MODESTO CITY COUNCIL
RESOLUTION NO. 2006-677

A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION (EA/PW 2005-13) AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE PROJECT TITLED “SYLVAN AVENUE PEDESTRIAN OVERCROSSING.”

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

WHEREAS, Jones and Stokes, Inc., under subcontract to Kimley-Horn and Associates, Inc., under contract with the City, prepared an Initial Study, Mitigated Negative Declaration, and Mitigation Monitoring Plan for the Sylvan Avenue Pedestrian Overcrossing Project, which identified potential significant impacts from the proposed Project, which could be mitigated to a level of insignificance by incorporating feasible mitigation measures into the Project, and

WHEREAS, feasible mitigation measures were incorporated into the Project and agreed to by the City before the Initial Study/Mitigated Negative Declaration was released for public review, which measures will avoid or mitigate the identified effects to a point where clearly no significant effect will occur, and

WHEREAS, a 30-day public review period for the proposed Initial Study/Mitigated Negative Declaration began on December 15, 2005, and ended on January 13, 2006, and
WHEREAS, public comments were received on the draft Initial Study/Mitigated Negative Declaration, which comments are responded to in the Initial Study/Final Mitigated Negative Declaration dated February 2006, and

WHEREAS, the response to the public comments as contained in the Initial Study/Final Mitigated Negative Declaration dated February 2006 do not require technical revisions to be made to the document or any of the proposed mitigation measures, and

WHEREAS, the Mitigation and Monitoring Program is included and described within the Initial Study/Mitigated Negative Declaration – Final, dated February 2006,

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

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

2. The Initial Study/Mitigated Negative Declaration prepared for the proposed project has identified additional potentially significant environmental effects. These additional potentially significant effects are potential impacts to cultural resources, hazards and hazardous materials, and transportation/traffic.

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

4. There is no substantial evidence, in light of the whole record before the public agency, that the project, as revised, may have a significant effect on the environment (Public Resources Code Section 21064.5(2)).

5. The Initial Study/Mitigated Negative Declaration reflects the independent judgment of the lead agency.
6. As required by Public Resources Code Section 21081.6 et seq., the Mitigation Monitoring and Reporting Program is hereby adopted, a copy of which is included in the Mitigated Negative Declaration, which is on file with the City Clerk.

7. The Initial Study/Mitigated Negative Declaration, Environmental Assessment (EA/PW 2005-13) provides the substantial evidence to support findings 1 through 6, above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the Initial Study/Mitigated Negative Declaration (EA/PW 2005-13), a copy of which is on file with the City Clerk and incorporated herein by reference.

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

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Public Works Director is hereby authorized and directed to file a Notice of Determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the
Council of the City of Modesto held on the 24th day of October, 2006, by
Councilmember Marsh, who moved its adoption, which motion being duly seconded by
Councilmember Hawn, was upon roll call carried and the resolution adopted by the
following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
MODesto CITY COUNCIL
RESOLUTION NO. 2006-678

A RESOLUTION APPROvING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED “SYLVAN AVENUE PEDESTRIAN OVERCROSSING,”, ACCEPTING THE BID AND APPROVING A $1,556,375.00 CONTRACT WITH MCM CONSTRUCTION, INC., FOR THE PROJECT TITLED, “SYLVAN AVENUE PEDESTRIAN OVERCROSSING,” AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the “Sylvan Avenue Pedestrian Overcrossing” and City staff recommends approval to the City Council, and

WHEREAS, the bids received for “Sylvan Avenue Pedestrian Overcrossing” were opened at 11:00 a.m. on October 10, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $1,556,375.00 from MCM Construction, Inc., of North Highlands, California be accepted as the lowest responsible bid and the contract be awarded to MCM Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of MCM Construction, Inc., in the amount of $1,556,375.00 and hereby awards MCM Construction, Inc., the contract titled “Sylvan Avenue Pedestrian Overcrossing.”

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of October, 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING AN AGREEMENT CONSENTING TO COMMON USE BETWEEN THE MODESTO IRRIGATION DISTRICT AND THE CITY OF MODESTO REGARDING THE CONSTRUCTION OF A WESTBOUND TRAFFIC TURN LANE AT THE INTERSECTION OF STANDIFORD AND DALE ROADS, ALONG DISTRICT’S LATERAL NO. 7 FOR THE PURPOSE OF IMPROVING TRAFFIC FLOW AT THE INTERSECTION, AND TO MAKE SUCH IMPROVEMENTS TO THE DISTRICT’S LATERAL NO. 7 AS ARE NECESSARY TO MAINTAIN LATERAL NO. 7 IN LIGHT OF THE INSTALLATION OF THE NEW TRAFFIC TURN LANE; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Council Resolution No. 2004-245 dated August 10, 2004 adopted the Kaiser Modesto Medical Center Development Plan, and

WHEREAS, the Kaiser Modesto Medical Center Development Plan included a project titled, “Kaiser Build Roadway Improvements” at the Pelandale Avenue/Dale Road Intersection, and at Dale Road and Standiford Road intersection, and

WHEREAS, the intersection improvements at Dale Road and Standiford Road are scheduled to be completed by November 2006, and

WHEREAS, the construction plans for the Dale Road and Standiford Road intersection improvements consist of adding a westbound right-turn, and

WHEREAS, the additional right-turn lane will occupy a portion of MID’s right-of-way requiring consent of MID, and

WHEREAS, a draft Consent to Common Use Agreement between the City and MID for a portion of MID Right-of-Way has been completed, and

WHEREAS, the potential impacts of this Agreement have been adequately addressed within the context of the Kaiser Build Roadway Improvements,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement Consenting to Common Use between the Modesto Irrigation District and the City of Modesto regarding the construction of a westbound traffic turn lane at the intersection of Standiford and Dale Roads, along District’s Lateral No. 7 for the purpose of improving traffic flow at the intersection, and to make such improvements to the District’s Lateral No. 7 as are necessary to maintain Lateral No. 7 in light of the installation of the new traffic turn lane; and authorizing the City Manager, or his designee, to execute the Agreement.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement with Modesto Irrigation District.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

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

APPROVED AS TO FORM:

By (SEAL)
SUSANA ALCALA-WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-680

A RESOLUTION APPROVING A THIRD AMENDMENT TO THE LEASE AGREEMENT WITH MODESTO EXECUTIVE AIR CHARTER, DBA SKY TREK AVIATION, WHICH ALLOWS A SUSPENSION RETROACTIVELY FROM DECEMBER 31, 2005 TO JULY 1, 2007, OF A 5% SUBLEASE FEE THAT SKY TREK AVIATION PAYS TO THE CITY ON GROSS RENTS RECEIVED, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY

WHEREAS, Modesto Executive Air Charter, dba Sky Trek Aviation, is a tenant of the City at the Modesto City-County Airport, and

WHEREAS, Sky Trek Aviation has a long-term ground lease that contains a clause requiring them to pay 5% of all rents received from its tenants to the City, and

WHEREAS, Sky Trek Aviation petitioned the City to suspend the 5% surcharge on gross rents in 2003 and the City Council approved the suspension until May 31, 2004, and

WHEREAS, Sky Trek Aviation again petitioned the City on June 23, 2004 requesting another suspension of the 5% surcharge due to low occupancy of their facilities, and the City Council approved the suspension until December 31, 2005, and

WHEREAS, Sky Trek again petitioned the City on June 22, 2006, to request a permanent abatement of the 5% sublease surcharge, and

WHEREAS, the Economic Development Committee reviewed the request and recommended the suspension be retroactively extended from December 31, 2005, to July 1, 2007, and

WHEREAS, a new third amendment to the Airport lease agreement with Sky Trek Aviation has been prepared to provide for suspension of the 5% sublease fee until July 1, 2007, and
NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the third amendment to the lease agreement between the City of Modesto and Sky Trek Aviation, suspending the five (5) percent sublease fee retroactively from December 31, 2005 to July 1, 2007.

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

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

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

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
A RESOLUTION APPROVING AN AMENDMENT TO AN AGREEMENT WITH COFFMAN ASSOCIATES, INC., TO REFLECT THE REVISED SCOPE OF SERVICES AND RELATED FINAL COST ESTIMATE FOR THE NOISE COMPATIBILITY PROGRAM UPDATE AT THE MODESTO CITY-COUNTY AIRPORT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY.

WHEREAS, the City of Modesto and Coffman Associates, Inc. (Coffman), entered into a Professional Services Agreement on December 11, 2001, in the amount of $596,000, which included the sum of $296,000 to complete an Airport Master Plan for Modesto City-County Airport, update the airport layout plan, and complete an environmental review, and an additional $300,000 for an update to the Airport Noise Compatibility Program (NCP) once the City had received federal funding for the Noise Program Update, and

WHEREAS, on June 11, 2006 City Council approved a $285,000 Grant Offer (AIP 3-06-0153-30) from the FAA for 95% funding of “airport development or noise program implementation”, and

WHEREAS, Coffman completed the Airport Master Plan and updated the airport layout plan, and

WHEREAS, on May 18, 2006, Coffman provided a revised Scope of Services and revised Final Cost Breakdown for the CFR 14 Part 150 Noise Compatibility Program Update to reflect the inclusion of a “Housing Assessment,” as requested by the FAA, to provide a preliminary review of housing relocation issues for residences affected by aircraft noise, as well as the most current CFR 14 Part 15 requirements and

WHEREAS, the new total cost for the NCP Update is now $316,214, or $16,214 more than the $300,000 specified in the original agreement, and
WHEREAS, there is a need for Coffman to provide additional services to fully complete the NCP Update that is required by the FAA for funding of future airport expansion, and

WHEREAS, said additional costs associated with the project are eligible for 95% reimbursement by the FAA, and funds are currently available in Capital Project Account (6320-440-A803) to cover the City’s share of the cost,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Professional Services Agreement with Coffman Associates, Inc., providing an additional $16,214 for completion of an update to the Airport Noise Compatibility Program and environmental review.

