the third (3rd) anniversary of the date of this Agreement unless expressly amended by the parties; provided, however, that the Applicant’s obligations under Section 7 shall survive the termination and the City’s obligation to provide reimbursement in accordance with Section 4 for expenses incurred prior to the termination date shall also survive termination.

17. **Time is of the Essence.** Except as otherwise expressly stated, time is of the essence in the performance of each and every action required pursuant to this Agreement.

18. **Language Construction.** The language of each and all paragraphs, terms and/or provisions of this Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.
19. **Representations of Authority.** Each party signing this Agreement on behalf of a party which is not a natural person hereby represents and warrants to the other party that all necessary legal prerequisites to that party’s execution of this Agreement have been satisfied and that he or she has been authorized to sign this Agreement and bind the party on whose behalf he or she signs.

20. **Relationship of Parties.** Nothing contained in this Agreement shall be interpreted or understood by any of the parties, or by any third person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between City and Applicant or its agents, employees or contractors. Except as City may specify in writing, Applicant shall have no authority to act as an agent of City or to bind City to any obligation.

21. **Title of Parts and Sections.** Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of this Agreement’s provisions.

22. **Waiver.** The waiver by any party to this Agreement of any action, obligation, or commitment required by this Agreement or of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof or of any action, obligation, or commitment required by this Agreement unless specifically stated in writing.

23. **Discretion of the City.** City’s execution of this Agreement in no way limits the discretion of City in the permit and approval process in connection with any entitlements within City’s jurisdiction, including those related to the Project, or with the design, construction or funding of any onsite or offsite infrastructure improvements within the City’s jurisdiction.
IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2006-____, adopted by the Council of the City of Modesto on the ____ day of ________________, 2006, and Fitzpatrick Land Development, a Limited Liability Company, has caused this Agreement to be executed in duplicate, effective as of the date first written above.

CITY OF MODESTO, a municipal corporation

By: _____________________________
    GEORGE W. BRITTON, City Manager

ATTEST:

By: _____________________________
    JEAN MORRIS, City Clerk

Fitzpatrick Land Development, A Limited Liability Company

By: _____________________________
    Name: __________________________
    Title: __________________________

APPROVED AS TO FORM:
SUSANA ALACALA WOOD, City Attorney

By: _____________________________
    ALISON A. BARRATT-GREEN
    Senior Deputy City Attorney

| Signature Requirements                     |
| Corporation:                               |
| 1. Signature of two (2) officers           |
| or                                        |
| 2. Signature of one (1) officer plus the corporate seal |
| Partnership: Signature of one partner      |
| Sole Proprietorship: Signature of proprietor |

(Woodglen).DOC

FMP-FFP Advanced Funding Agreement
Exhibit "B"

MuniFinancial

Task Order 2 Scope of Work

Facilities Master Plan

Infrastructure Financing Plan

for the Woodglen Specific Plan

The objective of this project is to prepare a Facilities Master Plan (FMP) and an Infrastructure Financing Plan (IFP) for the Woodglen Specific Plan (WSP). The WSP provides development requirements for approximately 79 acres of land in the Kiernan-Orvis Comprehensive Planning District of Modesto, California. The WSP anticipates build out of 541 single family and multi-family residential units arranged around a central open space. The central open space includes the project’s storm water basin and recreational amenities. The open space elements include a 1.2-acre private recreation facility for resident’s use, a 1.3-acre landscaped play area for informal public recreation, and a 3.9-acre storm water basin, comprised of a 1.1-acre grassy slope and the 1.9-acre bottom of the basin where the infiltration of storm water would occur. Existing development and uses on the site include agricultural use and a residence with a barn, and associated outbuildings. The site also has existing right-of-ways, which include Bangs to the north, Tully to the east, Pelandale to the south, and Carver to the west. The City of Modesto has been granted easements for expansion of these right-of-ways.

The scope for the FMP is presented first, followed by the IFP scope. The budget and schedule for the entire project follows the task plans. For this task order, MuniFinancial will be subconsulting with Willdan, West Yost and Associates, Carollo Engineers and Aerial Surveys.

Facilities Master Plan

The primary objective of preparing the FMP for Specific Plan Areas is to provide a document that will describe the public infrastructure needed to support proposed development. Generally, the FMP provides preliminary engineering information to confirm the technical suitability and requirements of the plan’s project area. Specifically, the FMP provides critical assumptions for use in the IFP that is prepared in conjunction with the FMP. The primary components of the FMP are as follows:

- **Project Description**: Limit the level of planning for the project, including the extent of existing improvements and infrastructure and the availability and limitations of those improvements to serve development. Develop project objectives and requirements.

- **Facilities Plan**: Use existing or new engineering studies and coordination with existing City modeling programs to prepare a plan for major public facilities (water, sewer, drainage, transportation, and others such as parks and public buildings). The types of facilities included in the IFP depend on the type, amount, and location of projected
development and city policy objectives. Identify major engineering constraints are proposed solutions.

- **Project Mapping**: If need, develop necessary land and infrastructure mapping information to evaluate public facility needs. (Typically, this will be provided by the applicant/developer.)

- **Prepare Engineering Drawings and Costs**: Prepare 30 percent engineering drawings and costs estimates to describe the facilities needed to serve the project.

- **Final Report**: Compile a final report including project description, facility plans, engineering drawings, cost estimates, and other needed information.

**Task 2.1: Prepare Project Description**

**Objective**: Identify project characteristics that will determine public facility needs.

**Description**: Develop limits of the engineering effort for the studies and the plans. Based upon the land use scenarios proposed by the City, prepare a project description for the specific plan area. Include the following items:

- Limits of the plan area;
- Land use scenario (see IFP scope of work)
- Description of storm drainage, domestic water, recycled water, sanitary sewer and other existing infrastructure
- General infrastructure requirements; and
- Preliminary lot and roadway patterns.