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

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

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

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST:  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-682


WHEREAS, the City of Modesto and Coffman Associates, Inc. (Coffman), entered into a Professional Services Agreement on December 11, 2001, in the amount of $596,000, which included the sum of $296,000 to complete an Airport Master Plan for Modesto City-County Airport, update the airport layout plan, and complete an environmental review, and an additional $300,000 for an update to the Airport Noise Compatibility Program (NCP) once the City had received federal funding for the Noise Program Update, and

WHEREAS, on June 11, 2006 City Council approved a $285,000 Grant Offer (AIP 3-06-0153-30) from the FAA for 95% funding of “airport development or noise program implementation”, and

WHEREAS, Coffman completed the Airport Master Plan and updated the airport layout plan, and

WHEREAS, on May 18, 2006, Coffman provided a revised Scope of Services and revised Final Cost Breakdown for the CFR 14 Part 150 Noise Compatibility Program Update to reflect the inclusion of a “Housing Assessment,” as requested by the FAA, to provide a preliminary review of housing relocation issues for residences affected by aircraft noise, as well as the most current CFR 14 Part 15 requirements, and

WHEREAS, the new total cost for the NCP Update is now $316,214, or $16,214 more than the $300,000 specified in the original agreement, and
WHEREAS, it is necessary to appropriate funds in the amount of $16,214 from the FAA Capital Grant (6320-440-A803-3613 - $15,403) and Passenger Facility Charge (6320-440-A803-4405 - $811) to the Noise Study Project (6320-440-A803) to fund the additional costs for the NCP Update,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the adopted Capital Improvement Program budget for fiscal year 2006-07 and appropriating $16,214 from the FAA Capital Grant (6320-440-A803-3613 - $15,403) and the Passenger Facility Charge (6320-440-A803-4405 - $811) to the Capital Improvement Project titled noise study (6320-440-A803) to fully fund this project.

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

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

NOES:  Councilmember:  None

ABSENT:  Councilmember:  None

ATTEST:  

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: J.E.AN M0RRI$,

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-683

A RESOLUTION APPROVING AN AGREEMENT WITH HDR ENGINEERING INC. IN AN AMOUNT NOT TO EXCEED $55,500 TO PROVIDE A RESOURCE ANALYSIS FOR THE CITY'S ABILITY COMPLY WITH STATE-MANDATED WASTE DISCHARGE REQUIREMENTS FOR THE WASTEWATER COLLECTIONS DIVISION, AND AUTHORIZIE THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, on May 2, 2006, the State Water Resources Control Board initiated Order No. 2006-0003-DWQ, which is the Statewide General Waste Discharge Requirements (WDR) for Sanitary Sewer Systems, and

WHEREAS, this order requires two major changes for the Wastewater Collections Division:

- Development and implementation of a system-specific Sewer System Management Plan (SSMP)
- Changes in the reporting of Sanitary Sewer Overflows (SSO)

WHEREAS, in order to comply with these new regulations, staff is requesting authorization to have HDR Engineering Inc. do a Resource Analysis for the City's ability to comply with the state-mandated WDR, and

WHEREAS, the purpose of the analysis is to examine the City’s current collection systems management, operations, maintenance and capital programs and practices, and to develop an opinion of the City’s readiness to comply with the newly adopted WDR regulation, and

WHEREAS, the result will be a Technical Memorandum identifying areas the City is currently in compliance with, as well as areas that require improvement, as the City develops the required SSMP, and
WHEREAS, HDR Engineering Inc. is currently the Wastewater Collections Division on-call engineering consultant and is familiar with the current processes within the Wastewater Collections Division and are best able to conduct this analysis, and

WHEREAS, upon completion of this analysis, staff will report back to Council on its findings and request authorization to solicit a Request for Proposals to complete the required work, and

WHEREAS, funds are budgeted in 6210-480-A209-6080,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with HDR Engineering Inc. in an amount not to exceed $55,500 to provide a Resource Analysis for the City’s ability to comply with state-mandated Waste Discharge Requirements for the Wastewater Collections Division.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.
The foregoing resolution was introduced at a regular meeting of the
Council of the City of Modesto held on the 24th day of October, 2006, by
Councilmember Marsh, who moved its adoption, which motion being duly seconded by
Councilmember Hawn, was upon roll call carried and the resolution adopted by the
following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ____________________________
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: ______________________________
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-684

A RESOLUTION APPROVING A FIVE-YEAR WATER SERVICES AGREEMENT (WSA) WITH BASIN WATER COMPANY FOR WATER TREATMENT FACILITIES AT WELL #66 (GALAS) AT AN ANNUAL ESTIMATED COST OF $250,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, on December 23, 2003, the City of Modesto entered into an Agreement to Construct Necessary Infrastructure with Del Valle Corporation (Del Valle) requiring completion of necessary infrastructure within the Galas Brothers Unit No. 1 and Unit No. 2 subdivisions, and

WHEREAS, part of the Water infrastructure included a well and any treatment facilities necessary to provide potable water to the new development, and

WHEREAS, the City will take ownership of this infrastructure once accepted and will be responsible for operation and maintenance of the well and treatment facilities, and

WHEREAS, during development of the well it was determined two treatment processes were needed to meet Department of Health Services (DHS) standards, and

WHEREAS, these treatment processes are currently being installed, will be permitted to operate under a DHS permit issued to the City, and are expected to begin operation in December 2006, and

WHEREAS, because of the complexity of the technology used in the treatment processes and the lack of knowledge and experience with City staff, it is necessary to develop a WSA with Basin Water Company to assist with the operation and maintenance of the treatment facilities for a five-year period, and

WHEREAS, under separate Council action, staff is also requesting approval of a five-year agreement with Basin Water Company for Performance Criteria Guarantee for these treatment facilities at no cost to the City, and
WHEREAS, funding for this agreement has been submitted in the Supplemental Budget process; however, Water Division’s Operating Budget will absorb the cost if necessary in 6100-480-5013-0223, as this agreement is necessary to maintain the treatment processes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year Water Services Agreement with Basin Water Company for water treatment facilities at Well #66 (Galas) at an annual estimated cost of $250,000.

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

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: ___________________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-685

A RESOLUTION APPROVING A FIVE-YEAR AGREEMENT WITH BASIN WATER COMPANY FOR A PERFORMANCE CRITERIA GUARANTEE (PCG) FOR WATER TREATMENT FACILITIES AT WELL #66 (GALAS) AT NO COST TO THE CITY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, on December 23, 2003, the City of Modesto entered into an Agreement to Construct Necessary Infrastructure with Del Valle Corporation (Del Valle) requiring completion of necessary infrastructure within the Galas Brothers Unit No. 1 and Unit No. 2 subdivisions, and

WHEREAS, part of the Water infrastructure included a well and any treatment facilities necessary to provide potable water to the new development, and

WHEREAS, the City will take ownership of this infrastructure once accepted and will be responsible for operation and maintenance of the well and treatment facilities, and

WHEREAS, during development of the well it was determined two treatment processes were needed to meet Department of Health Services (DHS) standards, and

WHEREAS, these treatment processes are currently being installed, will be permitted to operate under a DHS permit issued to the City, and are expected to begin operation in December 2006, and

WHEREAS, because of the complexity of the technology used in the treatment processes and the lack of knowledge and experience with City staff, it is necessary to secure a PCG with Basin Water Company for the treatment facilities for a five-year period, and

WHEREAS, under separate Council action, staff is also requesting approval of a five-year Water Services Agreement with Basin Water Company for assistance with the operations and maintenance of these treatment facilities at an annual estimated cost of $250,000,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year agreement with Basin Water Company for a Performance Criteria Guarantee (PCG) for water treatment facilities at Well #66 (Galas) at not cost to the City.

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

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ______________________________

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: ______________________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-686

A RESOLUTION AMENDING THE WATER ENTERPRISE FUND BUDGET TO APPROPRIATE THE AMOUNT OF $250,000 FROM UNAPPROPRIATED RESERVES FOR THE COST OF A WATER SERVICES AGREEMENT WITH BASIN WATER COMPANY IN LINE ITEM 6100-480-5013-0223

WHEREAS, on December 23, 2003 the City of Modesto entered into an Agreement to Construct Necessary Infrastructure with the Del Valle Capital Corporation for the completion of necessary water infrastructure improvements within the Galas Brothers Unit No. 1 and Unit No. subdivisions, and

WHEREAS, the technology associated with the water treatment infrastructure that will be utilized upon the completion of these improvements is complex in nature, and

WHEREAS, the City Council has approved a 5-year Water Services Agreement with Basin Water Company for the operation and maintenance of the water treatment infrastructure, and

WHEREAS, the Water Enterprise Fund has sufficient unappropriated reserves available to pay for the cost of the Water Services Agreement, and

WHEREAS, the budget of the Water Enterprise Fund must be amended to reflect the appropriation of $250,000 from unappropriated reserves into line item 6100-480-5013-0223,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Finance Director to take all steps necessary to amend the budget of the Water Enterprise Fund to appropriate the amount of $250,000 in line item 6100-480-5013-0223 from the unappropriated reserves.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 24th day of October 2006, by Councilmember Hawn,
who moved its adoption, which motion being duly seconded by Councilmember Dunbar,
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: Susana AlcalaWoody, City Attorney

ATTEST: Jean Morris, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-687

A RESOLUTION ACCEPTING 1) DRAFT ENGINEER’S REPORT, JUSTIFICATION AND COST ALLOCATION FOR PROPOSED WASTEWATER COLLECTION SYSTEM AND TREATMENT IMPROVEMENTS; 2) DRAFT WASTEWATER COLLECTION SYSTEM MASTER PLAN; 3) DRAFT WASTEWATER TREATMENT MASTER PLAN, AND DIRECTING STAFF TO UTILIZE THE ABOVE REPORTS AS THE BASIS FOR A WASTEWATER COST OF SERVICE STUDY TO DETERMINE APPROPRIATE SEWER RATES AND SEWER CAPACITY CHARGES

WHEREAS, Council has directed staff to proceed with steps necessary to conduct a sewer rate study, and

WHEREAS, Council had approved contracts with Carollo Engineers to update the City’s Wastewater Master Plan and produce an Engineer’s Report, and

WHEREAS, the Wastewater Master Plan was divided into two major components: 1) the wastewater collection system, and 2) the wastewater treatment facilities, and

WHEREAS, a task of the Wastewater Master Plans is to determine a Capital Improvement Program, for both wastewater collection and treatment facilities, that will be required for the build-out of the City’s Sewer Service Area, and meet its infrastructure needs for both existing and future users, and