Much of the work of this task has been developed in the Preliminary Draft Woodglen Specific Plan and the project description will be compatible with the Draft Plan. This effort will focus on identifying and complete the gaps in the plan that must be filled to complete this effort. In addition, in conjunction with preparation of the IFP, confirm the extent of financed facilities to be included in the plan.

**Meetings**: One meeting to kickoff project and develop initial information request.

**Deliverable**: Information requests.

**Task 2.2: Develop Facility Plan**

**Objective**: Develop a facility plans and costs for sanitary sewer, domestic water, recycled water, storm drainage, streets and roadways and all other facilities or utilities to be included in the IFP.

**Description**: Coordinate with City infrastructure consultants, City staff, other public agencies, project proponent, and other stakeholders as appropriate. Prepare overall map and technical information describing the methodology and identifying the recommended public facility improvements for the project. Compile findings and exhibits for use in final report. For specific facility types, task to include:

**Domestic Water**: We will calculate the water demands for the project and develop a pipe layout that will deliver the required water to the development's users. We will
coordinate with the City’s Master Water Modeler, West Yost Associates, to confirm onsite and offsite capacity and supply availability. This documentation will be left with West Yost Associates so that if the project is approved, the City’s masterplan may be updated. If the City’s existing water system cannot meet the City’s minimum water system design criteria with the increased demands, then we will make recommendations for whatever new water supply sources and/or water system infrastructure facilities will be required to mitigate the water system impacts of the project. An estimate of the probable construction cost for the infrastructure required to provide adequate supply. A separate stand-alone report will be prepared to meet the regulatory requirements of SB610.

Sanitary Sewer: We will calculate the wastewater demands of the project and provide sufficient data to Carollo Engineers to update the hydraulic model to reflect changes created by the project. If the necessary capacity is not available probable construction cost estimates and a cost allocation report will be included. This documentation shall be left with Carollo so that if the project is approved, the City’s masterplan may be updated.

Storm Drainage: The preliminary Storm drain management proposal envisions a zero discharge concept and no off-site capacity is currently contemplated. Willdan will prepare a refined design concept and facilities plan to implement the project concept.

Roadway and Transportation: Develop transportation demand models and evaluate future facility needs. Develop proposed improvements and confirm responsibility of the Specific Plan. Prepare street cross-sections, rights-of-way needs, traffic control system needs (traffic signals, etc.) and other related tasks. Develop alternative transportation systems (Bikeways, transit, etc.) as they relate to the project. Compile findings in a report and exhibit presenting this information for future use.

Landscaping Plans: Evaluate specific plan elements and develop general landscape standards in anticipation of preparing 30% drawings. Review proposed elements and identify any inconsistencies or conflicts that may exist.

Additional infrastructure (Parks, Schools, other utilities): Develop proposed improvement descriptions and exhibits. Confirm responsibility of the Specific Plan.

Meetings: Two meetings.

Deliverables: Reports with all of the analysis described above.

Task 2.3: Conduct Project Mapping

Objective: Develop mapping for use in preparing facility designs.

Description: Develop base topographic mapping from aerial or ground data sufficient to prepare design. Prepare project boundary maps as needed from existing record drawings and documents. Locate and identify existing easements and encumbrances as needed to include such areas in the mapping documentation. Calculate and locate projected property lines, street centerlines, and rights-of-way as needed to prepare required plans. City obtains right of entry onto private property as needed.
Meetings: None.
Deliverable: None.

Task 2.4: **Prepare 30 Percent Engineering Drawings and Cost Estimates**

**Objective:** Provide cost estimate of needed public facilities, and inform final design when the project proceeds to construction.

**Description:** Based upon the information from prior tasks, prepare 30 percent construction drawings. Prepare plan and profile sheets at 40 scale for all roadways and utilities. Prepare preliminary intersection designs, particularly major signalized intersections. Prepare preliminary design of major facilities; such as pump stations, wells, or detention/water quality ponds.

Plans will include pipe layouts, infrastructure requirements, street cross-sections, street and pipe profiles, and other related information. Plans will include an estimate of required equipment, equipment layout, signal phasing, intersection geometrics and other related information.

Plans will generally not include the following items:

- Construction notes;
- Construction details;
- Grading plans;
- Erosion Control and Storm Water Pollution Plans;
- Construction traffic control;
- Stripping plans; and
- Construction specifications

Revise plans and drawings as needed to address deficiencies in the facility plans developed in Task 2. Prepare cost estimates based on quantities identified in design drawings and reasonable unit cost assumptions.

Based on the preliminary Draft Woodglen Specific Plan, the 30% drawings will likely consist of Bangs Avenue, Tully Road, Pelandale Avenue, Carver Road and the central collector road through the project. In addition, on-site core utilities will be included as defined by the City.

Meetings: One meeting to review plans, drawings, and cost estimates.
Deliverable: Preliminary plans, drawings, and cost estimates.

Task 2.5: **Final Report**

**Objective:** Communicate the assumptions, methodologies, and results of FMP.

**Description:** Develop recommendations for phasing requirements for backbone facilities needed in advance development. Recommend measures for accommodating future land use changes that vary from those assumed in the analysis.
Meetings:
Two meetings, one to review administrative draft report and one for Council presentation.

Deliverables: Administrative draft report, public draft report, slide presentation.

Infrastructure Financing Plan

The primary purpose of the IFP is to provide a strategy for the imposition of exactions through the development process to adequately provide for the public facilities and services needed to accommodate the proposed project. The IFP will be based on the FMP prepared for the same project. The primary components of the IFP are discussed below:

- **Policy Development:** Policies to guide selection of appropriate (1) funding sources and financing mechanisms for public facilities, and (2) levels of service and funding sources for public services.

- **Land Use Scenario:** A citywide development projection and related real estate market assumptions to estimate the amount and timing of growth.

- **Public Facility Needs, Costs, and Phasing:** Use the FMP to summarize the cost of public facilities with a focus on backbone infrastructure needs in advance of development.

- **Public Facility Funding and Financing:** Allocate to new development their fair share of public facility costs. Identify appropriate funding sources and financing mechanisms that enable development projects to fund public facilities.

- **Implementation:** Assist in formation of financing districts and preparation of impact fee nexus studies.

Task 2.6: Provide Project Management & Policy Development

*Objective:* Identify and resolve policy issues; ensure the project is completed within budget and on schedule.

*Description:* Identify and resolve policy issues with City staff as they arise throughout the project, for example:

- Land use scenario assumptions such as:
  - Planning horizon;
  - Land use categories;
  - Project descriptions;

- Exactions policies related to the development approval process such as:
  - Use of development agreements to increase flexibility;
Requirements for development projects to “build and dedicate” versus participate in broader funding programs;

• Funding and financing policies related to:
  - Development’s fair share of public facilities that also serve existing development;
  - Need for benefit zones that are less than citywide;
  - Development of funding sources other than those related to development;

• Implementation strategies such as:
  - Exemptions, waivers, credits, and reimbursements;
  - Phasing in funding programs to reduce negative economic impacts;

• The need for the IFP to consider other policy objectives such as affordable housing, job development, and retail attraction.

Includes coordination with city staff and consultants. Keep city staff informed on a regular basis (e.g. monthly conference call) regarding outstanding information needs, unresolved issues, and progress of the project to date.

Meetings: One meeting to kickoff project and develop initial information request.

Deliverables: Information requests.

Task 2.7: Develop Land Use Scenario

Objective: Prepare project area development projection based on development projects under consideration and reasonable estimates of real estate market conditions.

Description: Identify existing levels of development for the base year. Develop a market-based land use scenario based on:

• Descriptions of potential, proposed, and approved development projects to be provided by city staff;
• Historical development trends and available land supply based on data to be provided by city staff;
• Regional projections prepared by planning agencies; and
• Real estate market factors and trends based on site visits, interviews with real estate professionals, and web-based research;

Quantify land use scenario in terms of housing units, building square feet, population, and employment by land use category Estimate absorption rates based on (1) short term absorption associated with backbone infrastructure development; (2) annual average long-term absorption for debt financing (typically 20 to 30 years), and (3) build out.

Develop economic assumptions such as market property values by land use category, and sales tax generation from commercial projects, for use in subsequent tasks.

Meetings: None.
**Deliverable:** Technical memorandum describing land use scenario, methodology, and assumptions.

**Task 2.8: Develop Financial Model**

**Objective:** Develop a funding and financing strategy for public facilities to ensure a financially feasible plan.

**Description:** Develop a financial model as a tool for development of the financing plan. Key model inputs to include (1) land use scenario developed in the prior task and (2) public facility costs and phasing summarized from the FMP.

Use model to identify appropriate (1) funding sources to fully fund facility costs, and (2) financing mechanisms for facilities needed in advance of available funding. Consider application of existing city impact fee and special district funding sources to development projects as well as implementation of new sources.

**Potential funding sources** include:

- Impact fees. Evaluate and incorporate as appropriate existing fee revenues and fund balances that are applicable to planned facilities. Develop project-specific fee programs based on a fair share cost allocation methodology as necessary. Incorporate debt financing costs if applicable.

- Special taxes and assessments. Consider whether annexation to existing special taxes or assessments districts is appropriate. Recommend new special taxes or assessments for the project area as appropriate.

- Private funding. Incorporate proposed funding from developers such as dedicated facilities and rights-of-way.

- Public funding. Work with city staff to identify any other available public funding for planned facilities such as property and sales tax increments, utility revenues, asset sales, and state and federal grants.

**Potential financing mechanisms** include:

- Community Facilities Districts;
- Special assessment districts;
- Revenue bonds (e.g. utility enterprise funds);
- Developer financing (e.g. credits and reimbursements);
- Lease-purchase (e.g. certificates of participation); and
- Tax increment bonds (redevelopment project areas).

Estimate the total cost burden on new development for facilities and services in terms of (1) value-to-lien ratios and (2) the rate of annual taxes, charges, and assessments. Use analysis to develop funding and financing strategies and to demonstrate that the proposed financing plan remains within acceptable real estate market and underwriting standards.

Prepare the following tables and charts to communicate the results of this task:
- Matrices of cost allocations by project and land use category;
- Matrices of revenue sources and capital projects for short term, long-term, and build out phases of the land use scenarios;
- Summary of debt issuance by phase;
- Pro forma cash flow projections; and
- Financial feasibility tables.

Meetings: Two meetings to review preliminary financing plan results.
Deliverables: Financing plan matrices and tables for staff review and comment.

Task 2.9: Prepare Infrastructure Financing Plan
Objective: Communicate the assumptions, methodologies, and results of IFP.
Description: Develop recommendations for implementing the public facility and services funding and financing strategies developed in prior tasks, such as preparation of fee nexus studies, formation of special districts, and development of credit and reimbursement programs. Recommend measures for accommodating future land use changes that vary from those assumed in the analysis.