WHEREAS, the Engineer’s Report essentially summarizes the master plans and provides the rationale for the cost allocation between existing and future users, and will become the basis for cost of service study that will ultimately recommend adjustments to the City’s sewer rates and capacity charges, and
WHEREAS, Carollo Engineers has produced Draft Wastewater Master Plans and a Draft Engineer’s Report for the sewer rate and capacity charge study.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts: 1) Draft Engineer’s Report, Justification and Cost Allocation for Proposed Wastewater Collection System and Treatment Improvements; 2) Draft Wastewater Collection System Master Plan; and 3) Draft Wastewater Treatment Master Plan.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it directs staff to utilize the above reports as the basis for a wastewater cost of service study to determine appropriate sewer rates and sewer capacity charges,

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-688

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO CALLING AN ELECTION FOR THE PURPOSE OF SUBMITTING THE LEVY OF THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) SPECIAL TAXES TO THE QUALIFIED ELECTORS OF THE TERRITORY PROPOSED TO BE ANNEXED TO THE DISTRICT (ANNEXATION NO. 13)

WHEREAS, this Council did, on September 5, 2006, adopt its Resolution No. 2006-528 (the “Resolution of Intention to Annex”) to indicate its intention to annex certain territory to the City’s Community Facilities District No. 2004-1 (Village One #2) (the “District”) and authorize the levy of the District special taxes within the territory proposed to be annexed (the “Annexed Territory”), pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”), and set a hearing thereon; and

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

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

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

WHEREAS, the Annexed Territory will be annexed to and subject to the special taxes in Tax Zone #2; and

WHEREAS, notice of the hearing was duly published as required by law, as evidenced by the proof of publication on file with the City Clerk; and
WHEREAS, a map of the Annexed Territory, entitled “Annexation Map No. 13 of Community Facilities District No. 2004-1 (Village One #2) of the City of Modesto, County of Stanislaus, State of California,” was recorded on September 8, 2006, in the Office of the County Recorder of the County of Stanislaus, in Book 4 of Maps of Assessment and Community Facilities Districts, at page 57; and

WHEREAS, at the time and date set for the hearing (October 10, 2006) pursuant to the Resolution of Intention to Annex, this Council opened the public hearing and continued it to October 24, 2006; and

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

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

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

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

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

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

SECTION 1. The foregoing recitals are true and correct.

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

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

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

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

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

Since the City Clerk has received an appropriate waiver of time limits and other requirements pertaining to the conduct of the election by the owner of all of the land in the Annexed Territory (the "Landowner"), the election shall be held on the 24th day of October 2006. The election shall be conducted by the City Clerk in the manner required by this resolution, the Act and applicable laws.

The hour on such date when the ballots are required to be received in the office of the City Clerk is 6:00 p.m., Pacific Time, provided that if all qualified electors have voted prior to such time, the election shall be closed upon the receipt of all of the ballots.
SECTION 7. In accordance with Section 53327(b) of the Act, analysis and arguments, as required by Section 53327(a) of the Act are hereby waived, as the City Clerk has received the unanimous consent to such waivers from the Landowner.

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

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

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

SECTION 11. The City Clerk shall canvass the returns and certify the results of the election to this Council. If two-thirds or more of the votes cast are in favor of levying the District special taxes for Tax Zone #2 in the Annexed Territory, this Council may thereafter order the annexation of the Annexed Territory to the District and levy the District special taxes in the Annexed Territory in the amount and for the purposes specified in Resolution No. 2004-199 adopted by this Council on April 6, 2004 (the "Resolution of Formation"). The Special Tax will be levied only at the rate and apportioned only in the manner specified in the Resolution of Formation, as clarified by the City Council on December 14, 2004 (Resolution No. 2004-681), and at the rates set forth in Tax Zone #2 created by the City Council on December 14, 2004 (Resolution No. 2004-683).
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th of October, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

ARYES: 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
SAMPLE
OFFICIAL BALLOT

BALLOT NO. _____

CITY OF MODESTO
COMMUNITIES FACILITIES DISTRICT NO. 2004-1
(VILLAGE ONE #2)
ANNEXATION NO. 13
SPECIAL TAX ELECTION

October 24, 2006

NUMBER OF VOTES ENTITLED TO BE CAST _____
(VOTER MAY REMOVE AND RETAIN THIS STUB)

INSTRUCTIONS TO VOTERS

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

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

MARK YOUR CHOICE IN THIS MANNER ONLY: ☐
MEASURE SUBMITTED TO VOTE OF VOTERS

Proposition A. Shall special taxes for Tax Zone #2, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City’s Resolution No. 2004-683, entitled “A Resolution of the City Council of the City of Modesto Creating Tax Zone #2 in Community Facilities District No. 2004-1 (Village One #2), Approving an Increase in the One-Time Facilities Special Tax Therein, and Approving Updates of the Rate and Method of apportionment of Special Taxes for the District”, adopted by the City Council of the City of Modesto on December 14, 2004, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to Tax Zone #2 of the City of Modesto Community Facilities District No. 2004-1 (Village One #2) pursuant to the City’s Resolution No. 2006-528, entitled “A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special Taxes therein (Annexation No. 13)” adopted by the City Council of the City of Modesto on September 5, 2006, for the purposes set forth in Resolution No. 2004-199, entitled “A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 2004-1 (Village One #2), Authorizing the Levy of Special Taxes within the District, Preliminarily Establishing an Appropriations Limit for the District, and Calling an Election for the Purpose of Submitting the Levy of the Special Taxes and the Establishment of the Appropriations Limit to the Qualified Electors of the District”, adopted by the City Council of the City of Modesto on April 6, 2004, which is incorporated herein by this reference?

BALLOT NO. _____

THIS BALLOT HAS A VALUE OF ___ VOTES
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-689


WHEREAS, this Council is conducting proceedings pertaining to the annexation of certain territory to the City’s Community Facilities District No. 2004-1 (Village One #2) (the “District”) and the levy of the District special taxes (the “District Special Taxes”) within such territory, as described in its Resolution No. 2006-528, entitled “A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special Taxes therein (Annexation No. 13)” adopted on September 5, 2006, pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”); and

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

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

WHEREAS, the territory to be annexed will be subject to the tax rates in Tax Zone #2; and
WHEREAS, the owners of all the property within the territory proposed to be annexed to
the District waived those provisions related to the timing and conduct of the election referenced
in Sections 5, 6, 7 and 8 of this Council’s Resolution No. 2006-688, adopted on October 24,
2006, and, as a result, this Council called an election within the territory proposed to be annexed
to the District (the “Election”) for October 24, 2006, or as soon thereafter as practicable, relative
to the foregoing; and

WHEREAS, on October 24, 2006, the Election was held; and

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

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

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

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

SECTION 3. Pursuant to Section 53339.8 of the Act, it is hereby ordered that the
territory proposed to be annexed to the District pursuant to Resolution No. 2006-528 be annexed
to and be a part of the District with full legal effect, and that the District Special Taxes be levied
within the territory so annexed as set forth in the Resolution of Creation of Tax Zone #2.
SECTION 4. The City Clerk is hereby directed to enter this resolution on the minutes of this City Council, which shall constitute the official declaration of the result of the Election.

SECTION 5. The City Clerk is further authorized and directed to record an amendment to the Notice of Special Tax Lien with the County Recorder of the County of Stanislaus, within 15 days from the date hereof, in accordance with the provisions of Sections 3114.5 and 3117.7 of the California Streets and Highways Code.

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

AYES: Councilmembers: Dunbar, Hawn, 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
CERTIFICATE OF CITY CLERK

I, JEAN MORRIS, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2006-528, A Resolution of the City Council of the City of Modesto Calling an Election for the Purpose of Submitting the Levy of the City of Modesto Community Facilities District No. 2004-1 (Village One #2) Special Taxes to the Qualified Electors of the Territory Proposed to be Annexed to the District (Annexation No. 13) adopted on September 5, 2006, by the City Council of the City of Modesto, I did conduct the Special Tax Election on October 24, 2006, and that the election was conducted by mail or in person at the City Hall of the City of Modesto.

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

Proposition A. Shall special taxes for Tax Zone #2, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City’s Resolution No. 2004-683, entitled “A Resolution of the City Council of the City of Modesto Creating Tax Zone #2 in Community Facilities District No. 2004-1 (Village One #2), Approving an Increase in the One-Time Facilities Special Tax Therein, and Approving Updates of the Rate and Method of apportionment of Special Taxes for the District”, adopted by the City Council of the City of Modesto on December 14, 2004, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to Tax Zone #2 of the City of Modesto Community Facilities District No. 2004-1 (Village One #2) pursuant to the City’s Resolution No. 2006-528, entitled “A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special Taxes therein (Annexation No. 13)” adopted by the City Council of the City of Modesto on September 5, 2006, for the purposes set forth in Resolution No. 2004-199, entitled “A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 2004-1 (Village One #2), Authorizing the Levy of Special Taxes within the District, Preliminarily Establishing an Appropriations Limit for the District, and Calling an Election for the Purpose of Submitting the Levy of the Special Taxes and the Establishment of the Appropriations Limit to the Qualified Electors of the District”, adopted by the City Council of the City of Modesto on April 6, 2004, which is incorporated herein by this reference?

TOTAL VOTES CAST: YES 11   NO 0

Jean Morris
City Clerk of the City of Modesto

Dated: 10/26/06, 2006

WHEREAS, the City of Modesto receives several Federal grants from the U.S. Department of Housing and Urban Development (HUD), and

WHEREAS, the Consolidated Annual Performance and Evaluation Report (CAPER) reflects the activities of the City and its sub-recipients for the period of July 1, 2005, through June 30, 2006, and

WHEREAS, each year the City must review and report on the performance of activities funded under the Community Development Block Grant (CDBG), HOME Investment Partnership Grant, and Emergency Shelter Grant (ESG) funds, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on September 8, 2006, and reviewed and recommended the CAPER, and

WHEREAS, the CAPER must be made available for public review and comment for a minimum 15-day period, and

WHEREAS, on September 26, 2006, a public hearing was held at which time the City Council by Resolution No. 2006-625 approved the CAPER authorizing the City Manager to submit the report to HUD, and

WHEREAS, subsequently City staff learned that the CAPER was not duly noticed, and
WHEREAS, the City received authorization from HUD to submit the CAPER as approved by the City Council by Resolution No. 2006-625 on September 26, 2006, in order to meet deadlines and to hold a public hearing on October 24, 2006, and

WHEREAS, the CAPER was made available for public review and comment from October 8, 2006, through October 24, 2006, and

WHEREAS, all public comments, and staff responses to these comments, must be presented to the City Council for review and approval, and

WHEREAS, a duly noticed public hearing was held by the Council on October 24, 2006, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider approval of the CAPER,

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

1. That the Consolidated Annual Performance and Evaluation Report for Fiscal Year 2005-2006 is hereby approved, and a copy of said report is on file in the office of the City Clerk.

2. That the City Manager, or his authorized designee, is hereby authorized, after having made any necessary correction, to submit said report to the U.S. Department of Housing and Urban Development (HUD).
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of October, 2006, by Councilmember Olsen, 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:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-691

A RESOLUTION APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO NUTS PROFESSIONAL BASEBALL CLUB AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City owns, operates and manages John Thurman Field, a Class A professional baseball stadium, and,

WHEREAS, on December 11, 2003, the City of Modesto and the Modesto A’s Professional Baseball Club entered into a license agreement under authority of Resolution No. 2003-648 for the lease of John Thurman Field, and

WHEREAS, on December 14, 2005, the Council of the City of Modesto extended the license agreement with the Modesto Nuts Professional Baseball Club under authority of Resolution No. 2005-609 for one year commencing on January 1, 2006, and terminating on December 31, 2006, and

WHEREAS, it is the desire of the City of Modesto to continue to lease John Thurman Field to the Modesto Nuts Professional Baseball Club, and

WHEREAS, a long-term license agreement with stadium improvements is desirable for both the Modesto Nuts Professional Baseball Club and the City of Modesto, and

WHEREAS, the Modesto Nuts Professional Baseball Club will agree to a ten-year license agreement and the City of Modesto will provide stadium improvements including but not limited to a new scoreboard, a banquet/entertainment building, expanded picnic areas, fieldwork, lighting upgrades and a new grounds-crew area, and

WHEREAS, at its August 9, 2006, meeting, the Finance Committee recommended entering into a ten-year license agreement with the Modesto Nuts Professional Baseball Club,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves entering into a license agreement with the Modesto Nuts Professional Baseball Club to lease John Thurman Field, for ten years commencing on January 1, 2007, and terminating on December 31, 2017.

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

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-692  

A RESOLUTION APPROVING A MAINTENANCE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO NUTS PROFESSIONAL BASEBALL CLUB AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT  

WHEREAS, the City owns, operates and manages John Thurman Field, a Class A professional baseball stadium, and,  

WHEREAS, on December 11, 2003, the City of Modesto and the Modesto A’s Professional Baseball Club entered into a maintenance agreement under authority of Resolution No. 2003-649 for the lease of John Thurman Field, and  

WHEREAS, on December 14, 2005, the Council of the City of Modesto extended the maintenance agreement with the Modesto Nuts Professional Baseball Club under authority of Resolution No. 2005-610 for one year commencing on January 1, 2006, and terminating on December 31, 2006, and  

WHEREAS, it is the desire of the City of Modesto to continue field maintenance at John Thurman Field with the Modesto Nuts Professional Baseball Club, and  

WHEREAS, a long-term maintenance agreement with stadium improvements is desirable for both the Modesto Nuts Professional Baseball Club and the City of Modesto, and  

WHEREAS, the Modesto Nuts Professional Baseball Club will agree to a ten-year maintenance agreement and the City of Modesto will provide stadium improvements including but not limited to a new scoreboard, a banquet/entertainment building, expanded picnic areas, fieldwork, lighting upgrades and a new grounds-crew area, and  

WHEREAS, at their August 9, 2006, meeting, the Finance Committee recommended entering into a ten-year maintenance agreement with the Modesto Nuts Professional Baseball Club,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves entering into a maintenance agreement with the Modesto Nuts Professional Baseball Club to provide field maintenance at John Thurman Field, for ten years commencing on January 1, 2007, and terminating on December 31, 2017.

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

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney

JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-693

A RESOLUTION APPROVING THE 2007 CITY COUNCIL MEETING CALENDAR

BE IT HEREBY RESOLVED by the Council of the City of Modesto that 2007 City Council Meeting, attached hereto as "Exhibit A", is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of November 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, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney
### City Council Calendar
#### 2007

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<th>Month</th>
<th>2nd</th>
<th>9th</th>
<th>16th</th>
<th>23rd</th>
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<td>Council Meeting (special)***</td>
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* *August 8th Wednesday Meeting due to National Night Out on August 7th*
**November 7th Wednesday Meeting due to Election Day on November 6th*
***December 12th Wednesday Meeting due to Run-Off Election Day on December 11th***
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-694

A RESOLUTION ESTABLISHING A MULTI-YEAR OPERATING ORGANIZATION IN THE CITY ATTORNEY’S OFFICE IN THE AMOUNT OF $601,509 FOR PAYMENT OF OUTSIDE LITIGATION FEES AND COSTS AND REIMBURSING THE CITY ATTORNEY’S OPERATING BUDGET IN THE AMOUNT OF $101,509 FOR OUTSIDE LITIGATION EXPENSES ALREADY PAID IN FY 06-07.

WHEREAS, from time to time it is necessary for the City to hire outside legal counsel to handle complex litigation requiring expertise in a specialized area of law or to handle overflow legal work that cannot be handled by existing staff, and

WHEREAS, the sum of $101,509 has already been paid for outside litigation expenses in the current year, and

WHEREAS, establishment of a multi-year operating organization in the City Attorney’s Office in the amount of $601,509 is needed to provide $500,000 in future litigation expenses and for reimbursement of outside litigation expenses already paid from the City Attorney’s Operating Budget for current year expenses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the establishment of a multi-year operating organization in the City Attorney’s Office for payment of outside litigation expenses, transferring $601,509 from the General Fund Reserves Account No. 0100-800-8000-8003 to the newly established organization. Said $601,509 shall include the amount of $500,000 for future litigation expenses incurred in handling complex litigation and/or overflow legal work for the City which cannot be handled due to insufficient staffing, and the amount of $101,509 for
reimbursement to the City Attorney’s Operating Budget for outside litigation fees already paid in FY 06-07.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby directed to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of November 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, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-695

A RESOLUTION AUTHORIZING STAFF TO PROCEED WITH A
REQUEST FOR PROPOSALS FOR CONSULTANT SERVICES
FOR THE FIVE YEAR CAPITAL FACILITIES FEE UPDATE

WHEREAS, the City Council of the City of Modesto has adopted Modesto
Municipal Code 8-1.904 et seq. creating and establishing the authority for imposing and
charging Capital Facilities Fees ("CFF"), and

WHEREAS, the City desires to continue to update the CFF program every five
years, and

WHEREAS, the City last approved a comprehensive update of the CFF program
on June 24, 2003, and

WHEREAS, staff desires to issue a Request for Proposals ("RFP") for a
professional consultant to update its CFF program, and

WHEREAS, City staff wishes to contract with a consultant to updates its CFF
program and will assist the City in ensuring all facilities within the program are
appropriate and adequate for the build out of the City and to outline any deficiencies that
may occur, and

WHEREAS, Requests for Proposals shall be evaluated on the basis of specific
selection criteria, with selection interviews tentatively scheduled in January 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the Council hereby authorizes staff to proceed with a Request for Proposals for
consultant services for the Five Year Capital Facilities Fee Update.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of November 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, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD
City Attorney

ATTEST: JEAN MORRIS
City Clerk
MODESTO CITY COUNCIL
RESOLUTION No. 2006-696

A RESOLUTION APPROVING A DEFERRED PAYMENT AGREEMENT AND NOTICE OF LIEN WITH NAGRA, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, TO PAY TEN PERCENT (10%) ($67,609.50) OF CAPITAL FACILITIES FEES AT THE TIME OF BUILDING PERMIT ISSUANCE FOR APN 056-083-004, PARCEL 1, WITH THE REMAINING NINETY PERCENT (90%) ($608,485.50), SUBJECT TO INTEREST, TO BE PAID IN NO MORE THAN TEN (10) ANNUAL INSTALLMENTS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, Nagra, LLC, a California Limited Liability Company ("Owner"), owns a parcel of real property located within the City of Modesto, County of Stanislaus, State of California, commonly known as APN 056-083-004, Parcel 1, more particularly described on Exhibit "A", attached hereto and incorporated herein by reference (Property), and

WHEREAS, Owner desires to obtain a building permit from the City for the construction of two retail buildings consisting of approximately 45,800 square feet, located at 2301 Crows Landing Road, Modesto, California (Project), and

WHEREAS, pursuant to Modesto City Council Resolution No. 2006-061, a property owner may defer payment of CFF for a non-residential project on one parcel of land or a group of contiguous parcels under the same ownership for which CFF exceeds $150,000.00, and

WHEREAS, Owner desires to pay ten (10%) percent ($67,609.50) of the total CFF at the time of building permit issuance, and

WHEREAS, Owner desires to defer the remaining ninety percent (90%) ($608,485.50), subject to interest, to be paid in no more than ten (10) annual installments,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the Deferred Payment Agreement and Notice of Lien ("Agreement") with Nagra, LLC, a California Limited Liability Company, for the payment of ten percent (10%) ($67,609.50) of capital facilities fees at the time of building permit issuance with the remaining ninety percent (90%) ($608,485.50), subject to interest, to be paid in no more than ten (10) annual installments, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Deferred Payment Agreement and Notice of Lien.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of November, 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, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-697

A RESOLUTION APPROVING A DEFERRED PAYMENT AGREEMENT AND NOTICE OF LIEN WITH NAGRA, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, TO PAY TEN PERCENT (10%) ($15,615.70) OF CAPITAL FACILITIES FEES AT THE TIME OF BUILDING PERMIT ISSUANCE FOR APN 056-083-004, PARCEL 3, WITH THE REMAINING NINETY PERCENT (90%) ($140,541.30), SUBJECT TO INTEREST, TO BE PAID IN NO MORE THAN TEN (10) ANNUAL INSTALLMENTS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, Nagra, LLC, a California Limited Liability Company ("Owner"), owns a parcel of real property located within the City of Modesto, County of Stanislaus, State of California, commonly known as APN 056-083-004, PARCEL 3, more particularly described on Exhibit “A”, attached hereto and incorporated herein by reference (Property), and