Prepare administrative draft report for staff comment based on the results of prior tasks. Prepare a public draft for presentation the City Council. Conduct Council presentations.

The IFP will include the following chapters:
1. Public Facility and Services Planning and Financing Policies.
2. Land Use and Market Analysis.
4. Fiscal Impact and Public Services Funding Plan.
5. Implementation Program.

Meetings: Two meetings, one to review administrative draft report and one for Council presentation.
Deliverables: Administrative draft report, public draft report, slide presentation.

Task 2.10: Support Community Facilities District Formation
Objective: Provide special tax consulting services to support formation of community facilities district (CFD).
Description: This task will have the following subtasks:

1. Rate and method of apportionment: Develop debt financing assumptions and criteria, including adopted City financing policies, costs of issuance, and overlapping debt. Use results of prior tasks to develop special tax schedule based on pro forma cash flow analysis.

2. Public hearing report: Prepare public hearing report in compliance with statute, including: (a) description, costs, and estimated construction date of proposed
facilities, (b) estimates of bond issuance costs, (c) projected bonded indebtedness and issuance dates, and (d) explanation of special tax schedule and projected rates by parcel.

3. **Bond issuance support**: Conduct final calculations and prepare tables for (a) special tax coverage, (b) value-to-lien ratios, (c) overlapping debt, and (d) effective tax rate schedules by parcel to include in Preliminary Official Statement (POS) and Official Statement (OS). Provide signed Special Tax Consultant Certificate. Review and comment on draft POS and OS.

**Meetings:** Three meetings: one to discuss preliminary pro forma analysis and rate and method of apportionment, one for adoption of the resolution of intention, and one for the public hearing.

**Deliverable:** (1) Rate and method of apportionment (draft and final); (2) public hearing report (draft and final); and (3) tables for POS and OS.

**Budget**

The following table provides the level of effort and budget by task for the scope of services described above. This budget includes up to 14 on-site meetings, six associated with the FMP and eight associated with the IFP. Conference calls are not considered meetings for the purposes of this budget.
Modesto Woodglen Specific Plan FMP/IFP Budget

<table>
<thead>
<tr>
<th>Task</th>
<th>Total Hours</th>
<th>Total Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Facility Master Plan</strong></td>
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<tr>
<td>2.1 Project Description</td>
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<td>2.2 Facility Plan</td>
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<td>2.3 Project Mapping</td>
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<td>2.4 Drawings &amp; Cost Estimates</td>
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<td>2.5 FMP Report</td>
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<td>West Yost &amp; Associates</td>
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<td>2.7 Land Use Scenario</td>
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<td><strong>Total Budget</strong></td>
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A RESOLUTION APPROVING TASK ORDER NO. 2 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH MUNIFINANCIAL, A CALIFORNIA CORPORATION, FOR THE PREPARATION OF A FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE WOODGLEN SPECIFIC PLAN AREA

WHEREAS, the City Council is desirous of creating a Facilities Master Plan ("FMP"), an Infrastructure Finance Plan ("IFP") and a Community Facilities District ("CFD") for the Woodglen Specific Plan Area ("Project Area"), and

WHEREAS, Fitzpatrick Land Development, a Limited Liability Company ("Applicant"), has a legal interest in real property located within the Project Area, shown in Exhibit "A" attached hereto and incorporated by this reference, and is interested in pursuing development of properties in the Project Area, and

WHEREAS, on October 24, 2006 by Resolution No. 2006-654, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services with MuniFinancial, a California corporation ("Consultant"), for the preparation of FMPs, IFPs, technical studies, formation of CFDs and related on-call services as assigned by City, and

WHEREAS, Consultant has prepared Task Order No. 2 ("Task Order") for the Project Area, attached as Exhibit "B", and

WHEREAS, Applicant has advanced a deposit in the amount of FIVE HUNDRED SIXTY-EIGHT THOUSAND TWO HUNDRED THIRTY AND 00/100 DOLLARS ($568,230) to the City to fund Task Order No. 2 and to pay staff and consultant expenses expected to be incurred in connection with the Project,
WHEREAS, additional deposits will be provided by Applicant, as required by the City and as necessary to fund the Task Order, and

WHEREAS, the City will issue Notices to Proceed to the City’s Consultant only for those subtasks for which the Applicant has deposited funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Task Order No. 2, attached hereto as Exhibit “B” and incorporated by this reference is hereby approved.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December, 2006, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
PROJECT SUMMARY:

GROSS SITE ACREAGE
Perimeter R/W R/W Dedication
ADJUSTED GROSS SITE ACREAGE
TOTAL DWELLING UNITS
ADJUSTED GROSS DENSITY

GROSS SITE ACRES
+/- 7.2 Ac.
+/- 11.5 Ac.
+/- 7.5 du Ac.

GROSS OPEN SPACE/DETENTION BASIN AREA
ACTIVE PLAY AREA
LINEAR PARCERWAY
PRIVATE RECREATION AREA
+/- 0.5 Ac.
+/- 0.5 Ac.
+/- 0.8 Ac.

PREPARED BY: WOODGLEN FITZPATRICK LAND DEVELOPMENT INC.

Land Use Plan
Modesto, CA

Design Guidelines

DECEIVED
JUN 13 2006
C.B. ED PLANNING
This Task Order No. 2 is made and entered into by and between the City of Modesto, a municipal corporation (hereinafter “CITY”), and MuniFinancial, a California corporation (hereinafter “CONSULTANT”) and is effective as of __________________________

RE bâtals

A. CONSULTANT has entered into a Master Professional Services Agreement for Consultant Services, (hereinafter “Agreement”), dated October 24, 2006 (“AGREEMENT”) with the CITY, by which the CONSULTANT has agreed to provide professional engineering and financial engineering services for various development projects, which is incorporated herein by reference.