WHEREAS, Owner desires to obtain a building permit from the City for the construction of one retail building consisting of approximately 10,256 square feet, located at 2301 Crows Landing Road, Modesto, California (Project), and

WHEREAS, pursuant to Modesto City Council Resolution No. 2006-061, a property owner may defer payment of CFF for a non-residential project on one parcel of land or a group of contiguous parcels under the same ownership for which CFF exceeds $150,000.00, and

WHEREAS, Owner desires to pay ten (10%) percent ($15,615.70) of the total CFF at the time of building permit issuance, and

WHEREAS, Owner desires to defer the remaining ninety percent (90%) ($140,541.30), subject to interest, to be paid in no more than ten (10) annual installments,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the Deferred Payment Agreement and Notice of Lien ("Agreement") with Nagra, LLC, a California Limited Liability Company, for the payment of ten percent (10%) ($15,615.70) of capital facilities fees at the time of building permit issuance with the remaining ninety percent (90%) ($140,541.30), subject to interest, to be paid in no more than ten (10) annual installments, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Deferred Payment Agreement and Notice of Lien.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of November, 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, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-698

A RESOLUTION APPROVING A DEFERRED PAYMENT AGREEMENT AND NOTICE OF LIEN WITH NAGRA, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, TO PAY TEN PERCENT (10%) ($15,615.70) OF CAPITAL FACILITIES FEES AT THE TIME OF BUILDING PERMIT ISSUANCE FOR APN 056-083-004, PARCEL 6, WITH THE REMAINING NINETY PERCENT (90%) ($140,541.30), SUBJECT TO INTEREST, TO BE PAID IN NO MORE THAN TEN (10) ANNUAL INSTALLMENTS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, Nagra, LLC, a California Limited Liability Company ("Owner"), owns a parcel of real property located within the City of Modesto, County of Stanislaus, State of California, commonly known as APN 056-083-004, PARCEL 6, more particularly described on Exhibit "A", attached hereto and incorporated herein by reference (Property), and

WHEREAS, Owner desires to obtain a building permit from the City for the construction of one retail building consisting of approximately 10,256 square feet, located at 2301 Crows Landing Road, Modesto, California (Project), and

WHEREAS, pursuant to Modesto City Council Resolution No. 2006-061, a property owner may defer payment of CFF for a non-residential project on one parcel of land or a group of contiguous parcels under the same ownership for which CFF exceeds $150,000.00, and

WHEREAS, Owner desires to pay ten (10%) percent ($15,615.70) of the total CFF at the time of building permit issuance, and

WHEREAS, Owner desires to defer the remaining ninety percent (90%) ($140,541.30), subject to interest, to be paid in no more than ten (10) annual installments,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the Deferred Payment Agreement and Notice of Lien ("Agreement") with Nagra, LLC, a California Limited Liability Company, for the payment of ten percent (10%) ($15,615.70) of capital facilities fees at the time of building permit issuance with the remaining ninety percent (90%) ($140,541.30), subject to interest, to be paid in no more than ten (10) annual installments, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Deferred Payment Agreement and Notice of Lien.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of November, 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, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF LIQUID SULPHUR DIOXIDE TO SIERRA CHEMICAL COMPANY OF SPARKS, NEVADA FOR AN INITIAL TWO (2) YEAR PERIOD, WITH THREE (3) ADDITIONAL ONE-YEAR CONTRACT EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $114,247.00.

WHEREAS, the Public Works Department-Water Quality Control Plant (WQCP) has requested the purchase of sulphur dioxide (SO2), and

WHEREAS, liquid sulphur dioxide is used at the Secondary Water Quality Control facility to dechlorinate secondary treated wastewater before it is discharged into the San Joaquin River, and

WHEREAS, the Secondary Water Control Plant was constructed in 1967, and

WHEREAS, a liquid sulphur dioxide system was installed in 1985, and

WHEREAS, the system consists of one (1) 50,000 pound bulk storage tank and two (2) 1,900 pound sulfonators, and

WHEREAS, failure to perform dechlorination can result in fines up to $10,000 per day, and

WHEREAS, the City of Modesto is responsible for the proper disinfection of water that is discharged into the San Joaquin River based on the Regional Water Quality Control Board (RWQCB) permit. The RWQCB permit is designed to protect the river habitat and surrounding environment, and

WHEREAS, the river discharge season is from October 1st through May 31st, and

WHEREAS, Resolution No. 2006-312 authorized the Purchasing Manager to issue bids for liquid sulphur dioxide, and

WHEREAS, the Purchasing Division issued formal bids for liquid sulphur dioxide on Request for Bid (RFB) 0607-04, and
WHEREAS, twenty (20) vendors were solicited, one (1) of which was a local vendor, and
WHEREAS, out of the twenty (20) vendors solicited, three (3) chose to respond, and
WHEREAS, two responses were a no bid, and
WHEREAS, the Purchasing Division and Public Works Department-Water Quality Control Plant staff evaluated bids, and
WHEREAS, the City’s 2% local vendor preference was not a factor in determining the lowest responsive and responsible bidder for liquid sulphur dioxide, and
WHEREAS, Sierra Chemical Company of Sparks, Nevada is hereby deemed to be the lowest responsive and responsible bidder for liquid sulphur dioxide, with an estimated annual cost of $114,274.00, and
WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 requires all purchases which meet or exceed $50,000 for material and equipment or contractual services to be formally bid, and
WHEREAS, MMC Section 8-3.203 (a) states that purchases whose total maximum cost to the City exceed $50,000 shall receive preliminary approval of Council, and
WHEREAS, the liquid sulphur dioxide received said approval with Resolution No. 2006-312, and
WHEREAS, this Request for Bid (RFB) process conforms to the MMC, and
WHEREAS, funds are available in account number 6210-480-5214-0312 for this purchase, and
WHEREAS, the Public Works Department has included $114,247.00 in their operating budget for sewer operations fund, which includes funding for liquid sulphur dioxide, and

WHEREAS, the estimated annual cost for liquid sulphur dioxide is $114,247.00 for FY 2006/2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for liquid sulphur dioxide for an initial two (2) year period, with three (3) one-year contract extension options, at the sole discretion of the City, for a total estimated annual cost of $114,247.00.

BE IT FURTHER RESOLVED that it hereby authorizes the Purchasing Manager to issue a purchase order to Sierra Chemical Company of Sparks, Nevada for an estimated annual cost of $114,247.00.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of November 2006, by 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, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

BY: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-700

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO PURCHASE NOVELL LICENSES AND MAINTENANCE RENEWAL FOR THE INFORMATION TECHNOLOGY DEPARTMENT, FROM THE STATE OF CALIFORNIA, DEPARTMENT OF GENERAL SERVICES (DGS), SOFTWARE LICENSE MASTER AGREEMENT THROUGH COMPUCOM, RANCHO CORDOVA, CA FOR A TERM OF ONE (1) YEAR, AT AN ESTIMATED COST OF $68,174.

WHEREAS, the Information Technology Department (IT), purchases annual maintenance agreements on most of its software applications for the purpose of receiving technical support and to keep current with software releases, and

WHEREAS, the City of Modesto is currently migrating from the Novell to the Microsoft Exchange platform and GroupWise to Outlook email system, and

WHEREAS, in an effort to allow staff adequate time to effectively migrate historical email and attached documents, the Senior Executive Team encouraged that Novell/GroupWise remain functional for a period of one year beyond the migration to MS Exchange/Outlook, and

WHEREAS, the City has utilized Novell for more than seven years and has during that timeframe always purchased Novell annual maintenance contracts, and

WHEREAS, the annual maintenance contract provides technical support, free Novell upgrades as they occur, and most importantly keeps the City’s total license count compliant with our contracted number of licenses, and

WHEREAS, the Modesto Municipal Code, MMC Section 8-3.203, generally requires all purchases, which meet or exceed $50,000.00 for material, equipment or contractual services to be formally bid, and
WHEREAS, there are exceptions to said rule set forth in the Modesto Municipal Code, and

WHEREAS, one exception, MMC Section 8-3.204 (d), is available where the Purchasing Manager, in his or her discretion, determines that a process other than the usual formal bid procedure set forth in MMC Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, acting within his discretion, the Purchasing Manager invoked that exception for this purchase, and

WHEREAS, “accessing the terms” through the master agreement set in place with the State of California, DGS, for the purchase of Novell licenses and maintenance renewal will ensure that the City will be paying the lowest cost commensurate with the desired quality, and

WHEREAS, this purchase will conform to MMC Section 8-3.204 (d),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a Purchase Order to CompuCom, Rancho Cordova, CA for the purchase of Novell licenses and maintenance renewal for a term of one (1) year, at the estimated cost of $68,174.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of November, 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, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris
JEAN MORRIS, CITY CLERK

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-701

A RESOLUTION APPROVING A LEASE AGREEMENT
BETWEEN THE CITY AND THE MODESTO
REDEVELOPMENT AGENCY FOR THE PARK
OPERATION, MAINTENANCE, AND USAGE AT THE 17TH
AND G STREET PARK ("TOWER PARK") AND
AUTHORIZING THE CITY MANAGER TO SIGN SAID
LEASE AGREEMENT.

WHEREAS, On June 27, 2006 the City Council and the Agency conducted a joint public
hearing and approved the sale and acquisition of Tower Park from the City to the Agency for fair
market value of $770,000, and

WHEREAS, This property was purchased for affordable housing project, and

WHEREAS, In the interim prior to development, staff believes it is desirable that the
operation and maintenance of the park continue as well as usage of the property as an open park
space, and

WHEREAS, The City has the ability to maintain the operation and maintenance of the
park, and

WHEREAS, The City is willing to lease the park from the Agency for $12 per year, and

WHEREAS, The Agency will absorb the cost of landscape maintenance, utilities and any
repair or maintenance needed on the property to maintain it in a reasonably safe and healthy
condition, and

WHEREAS, The term of the Lease agreement is for a period of one year with an option
to extend the terms of the lease for an additional six months, if required.