B. At the request of CITY and in compliance with the terms of the AGREEMENT, CONSULTANT has prepared the Task Order No. 2, a copy of which is attached hereto as Exhibit A.

C. CITY and CONSULTANT desire that CONSULTANT perform the services as identified in the attached Task Order.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. INCORPORATION OF MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES. This Task Order hereby incorporates by reference all terms and conditions set forth in the Master Professional Services Agreement, unless expressly modified by this Task Order. The AGREEMENT and this Task Order shall, to the fullest extent possible, be read and considered as fully integrated documents and shall be interpreted so as to avoid inconsistencies, comply with all applicable laws and ensure that the objectives of the parties will be fully realized.

Nothing in this Task Order is intended to supersede, terminate, modify or otherwise affect any provision of the AGREEMENT, except to the extent that a provision of this AGREEMENT is in direct and irreconcilable conflict with a provision of the AGREEMENT. Then, and only in that event, the provisions of the AGREEMENT shall prevail over the contradictory provision of the Task Order.

2. SCOPE OF SERVICES. CONSULTANT shall perform the services described in Exhibit “A” attached hereto and incorporated herein by reference. CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT use any subcontractors or subconsultants not listed in this Task Order, without the prior written consent of CITY.

3. TIME OF PERFORMANCE. CONSULTANT shall commence performance within five (5) working days after receipt of a Notice to Proceed from City.
4. **COMPENSATION.** For services performed by CONSULTANT in accordance with this Task Order, CONSULTANT agrees to accept a sum not to exceed $437,100. CONSULTANT shall be paid at the times and in the manner set forth in Paragraph 3 of the Master Professional Services Agreement, unless expressly provided otherwise in the attached Task Order.

5. **SIGNATURES.** The individuals executing this Task Order represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Task Order on behalf of the respective legal entities of the CONSULTANT and CITY. This Task Order shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2006-____, adopted by the Council of the City of Modesto on the ____ day of __________, 2006, and MuniFinancial, a California corporation has caused this Agreement to be duly executed in duplicate as of the Effective Date set forth above.

CITY OF MODESTO, a municipal corporation

By ______________________
GEORGE W. BRITTON,
City Manager

CONSULTANT,
MuniFinancial, a California corporation*

By ______________________
FRANK G. TRIPEPI
President and CEO

By ______________________
PAUL WHITELEW
Senior Vice President

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

By ______________________
ALISON A. BARRATT-GREEN,
Senior Deputy City Attorney

By ______________________
JEAN MORRIS, City Clerk

Consultant’s Federal ID #: 33-0302345

* Corporations - signature of two (2) officers required or one (1) officer plus corporate seal.

Partnership - signature of a partner required
Exhibit A
MuniFinancial
Task Order 2 Scope of Work
Facilities Master Plan
Infrastructure Financing Plan
for the Woodglen Specific Plan

The objective of this project is to prepare a Facilities Master Plan (FMP) and an Infrastructure Financing Plan (IFP) for the Woodglen Specific Plan (WSP). The WSP provides development requirements for approximately 79 acres of land in the Kiernan-carver Comprehensive Planning District of Modesto, California. The WSP anticipates build out of 541 single family and multi-family residential units arranged around a central open space. The central open space includes the project’s storm water basin and recreational amenities. The open space elements include a 1.2-acre private recreation facility for resident’s use, a 1.3-acre landscaped play area for informal public recreation, and a 3.9-acre storm water basin, comprised of a 1.1-acre grassy slope and the 1.9-acre bottom of the basin where the infiltration of storm water would occur. Existing development and uses on the site include agricultural use and a residence with a barn, and associated outbuildings. The site also has existing right-of-ways, which include Bangs to the north, Tully to the east, Pelandale to the south, and Carver to the west. The City of Modesto has been granted easements for expansion of these right-of-ways.

The scope for the FMP is presented first, followed by the IFP scope. The budget and schedule for the entire project follows the task plans. For this task order, MuniFinancial will be subconsulting with Willdan, West Yost and Associates, Carollo Engineers and Aerial Surveys.

Facilities Master Plan

The primary objective of preparing the FMP for Specific Plan Areas is to provide a document that will describe the public infrastructure needed to support proposed development. Generally, the FMP provides preliminary engineering information to confirm the technical suitability and requirements of the plan’s project area. Specifically, the FMP provides critical assumptions for use in the IFP that is prepared in conjunction with the FMP. The primary components of the FMP are as follows:

- **Project Description:** Limit the level of planning for the project, including the extent of existing improvements and infrastructure and the availability and limitations of those improvements to serve development. Develop project objectives and requirements.

- **Facilities Plan:** Use existing or new engineering studies and coordination with existing City modeling programs to prepare a plan for major public facilities (water, sewer, drainage, transportation, and others such as parks and public buildings). The types of facilities included in the IFP depend on the type, amount, and location of projected
development and city policy objectives. Identify major engineering constraints are proposed solutions.

- **Project Mapping:** If need, develop necessary land and infrastructure mapping information to evaluate public facility needs. (Typically, this will be provided by the applicant/developer.)

- **Prepare Engineering Drawings and Costs:** Prepare 30 percent engineering drawings and costs estimates to describe the facilities needed to serve the project.

- **Final Report:** Compile a final report including project description, facility plans, engineering drawings, cost estimates, and other needed information.