BE IT FURTHER RESOLVED, that the City Council of Modesto hereby adopts a
Resolution approving a Lease Agreement between the City and the Modesto Redevelopment
Agency ("Agency") for the park operation, maintenance and usage at the 17th and G Street park ("Tower Park") and authorizing the City Manager or his designee, to sign said Lease Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th of November, 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, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susan ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-702

A RESOLUTION APPROVING THE INSTALLATION OF CRIME STOPPERS
SIGNS THROUGHOUT THE CITY OF MODESTO AT HIGH-CRIME
LOCATIONS, AND WAIVING THE INSTALLATION FEE FOR THE FIRST
TWELVE (12) SIGNS INSTALLED, WITH THE COST OF ANY ADDITIONAL
SIGN INSTALLATION TO BE INCURRED BY CRIME STOPPERS.

WHEREAS, the Crime Stoppers Board desires to install 18” x 20” red and
black Crime Stoppers Signs throughout the city of Modesto in high-crime areas, and

WHEREAS, the Crime Stoppers Board believes these signs will add
additional visibility and citizen awareness to lead to the capture and arrest of more
wanted criminals, and

WHEREAS, the Crime Stoppers Board will contact Weed and Seed and
other crime units to determine the best locations to place these signs, and

WHEREAS, Crime Stoppers is a non-profit organization and is funding
the layout, design, and printing material for the signs, and

WHEREAS, the installation fee per sign is $50.00, and staff is requesting
that City crews perform the sign installation at no cost to Crime Stoppers for the first 12
signs, and

WHEREAS, any additional costs for sign installation would have to be
incurred by Crime Stoppers, and

WHEREAS, the Safety and Communities Committee reviewed this item at
their October 2, 2006 meeting, and recommended approval by the full Council,
NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the installation of Crime Stoppers Signs throughout the City of Modesto at high-crime locations.

BE IT FURTHER RESOLVED that the installation fee of $50.00 per sign be hereby waived for the first twelve (12) signs installed, with the cost of any additional sign installation to be incurred by Crime Stoppers.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of November, 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, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: ____________________________
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ________________________________
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-703

A RESOLUTION AWARDING A CONSULTANT AGREEMENT WITH DAMON S. WILLIAMS ASSOCIATES, LLC (DSWA) IN THE AMOUNT OF $49,912.00 TO COMPLETE A CONCEPTUAL REPORT OF WELLHEAD TREATMENT AT WELL 226 AND WRITE A REQUEST FOR PROPOSALS FOR THE APPROPRIATE ARSENIC AND NITRATE REDUCTION TECHNOLOGY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, effective January 1, 2006, the United States Federal Environmental Protection Agency (EPA) set new standards for arsenic in drinking water, and

WHEREAS, the new EPA standards reduced the arsenic from 50 parts per billion (ppb) to 10 ppb, and

WHEREAS, the City of Modesto tests all water wells for arsenic compliance, and

WHEREAS, City Water Well No. 226 located at the Conant Avenue/Brenner Way intersection had a reading of 12 ppb for the first quarter of 2006, and

WHEREAS, the 12 ppb amount exceeds the new EPA limitation and well treatment is now necessary, and

WHEREAS, aboveground treatment alternatives were explored to determine which would be best for this location, and

WHEREAS, each option has advantages and disadvantages, and

WHEREAS, Damon S. Williams Associates, LLC was chosen to assist the City with the design of an arsenic and nitrate removal system for Wellhead Treatment at Well 226, and

WHEREAS, Damon S. Williams Associates, LLC provided a Proposal with Scope of Services for the Well 226 project, and
WHEREAS, staff proposes the City execute an agreement with Damon S. Williams Associates, LLC to provide a Conceptual Design for Wellhead Treatment at Well 226, and to write a Request for Proposals for the appropriate arsenic and nitrate reduction technology,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between City of Modesto and Damon S. Williams Associates, LLC for a Conceptual Report for Wellhead Treatment at Well 226, and to write a Request for Proposals for the appropriate arsenic and nitrate reduction technology in the amount of $49,912.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of November, 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, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-704

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH RMC WATER AND ENVIRONMENT (RMC), IN THE AMOUNT OF $12,675, FOR THE COMPLETION OF EXISTING TASKS TO COMPLETE THE CITY’S URBAN WATER MANAGEMENT PLAN, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT

WHEREAS, the Urban Water Management Planning Act of the California Water Code requires water suppliers in California, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more that 3,000 acre-feet of water annually, to prepare and adopt an Urban Water Management Plan (UWMP) every five years, which defines their current and future water use, sources of supply and its reliability, and existing conservation measures, and

WHEREAS, the City had previously filed Urban Water Management Plans for 1985, 1990, 1995, and 2000. This UWMP update will address the new legislative requirements of the Urban Water Management Planning Act, and

WHEREAS, in addition to meeting all of the State’s legislative requirements, the UWMP will serve as a foundation document supporting water supply assessments, local and regional planning efforts, and the General Plan Updates, and

WHEREAS, the UWMP will also ensure the appropriate level of reliability in water service sufficient to meet the needs of various categories of customers during normal, dry, and multiple dry years, and

WHEREAS, in addition to meeting the minimum requirements of a UWMP, the scope also includes a task to identify and evaluate alternatives for meeting long-term water supply needs, and
WHEREAS, the City is coordinating its preparation of the UWMP with the Modesto Irrigation District (MID). Because the Department of Water Resources (DWR) requires each agency to prepare a separate UWMP, due to differing management objectives, the City is preparing its UWMP from the water supplier’s perspective, while MID preparing their UWMP from the water wholesaler’s perspective, and

WHEREAS, RMC Water and Environment (RMC), of Walnut Creek, CA, was determined to be the most qualified firm to prepare the City’s UWMP, and by Resolution No. 2005-374 the City Council awarded the contract to RMC on July 12, 2005, and

WHEREAS, since the award of the contract, a draft UWMP report has been submitted to the City and MID for review. Due to the sensitive nature of UWMPs and its consequence on future development, a considerable amount of time has been spent for legal review, to ensure that the report adequately addresses water supply issues and reduce any potential liabilities that could result in a finalized UWMP, and

WHEREAS, in September 2006, the City requested that RMC integrate additional items beyond the scope of the existing contract, such as incorporating the City’s new policy, based on SB 1087, and

WHEREAS, there are sufficient funds within the existing contract to continue work on the existing tasks, but additional funds are needed to complete the additional work as follows: 1) Task 1: Project management and quality assurance (QA)/quality control (QC); 2) Task 2: Stakeholder coordination and public outreach that will be required for future public hearings; and 3) Task 8: Plan preparation to incorporate updated information and additional tasks in order to finalize the submittal of the UWMP, and
WHEREAS, the original Agreement was for $121,596 and the additional work associated with this Amendment is $12,675, which will increase the total Agreement to an amount not-to-exceed $134,271, and

WHEREAS, the current budgeted amount of $12,675 for the Amendment to Agreement is available in the CIP Account 6180-430-W410-6010 “Urban Water Management Plan” to cover the cost for these additional services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement between City of Modesto and RMC Water and Environment, for additional services related to the Urban Water Management Plan in the amount of $12,675.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of November, 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, O'Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: Marsh

ATTEST  
JEAN MORRIS, City Clerk
(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-705

A RESOLUTION GRANTING IN PART AND DENYING IN PART THE APPEAL OF RONALD MALIK TO A PLANNING COMMISSION DECISION REGARDING CONDITION NO. 14 TO THE BRIDGES VESTING TENTATIVE PARCEL MAP (MALIK).

WHEREAS, Modesto Municipal Code Section 4-4.502(c) authorizes the Planning Commission to take action on proposed tentative parcel maps, and

WHEREAS, on July 22, 2005, Ronald Malik submitted an application for a vesting tentative parcel map to divide 24 acres located on the south side of Kiernan Avenue west of Dale Road into 13 lots, and

WHEREAS, a public hearing was held by the Planning Commission on January 9, 2006, 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, at said public hearing applicant’s representative expressed concern with certain provisions of Condition No. 14 which requires that the project participate in a shell Community Facilities District (CFD) which includes regional streets, and a contingency storm drainage plan for the project, and

WHEREAS, the Planning Commission continued the public hearing to January 23, 2006, to allow staff and the applicant the opportunity to resolve issues regarding the conditions of approval, and

WHEREAS, a continued public hearing of the Planning Commission was held on January 23, 2006, 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, by Resolution No. 2006-03 the Planning Commission approved the vesting tentative parcel map entitled The Bridges Vesting Tentative parcel map, because the proposed map, together with the provisions for design and improvements, was deemed consistent with the Kiernan Business Park Specific Plan, Modesto Urban Area General Plan, the City of Modesto Municipal Code and State of California Subdivision Map Act, and

WHEREAS, an appeal to the Planning Commission’s approval of Condition No. 14 to The Bridges vesting tentative parcel map was filed with the Office of the City Clerk by the applicant’s representative George Petrulakis, on February 6, 2006, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council at its regular meeting place located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at 5:30 p.m. on March 7, 2006, but was continued for hearing to March 28, 2006, at the applicant’s request, and

WHEREAS, said appeal was further continued for hearing to April 25, 2006, then to June 27, 2006, then to August 8, 2006, then to September 26, all at the applicant’s request, and

WHEREAS, the hearing was further continued to November 8, 2006, at the joint request of the applicant and staff to allow for further discussions regarding the CFD requirements, and

WHEREAS, after further discussion with the applicant, City staff has agreed that interim storm drainage provisions do not need to be included in the CFD, provided that
certain other conditions related to the storm drainage system are included as part of the parcel map approval, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council at its regular meeting place located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at 5:30 p.m. on November 8, 2006, at which time said public hearing was held and evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing the Council of the City of Modesto found and determined that the decision of the Planning Commission should be affirmed as to all provisions of Condition No. 14 except the provision requiring inclusion of a contingency storm drainage plan but that Condition No. 2 of the approval should be modified, in part to add a financial security requirement related to the provision of storm drainage for the project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of Ronald Malik to the decision of the Planning Commission approving Condition No. 14 to The Bridges vesting tentative parcel map is hereby granted in part and denied in part for the reason set forth below:

The proposed Condition No. 14 of the vesting tentative parcel map entitled The Bridges, as revised by the Council's decision on the appeal, together with the provisions for its design and improvements, is consistent with the Kiernan Business Park Specific Plan, Modesto Urban Area General Plan, the City of Modesto Municipal Code, and the State of California Subdivision Map Act,

BE IT FURTHER RESOLVED that the decision of the Planning Commission approving The Bridges parcel map (Planning Commission Resolution No. 2006-03) is
hereby affirmed subject to the following modifications to Conditions of Approval Nos. 2 and 14:

2. Prior to recordation of a parcel map, the developer shall enter into a written agreement with the City of Modesto for the development, use, maintenance and liability, either directly or indirectly, associated with the permanent storage and treatment of stormwater from both the adjacent frontages along Healthcare Way, as well as all on-site stormwater. The agreement shall also include a provision that in the event the retention system fails or is deemed unacceptable by any regulatory entity having jurisdiction over storm water, the developer shall at its sole expense install a positive storm drain system in accordance with City Standards. Failure of the system is defined as failure to meet the design criteria in the Standard Specifications at any time. The agreement shall further require that the applicant provide, and maintain at all times, a cash or cash equivalent financial security to secure applicant’s maintenance obligations. The security shall be in an amount required by the Public Works Director and in a form approved by the City Attorney.