**Task 2.1: Prepare Project Description**

**Objective:** Identify project characteristics that will determine public facility needs.

**Description:** Develop limits of the engineering effort for the studies and the plans. Based upon the land use scenarios proposed by the City, prepare a project description for the specific plan area. Include the following items:

- Limits of the plan area;
- Land use scenario (see IFP scope of work)
- Description of storm drainage, domestic water, recycled water, sanitary sewer and other existing infrastructure
- General infrastructure requirements; and  
- Preliminary lot and roadway patterns.

Much of the work of this task has been developed in the Preliminary Draft Woodglen Specific Plan and the project description will be compatible with the Draft Plan. This effort will focus on identifying and complete the gaps in the plan that must be filled to complete this effort. In addition, in conjunction with preparation of the IFP, confirm the extent of financed facilities to be included in the plan.

**Meetings:** One meeting to kickoff project and develop initial information request.

**Deliverable:** Information requests.

**Task 2.2: Develop Facility Plan**

**Objective:** Develop a facility plans and costs for sanitary sewer, domestic water, recycled water, storm drainage, streets and roadways and all other facilities or utilities to be included in the IFP.

**Description:** Coordinate with City infrastructure consultants, City staff, other public agencies, project proponent, and other stakeholders as appropriate. Prepare overall map and technical information describing the methodology and identifying the recommended public facility improvements for the project. Compile findings and exhibits for use in final report. For specific facility types, task to include:

**Domestic Water:** We will calculate the water demands for the project and develop a pipe layout that will deliver the required water to the development's users. We will
coordinate with the City's Master Water Modeler, West Yost Associates, to confirm onsite and offsite capacity and supply availability. This documentation will be left with West Yost Associates so that if the project is approved, the City's masterplan may be updated. If the City’s existing water system cannot meet the City’s minimum water system design criteria with the increased demands, then we will make recommendations for whatever new water supply sources and/or water system infrastructure facilities will be required to mitigate the water system impacts of the project. An estimate of the probable construction cost for the infrastructure required to provide adequate supply. A separate stand-alone report will be prepared to meet the regulatory requirements of SB610.

**Sanitary Sewer:** We will calculate the wastewater demands of the project and provide sufficient data to Carollo Engineers to update the hydraulic model to reflect changes created by the project. If the necessary capacity is not available, probable construction cost estimates and a cost allocation report will be included. This documentation shall be left with Carolla so that if the project is approved, the City’s masterplan may be updated.

**Storm Drainage:** The preliminary Storm drain management proposal envisions a zero discharge concept and no off-site capacity is currently contemplated. Willdan will prepare a refined design concept and facilities plan to implement the project concept.

**Roadway and Transportation:** Develop transportation demand models and evaluate future facility needs. Develop proposed improvements and confirm responsibility of the Specific Plan. Prepare street cross-sections, rights-of-way needs, traffic control system needs (traffic signals, etc.) and other related tasks. Develop alternative transportation systems (Bikeways, transit, etc.) as they relate to the project. Compile findings in a report and exhibit presenting this information for future use.

**Landscaping Plans:** Evaluate specific plan elements and develop general landscape standards in anticipation of preparing 30% drawings. Review proposed elements and identify any inconsistencies or conflicts that may exist.

**Additional infrastructure (Parks, Schools, other utilities):** Develop proposed improvement descriptions and exhibits. Confirm responsibility of the Specific Plan.

**Meetings:**
Two meetings.

**Deliverables:**
Reports with all of the analysis described above.

**Task 2.3: Conduct Project Mapping**

**Objective:**
Develop mapping for use in preparing facility designs.

**Description:**
Develop base topographic mapping from aerial or ground data sufficient to prepare design. Prepare project boundary maps as needed from existing record drawings and documents. Locate and identify existing easements and encumbrances as needed to include such areas in the mapping documentation. Calculate and locate projected property lines, street centerlines, and rights-of-way as needed to prepare required plans. City obtains right of entry onto private property as needed.
Meetings: None.
Deliverable: None.

**Task 2.4: Prepare 30 Percent Engineering Drawings and Cost Estimates**

**Objective:** Provide cost estimate of needed public facilities, and inform final design when the project proceeds to construction.

**Description:** Based upon the information from prior tasks, prepare 30 percent construction drawings. Prepare plan and profile sheets at 40 scale for all roadways and utilities. Prepare preliminary intersection designs, particularly major signalized intersections. Prepare preliminary design of major facilities; such as pump stations, wells, or detention/water quality ponds.

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Plans will generally not include the following items:
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- Construction details;
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Revise plans and drawings as needed to address deficiencies in the facility plans developed in Task 2. Prepare cost estimates based on quantities identified in design drawings and reasonable unit cost assumptions.

Based on the preliminary Draft Woodglen Specific Plan, the 30% drawings will likely consist of Bangs Avenue, Tully Road, Pelandale Avenue, Carver Road and the central collector road through the project. In addition, on-site core utilities will be included as defined by the City.

Meetings: One meeting to review plans, drawings, and cost estimates.
Deliverable: Preliminary plans, drawings, and cost estimates.

**Task 2.5: Final Report**

**Objective:** Communicate the assumptions, methodologies, and results of FMP.

**Description:** Develop recommendations for phasing requirements for backbone facilities needed in advance development. Recommend measures for accommodating future land use changes that vary from those assumed in the analysis.
Meetings: Two meetings, one to review administrative draft report and one for Council presentation.

Deliverables: Administrative draft report, public draft report, slide presentation.