14. Prior to recordation of a final parcel map, subdivider shall take all actions reasonably necessary to secure and establish a City Mello-Roos Community Facilities District ("CFD") for the Bridges Business Park site for capital improvements and ongoing maintenance composed of street improvements and landscaping and irrigation, as set forth in the Kiernan Business Park Specific Plan to be financed by said CFD or, if said CFD has been established for the Kiernan Business Park Specific Plan, subdivider shall take all actions reasonably necessary to annex its subdivision to said CFD, which shall actually result in annexation of its subdivision to said CFD at the tax rate for the zone of said CFD to which the subdivision is ultimately annexed; or alternatively, in the event complete annexation does not occur for any reason, subdivider may provide a funding mechanism for said capital improvements and ongoing maintenance to the same general standard as other similar capital improvements and ongoing maintenance financed by said CFD, subject to approval of the funding mechanism by the City, such approval not to be unreasonably withheld.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of November, 2006, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-706

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(576) (BANK OF STOCKTON)

WHEREAS, a verified application for an amendment to Section 1-3-8 of the Zoning Map was filed by Bank of Stockton on August 18, 2003, to reclassify from Specific Plan Overlay Zone, SP-O, to Planned Development Zone, P-D(576), to allow the development of a bank and a future professional office building, property located on the northeast corner of Pelandale Avenue and Dale Road, described as follows,

   SP-O to P-D(576)

   All that portion of the north half of the southwest quarter of Section 1, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, particularly described as follows:

   Parcel A as shown on the Map recorded in Book 47 of Parcel Maps at Page 46, Stanislaus County Records. Containing 3.00 acres.

   Also including the east one-half of Dale Road and North one-half of Pelandale Avenue adjacent to the above described property.

WHEREAS, after a public hearing held on September 11, 2006, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2006-60, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed Planned Development is consistent with the General Plan and Specific Plan designations for the site.

2. The development will provide some much-needed roadway improvements to facilitate the flow of traffic on Dale Road.
WHEREAS, said matter was set for a public hearing of the City Council to be held on November 8, 2006, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Bank of Stockton for a Planned Development Zone should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2006-60 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3429-C.S. on the 8th day of November, reclassifying the above-described property from Specific Plan-Overlay Zone, SP-O to Planned Development Zone, P-D(576).

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

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(576), is hereby approved subject to the following conditions:

1. Prior to issuance of a building permit, the applicant shall submit, for approval by the Community and Economic Development Director, a set of revised plot plans and building elevations showing any reduction or alteration in the building footprint and providing architecture in accordance with the Kiernan Business Park Specific Plan's design guidelines. All development shall conform to this revised plan as amended in red, stamped approved by the Planning Commission.

2. Development of the future professional office building will require separate site plan and elevations approval by the Planning Commission.

3. Prior to issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhood Director or designee. The temporary stormwater retention basin
shall landscaped and irrigated. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

4. Prior to issuance of a building permit, developer shall take all actions reasonably necessary to secure and establish a City Mello-Roos Community Facilities District ("CFD") for the area bounded by Dale Road, Pelandale Avenue, Bangs Road and American Avenue for the capital improvements and ongoing maintenance of a regional storm drain basin, right-of-way dedication and improvements for a third lane on Dale Road and the landscaping in the public right-of-way adjacent to the project site to be financed by said CFD or, if said CFD has been established for the area bounded by Dale Road, Pelandale Avenue, Bangs Road and American Avenue, developer shall take all actions reasonably necessary to annex its development to said CFD, which shall actually result in annexation of its development to said CFD at the tax rate for the zone of said CFD to which the development is ultimately annexed; or alternatively, in the event complete annexation does not occur for any reason, developer may provide a fund-in mechanism for said capital improvements and ongoing maintenance to the same general standard as other similar capital improvements and ongoing maintenance financed by said CFD, subject to approval of the funding mechanism by the City, such approval not to be unreasonably withheld.

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

6. Prior to the issuance of a building permit, the developer shall provide the following street dedication as shown on the stamped approved plan:

   a. 21.5 feet along the Dale Road frontage, flaring at the intersection as required by City Standards and the Public Works Director.

   b. 16.5 feet along the Pelandale Frontage, flaring at the intersection as required by City Standards and the Public Works Director.

7. Prior to the issuance of Certificate of Occupancy, the developer shall install the following street improvements as shown on the stamped approved plan per City Standards:
a. A two-foot-wide uninterrupted median paralleling the proposed Dale Road driveway and continuing 100 feet north of the northern edge of the driveway and 100 feet south of the southern edge of the driveway as required by the Public Works Director or designee.

b. All improvements necessary for the installation of a third northbound lane along the Dale Road frontage as required by the Public Works Director or designee, including, but not limited to, curb, gutter, sidewalk, streetlights, street pavement and striping and traffic signal relocation.

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

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

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

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

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

13. Trash enclosures shall be bermed to prevent stormwater run-on and graded to drain to adjacent landscape areas as required by the Public Works director or designee.
14. Prior to occupancy the developer shall execute a Reciprocal Easement Agreement, in a form approved by the City Attorney, which shall provide for vehicular and pedestrian access for the use of the property to the north and east.

15. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building and Development Services all fire hydrants and FDC’s required by the Fire Chief. All hydrants and FDC’s required by the Fire Chief shall be installed and operable prior to construction of any structures.

16. Internal circulation shall provide adequate emergency services access as determined by the Fire Chief.

17. Prior to issuance of a building permit, a ten-foot-wide public utility easement, and six-foot-wide planting easement located within the ten-foot-wide public utility easements, as required by the City Engineer or designee, shall be dedicated along Pelandale Avenue and Dale Road.

18. Prior to the issuance of a building permit, the developer shall provide an interim storm drainage plan, to the satisfaction of the City Engineer or designee, to accommodate both on-site runoff as well as the runoff from east half of Dale Road and north half Pelandale Avenue adjacent to the project site. On an interim basis, on-site runoff shall be detained in the proposed on-site drainage basin and street drainage shall be accommodated in the public right of way adjacent to the project site and constructed in accordance with the Improvement Plans for Kaiser Modesto Remote Off-Site Improvements. Both the on-site and off-site storm drainage systems shall be designed to ultimately drain into the future regional basin as required by the City Engineer or designee in accordance with City Standards. Storm drain improvements shall be constructed in accordance with the approved plans.

19. Prior to occupancy, the developer shall enter into an agreement for the development, use, maintenance and removal of the temporary storm drain basin, which shall include financial security for the elimination of the temporary storm drain basin and restoration of the basin site as required by the Public Works Director in a form acceptable to the City Attorney.

20. All signs shall comply with the sign requirements of the P-O Zone and the Kiernan Business Park Specific Plan.
21. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

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

23. All development shall conform to the Kiernan Business Park Specific Plan.

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

24. 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.

25. 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.

26. 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.

27. 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.
28. 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.

29. 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.

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

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

32. Limit the area subject to excavation, grading and other construction activity at any one time.

33. 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.

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

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

36. Prior to the issuance of a building permit, 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.
37. Prior to issuance of a building permit for each of the buildings within the development, the applicant shall pay the water connection fees at the rate in effect at the time of issuance of the building permit.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(576):

The construction program be accomplished in two phases as follows:

1. For Phase 1, all development associated with the bank, construction to begin on or before September 11, 2008 and completion to be not later than September 11, 2009.

2. For Phase 2, all development associated with the 10,000 square foot office building, construction to begin on or before September 11, 2010 and completion to be not later than September 11, 2011.

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

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(576), becomes effective.
The foregoing resolution was introduced at a special meeting of the Council of the
City of Modesto held on the 8th day of November, 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, O’Bryant,
      Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: ____________________________
         JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ____________________________
    SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By ____________________________
    Steve Mitchell
    Community & Economic Development Department
    Planning Division
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-707

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING SECTION 1-3-8 OF THE ZONING MAP TO RECLASSIFY FROM SPECIFIC PLAN OVERLAY ZONE, SP-O, TO PLANNED DEVELOPMENT ZONE, P-D(576), PROPERTY LOCATED ON THE NORTHEAST CORNER OF PEELANDALE AVENUE AND DALE ROAD (BANK OF STOCKTON)

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, Bank of Stockton has proposed that the zoning designation for the property located on the northeast corner of Dale Road and Pelandale Avenue, be amended from Specific Plan Overlay Zone, (SP-O), to Planned Development Zone, P-D(576), to allow the development of a bank and a future professional office building, 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. 2006-51 ("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 October 16, 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. 2006-60 recommended to the City Council approval of the application of Bank of Stockton to amend Section 1-3-8 of the Zoning Map to rezone from Specific Plan Overlay Zone, (SP-O), to Planned Development Zone, P-D(576), for the property located on the northeast corner of Pelandale Avenue and Dale Road, to allow the development of a bank and a future professional office building as set forth in said Resolution No. 2006-60, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on November 8, 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 rezone to Planned Development Zone P-D(576) to allow a bank and future professional office building, 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 2006-51, 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 special meeting of the Council of the City of Modesto held on the 8th day of November, 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, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
EXHIBIT A

Initial Study

EA/C&ED No. 2006-51
I. PURPOSE

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

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

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

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

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

II. PROJECT DESCRIPTION

A. Title: Rezone SP-O to P-D for Bank of Stockton

B. Address or Location: Northeast corner of Dale Road and Pelandale Avenue

C. Applicant: Bank of Stockton, P.O Box 1110, Stockton, Ca. 95201

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): BP

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

G. Surrounding Land Uses: North: Church Facilities
   South: Pelandale Avenue/Commercial
   East: Church Facilities
   West: Dale Road/Commercial
H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

This is an application to rezone the above-referenced property from SP-O (Specific Plan-Overlay) to P-D (Planned Development) to allow the development of an 8,620 square foot bank, associated parking and a temporary stormwater retention basin. A professional office building is proposed to be developed in the future over the area designated for the temporary stormwater retention basin.