Infrastructure Financing Plan

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- **Land Use Scenario:** A citywide development projection and related real estate market assumptions to estimate the amount and timing of growth.
- **Public Facility Needs, Costs, and Phasing:** Use the FMP to summarize the cost of public facilities with a focus on backbone infrastructure needs in advance of development.
- **Public Facility Funding and Financing:** Allocate to new development their fair share of public facility costs. Identify appropriate funding sources and financing mechanisms that enable development projects to fund public facilities.
- **Implementation:** Assist in formation of financing districts and preparation of impact fee nexus studies.

**Task 2.6: Provide Project Management & Policy Development**

**Objective:** Identify and resolve policy issues; ensure the project is completed within budget and on schedule.

**Description:** Identify and resolve policy issues with City staff as they arise throughout the project, for example:

- Land use scenario assumptions such as:
  - Planning horizon;
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  - Project descriptions;
- Exactions policies related to the development approval process such as:
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  - Exemptions, waivers, credits, and reimbursements;
  - Phasing in funding programs to reduce negative economic impacts;

• The need for the IFP to consider other policy objectives such as affordable housing, job development, and retail attraction.

Includes coordination with city staff and consultants. Keep city staff informed on a regular basis (e.g. monthly conference call) regarding outstanding information needs, unresolved issues, and progress of the project to date.

Meetings: One meeting to kickoff project and develop initial information request.

Deliverables: Information requests.

**Task 2.7: Develop Land Use Scenario**

**Objective:** Prepare project area development projection based on development projects under consideration and reasonable estimates of real estate market conditions.

**Description:** Identify existing levels of development for the base year. Develop a market-based land use scenario based on:

• Descriptions of potential, proposed, and approved development projects to be provided by city staff;

• Historical development trends and available land supply based on data to be provided by city staff;

• Regional projections prepared by planning agencies; and

• Real estate market factors and trends based on site visits, interviews with real estate professionals, and web-based research;

Quantify land use scenario in terms of housing units, building square feet, population, and employment by land use category. Estimate absorption rates based on (1) short term absorption associated with backbone infrastructure development; (2) annual average long-term absorption for debt financing (typically 20 to 30 years), and (3) build out.

Develop economic assumptions such as market property values by land use category, and sales tax generation from commercial projects, for use in subsequent tasks.

Meetings: None.
Deliverable: Technical memorandum describing land use scenario, methodology, and assumptions.

Task 2.8: **Develop Financial Model**

**Objective:** Develop a funding and financing strategy for public facilities to ensure a financially feasible plan.

**Description:** Develop a financial model as a tool for development of the financing plan. Key model inputs to include (1) land use scenario developed in the prior task and (2) public facility costs and phasing summarized from the FMP.

Use model to identify appropriate (1) funding sources to fully fund facility costs, and (2) financing mechanisms for facilities needed in advance of available funding. Consider application of existing city impact fee and special district funding sources to development projects as well as implementation of new sources.

Potential **funding sources** include:

- Impact fees. Evaluate and incorporate as appropriate existing fee revenues and fund balances that are applicable to planned facilities. Develop project-specific fee programs based on a fair share cost allocation methodology as necessary. Incorporate debt financing costs if applicable.
- Special taxes and assessments. Consider whether annexation to existing special taxes or assessments districts is appropriate. Recommend new special taxes or assessments for the project area as appropriate.
- Private funding. Incorporate proposed funding from developers such as dedicated facilities and rights-of-way.
- Public funding. Work with city staff to identify any other available public funding for planned facilities such as property and sales tax increments, utility revenues, asset sales, and state and federal grants.

Potential **financing mechanisms** include:

- Community Facilities Districts;
- Special assessment districts;
- Revenue bonds (e.g. utility enterprise funds);
- Developer financing (e.g. credits and reimbursements);
- Lease-purchase (e.g. certificates of participation); and
- Tax increment bonds (redevelopment project areas).

Estimate the total cost burden on new development for facilities and services in terms of (1) value-to-lien ratios and (2) the rate of annual taxes, charges, and assessments. Use analysis to develop funding and financing strategies and to demonstrate that the proposed financing plan remains within acceptable real estate market and underwriting standards.

Prepare the following tables and charts to communicate the results of this task:
Meetings: Two meetings to review preliminary financing plan results.
Deliverables: Financing plan matrices and tables for staff review and comment.

**Task 2.9: Prepare Infrastructure Financing Plan**

**Objective:** Communicate the assumptions, methodologies, and results of IFP.

**Description:** Develop recommendations for implementing the public facility and services funding and financing strategies developed in prior tasks, such as preparation of fee nexus studies, formation of special districts, and development of credit and reimbursement programs. Recommend measures for accommodating future land use changes that vary from those assumed in the analysis.

Prepare administrative draft report for staff comment based on the results of prior tasks. Prepare a public draft for presentation the City Council. Conduct Council presentations.

The IFP will include the following chapters:

1. Public Facility and Services Planning and Financing Policies.
2. Land Use and Market Analysis.
4. Fiscal Impact and Public Services Funding Plan.
5. Implementation Program.

Meetings: Two meetings, one to review administrative draft report and one for Council presentation.

Deliverables: Administrative draft report, public draft report, slide presentation.

**Task 2.10: Support Community Facilities District Formation**

**Objective:** Provide special tax consulting services to support formation of community facilities district (CFD).

**Description:** This task will have the following subtasks:

1. **Rate and method of apportionment:** Develop debt financing assumptions and criteria, including adopted City financing policies, costs of issuance, and overlapping debt. Use results of prior tasks to develop special tax schedule based on pro forma cash flow analysis.

2. **Public hearing report:** Prepare public hearing report in compliance with statute, including: (a) description, costs, and estimated construction date of proposed
facilities, (b) estimates of bond issuance costs, (c) projected bonded indebtedness and issuance dates, and (d) explanation of special tax schedule and projected rates by parcel.