The development is proposed to obtain ingress and egress to the public street system via a single right-in, right-out connection to Dale Road; left turn access into the development from southbound traffic on Dale Road will be precluded by a developer-installed median. Reciprocal access connections are proposed to the properties to the north and east to provide for improved future circulation within the Kiernan Business Park Specific Plan area.

The developer proposes to dedicate and provide improvements for three northbound lanes on Dale Road along the project frontage and to provide dedication on the Pelandale Expressway in accordance with City Standards.

I. Other Public Agencies Whose Approval is Required: None

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

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

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

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

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

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

E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.
2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

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

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

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

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

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

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

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.
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. 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 and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings: . X □

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

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

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

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

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

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

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts:

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

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

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

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

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

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

c. Project-Specific Effects

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

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

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. ☐ X

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

(3) Result in inadequate emergency access. ☐ X

(4) Result in inadequate parking capacity. ☐ X

Discussion:

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

A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR as supplemented by the Kaiser EIR. No traffic study is required.

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

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

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

(4) The project meets City Standards in terms of the number of parking spaces required on-site.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

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

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

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

These are also cumulative impacts on air quality.

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

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

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 significant unless:

YES NO

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

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

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

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

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

Discussion:

(1) The project is within the scope of the Master EIR for traffic related impacts. Therefore, it should be within the scope of the Master EIR for CO and NOx emissions, in that these pollutants are traffic induced.

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

(3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project is not a significant contributor to pollution levels in that it is an office development. Thus, 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, 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 development should not produce objectionable odors; in that office buildings generally do not.

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

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

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

YES NO

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

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

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

(4) The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. □ X

Discussion:

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

(2) The project is consistent with what the General Plan assumed for the site both in land use and intensity and is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

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

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

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

Discussion:

There are no mitigation measure 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 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 will directly result in the development of land outside the March 2003 planning area boundaries.</td>
<td>X</td>
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<tr>
<td>(3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.</td>
<td>X</td>
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</tbody>
</table>
(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.

Discussion:

(1) The project is consistent with the General Plan land use policies. It is being proposed on fallow land in an area designated by the General Plan as Planned Urbanizing. The areas designated in the General Plan and MEIR as Important Farmland are not affected by this development.

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

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

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. It is taking place in an area designated in the General Plan and MEIR as Planned Urbanizing and is not extending infrastructure to land designated as Important Farmland.

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

Discussion:

Mitigation Measures appropriate to this project include: WS-11

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 significant unless:

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

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

<table>
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<tr>
<th>YES</th>
<th>NO</th>
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(2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.

Discussion:

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

(2) The City has determined that it is experiencing a cumulative deficiency in water supply for new development throughout the City's service area. According to the City's recent long-term water supply analyses, the anticipated growth of the City's urban area will increase overall demand for water. By 2010, the demand will exceed the City's assured supply, which is currently provided through treated surface water and the pumping of the groundwater basin (up to the safe yield). Water demand exceeding the assured supply in the future is a significant cumulative environmental impact. (See Stanislaus Natural Heritage Project v. County of Stanislaus (1995) 48 Cal.App.4th 182.) Each new development, which creates a demand on the City's water system, contributes to this significant cumulative impact.

The City has thus implemented a long-term program for securing and developing additional water supplies, including the expansion of the Modesto Surface Water Treatment Facility, and has established a mitigation fee program, in the form of increased water connection fees, in order to fund the cost of developing these new water supplies. Payment of the new water connection fees represents a project's fair share of the cost of mitigating this significant cumulative impact, and the applicants have agreed to a condition requiring payment of the new water connection fees.
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 111-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 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

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

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

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

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

Discussion:

There are no mitigation measure applicable to this project. 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 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 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

Mitigation Measures applicable to this project include: AH-12, 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 significant unless:

YES NO

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

(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. □ X

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

Discussion:

Mitigation measures appropriate to this project include: SD-7, MEIR.

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 significant unless:

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>(2) The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>(3) Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.</td>
<td>☐</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 proposes to increase the impervious surface. However, it should be designed to meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City and applied to the project as a Mitigation Measure. With the application of the appropriate mitigation, the effect will be less than significant.

(3) The project will contribute additional water runoff. However, with the application of the mitigation measures called for in the conditions of approval for the project, the effect will be less than significant.

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

Discussion:

Mitigation measures appropriate to this project include: FWQ-14, MEIR.

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 significant unless:

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

Discussion:

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

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

(3) Mitigation Measures as called for by FWQ-14 will be applied to the project so that the project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.
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. The appropriate mitigation measures will be applied to the project.

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

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

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

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

\[
\begin{array}{cc}
\text{YES} & \text{NO} \\
\hline
(1) & \text{The project is inconsistent with the Modesto Urban Area General Plan.} & \checkmark & \times \\
\end{array}
\]

Discussion:

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

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

**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 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.
(2) The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures, which provide that compliance results in less-than-significant impacts on schools.

Discussion:
(1) The project is consistent with the General Plan in both land use and intensity.
(2) The project includes no residential student-gathering component.

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

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 significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>The project is inconsistent with the Modesto Urban Area General Plan.</td>
</tr>
<tr>
<td>(2)</td>
<td>The project would result in the need for construction of new or</td>
</tr>
</tbody>
</table>

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significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

Discussion:

(1) The project is consistent with the General Plan 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.

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

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

YES NO

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

(2) The project 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 General Plan 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.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

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

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

Effect: The project makes a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.

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

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

Discussion:

No mitigation measures are applicable to this project.

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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 significant unless:

YES  NO

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

(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.  X

Discussion:

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

(2) This project was referred to the County and Solid Waste Division of the Public Works Department 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 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

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 significant unless:

1. The project is inconsistent with the Modesto Urban Area General Plan.
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.
3. The project contains a contaminated site not identified as of March 2003.
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.
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.

Discussion:

1. The project is consistent with the General Plan in both land use and intensity.
2. The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.
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. It is an office development.
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 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

**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 significant unless:

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

2. The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.

**Discussion:**

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

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 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>☐</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the General Plan 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 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 includes a substantive amendment to the Modesto Urban Area General Plan.</td>
<td>x</td>
</tr>
<tr>
<td>(3) The project would physically divide an established community</td>
<td>x</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.
(2) No amendment to the General Plan is required by this project.
(3) The project 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 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 have a substantial adverse effect on a scenic vista.</td>
<td>x</td>
</tr>
<tr>
<td>(3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings.</td>
<td>x</td>
</tr>
</tbody>
</table>
(4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.

Discussion:

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

(2) There are no Scenic Vistas from the location of the proposed development.

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

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

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 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 (see mitigation measures listed below).

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.

A Mitigated Negative Declaration/EIR shall be prepared for the project and the following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation Measures:

N/A

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

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

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

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

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

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

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

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

9. Limit the area subject to excavation, grading and other construction activity at any one time.

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:**

1. Prior to issuance of a building permit for each of the buildings within the development, the applicant shall pay the water connection fees at the rate in effect at the time of issuance of the building permit.

**Sanitary Sewer Service Measures:**

N/A

**Sensitive Wildlife and Plant Habitat Measures:**

N/A
Archaeological or Historic Sites Measures:

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

Storm Drainage Measures:

1. Prior to the issuance of a building permit, 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, 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

City of Modesto Finding of Conformance
General Plan Master EIR
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.
MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-708  

A RESOLUTION APPROVING THE REALLOCATION OF THE CURRENT WASTE MANAGEMENT SERVICE AREA TO GILTON SOLID WASTE AND BERTOLOTTI DISPOSAL, REVISIONING THE SERVICE AREA MAP ON FILE WITH THE CITY CLERK FOR THE COLLECTION OF SOLID WASTE, INCLUDING GARBAGE, INDUSTRIAL GARBAGE, CONTAINERIZED GREEN WASTE, COMMINGLED GARBAGE/RECYCLABLES, RECYCLABLE MATERIALS, AND SALVAGABLE WASTE, ADDING CANCELLATION CLAUSE AND AUTHORIZING THE CITY MANAGER TO EXECUTE A LETTER AMENDMENT TO THE SERVICE AGREEMENTS REFERENCING THE NEW MAP.

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1990 ("AB 939"), has declared that it is within the public interest to authorize and require local agencies to make adequate provisions for handling solid waste, including garbage, garbage/recyclables, recyclables, yard waste, industrial garbage, and salvageable waste handling within their jurisdictions, and

WHEREAS, pursuant to California Public Resources Code Section 40059, the City Council of the City of Modesto has determined that the public health, safety, and well-being require that a service agreement be executed with a qualified firm for the collection, transport, recycling, and disposal of solid waste, including garbage, garbage/recyclables, recyclables, containerized yard waste, industrial garbage, and salvageable waste in residential, commercial, and industrial areas and construction/demolition sites in the CITY, and

WHEREAS, the City Council of the City of Modesto declares its intention of maintaining reasonable rates for the services to be provided within the City limits by COLLECTOR under this Agreement, and
WHEREAS, pursuant to California Public Resources Code Section 49510 (b), the City Council of the City of Modesto finds that it is in the public interest to foster and encourage solid waste enterprises so that, at all times, there will continue to be competent enterprises willingly and financially able to furnish needed solid waste handling services, and

WHEREAS, Section 5-5.23 through 5-5.31 of the Modesto Municipal Code, inclusive, establish the process by which proposals may be submitted to enter into service agreements with the City, and the procedure by which the City reviews and determines whether to enter into such service agreements, and

WHEREAS, Gilton, Solid Waste and Bertolotti Disposal have submitted proposals to provide services within the area currently served by Waste Management, and

WHEREAS, staff has concluded that reallocating the service areas and allowing these companies to provide services in this area under the terms and conditions of their current agreements presents the least risk to the City, and would reward two local companies for their dedicated service to the