3. **Bond issuance support:** Conduct final calculations and prepare tables for (a) special tax coverage, (b) value-to-lien ratios, (c) overlapping debt, and (d) effective tax rate schedules by parcel to include in Preliminary Official Statement (POS) and Official Statement (OS). Provide signed Special Tax Consultant Certificate. Review and comment on draft POS and OS.

**Meetings:** Three meetings: one to discuss preliminary pro forma analysis and rate and method of apportionment, one for adoption of the resolution of intention, and one for the public hearing.

**Deliverable:** (1) Rate and method of apportionment (draft and final); (2) public hearing report (draft and final); and (3) tables for POS and OS.

**Budget**

The following table provides the level of effort and budget by task for the scope of services described above. This budget includes up to 14 on-site meetings, six associated with the FMP and eight associated with the IFP. Conference calls are not considered meetings for the purposes of this budget.
### Modesto Woodglen Specific Plan FMP/IFP Budget

<table>
<thead>
<tr>
<th>Task</th>
<th>Total Hours</th>
<th>Total Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Facility Master Plan</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.1 Project Description</td>
<td>82</td>
<td>$8,640</td>
</tr>
<tr>
<td>2.2 Facility Plan</td>
<td>1,052</td>
<td>$121,180</td>
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<tr>
<td>2.3 Project Mapping</td>
<td>275</td>
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<tr>
<td>2.4 Drawings &amp; Cost Estimates</td>
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<td>$110,400</td>
</tr>
<tr>
<td>2.5 FMP Report</td>
<td>190</td>
<td>$19,000</td>
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<tr>
<td>Direct Expenses</td>
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<td>$5,580</td>
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<tr>
<td>Subconsultants</td>
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<tr>
<td>West Yost &amp; Associates</td>
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<td>24,000</td>
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<tr>
<td>Carollo Engineers</td>
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<td>35,000</td>
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<tr>
<td>Aerial Surveys</td>
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<tr>
<td>Subtotal FMP</td>
<td>2,639</td>
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<tr>
<td><strong>Infrastructure Financing Plan</strong></td>
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<tr>
<td>2.6 Project Management &amp; Policy Development</td>
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<tr>
<td>2.7 Land Use Scenario</td>
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<td>2.8 Financial Model</td>
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<td>2.9 IFP Report</td>
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<td>2.10 CFD Formation</td>
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<td>Direct Expenses</td>
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<tr>
<td>Subtotal IFP</td>
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</table>

**Total**
- Labor                        3,203   $362,160
- Direct Expenses             5,940
- Subconsultants            69,000

**Total Budget**  $437,100
WHEREAS, the Woodglen Specific Plan Area is in need of a Facilities Master Plan ("FMP"), and Infrastructure Finance Plan ("IFP") to plan for necessary facilities and associated costs for buildout of that specific plan area, and

WHEREAS, on October 24, 2006 by Resolution No.2006-654, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services ("Agreement") with MuniFinancial, a California corporation, for the preparation of FMPs, IFPs, technical studies and related on-call services as assigned by City, and

WHEREAS, on December 12, 2006 by Resolution No.2006-763, the Council of the City of Modesto approved Task Order No. 2 to the Agreement for the preparation of a FMP, IFP, and for formation of a Community Facilities District ("CFD"), and

WHEREAS, on December 12, 2006 by Resolution No.2006-762, the Council of the City of Modesto approved an Advanced Funding Agreement between the City and Fitzpatrick Land Development, a Limited Liability Company ("Applicant"), and

WHEREAS, Applicant has deposited with the City the amount of FIVE HUNDRED SIXTY-EIGHT THOUSAND TWO HUNDRED THIRTY AND 00/100 DOLLARS ($568,230) to fund the costs for the Project and provide for reimbursement as appropriate, and
WHEREAS, additional deposits will be provided by Applicant, as required by the City and as necessary to fund Task Order No. 2, and

WHEREAS, the City will issue Notices to Proceed to the City’s Consultant only for those subtasks for which the Applicant has deposited funds,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2006-2007 operating budget to create a multi-year account for the preparation of the Woodglen Specific Plan Area Facilities Master Plan and Infrastructure Finance Plan and appropriates $437,100 to 2900-020-0264-0235 for professional services and $131,130 to 2900-020-0264-0255 for city services.

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 special meeting of the Council of the City of Modesto held on the 12th day of December, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

ATTEST
JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-765

A RESOLUTION APPROVING A STANDARD AGREEMENT FOR CONSULTANT SERVICES WITH PRECISION INSPECTION COMPANY, INC. FOR PLAN CHECK SERVICES AND BUILDING PERMIT INSPECTIONS, IN AMOUNT NOT TO EXCEED $150,000; 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 had sent commercial plans to Harris & Associates for plan review, and

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

WHEREAS, by Resolution No. 2006-016, the City entered into an Agreement with Precision Inspection Company, Inc. on January 10, 2006 in the amount of $75,000, to assist in conducting plan check services and building permit inspections, and

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

WHEREAS, by Resolution No. 2006-240, the original agreement was amended on April 25, 2006, to accommodate the needs of the Parks, Recreation and Neighborhoods Department, and

WHEREAS, the original agreement with the Community and Economic Development Department in the amount of $75,000 has been reached, and
WHEREAS, the need for plan check services and building permit inspections by Precision Inspection Company, Inc. is on-going, and

WHEREAS, the Community and Economic Development Department desires to enter into a new Standard Agreement for future services in an amount not to exceed $150,000,

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, Inc. for plan check services and in conducting building permit inspections in an amount not to exceed $150,000.

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 12th day of December 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney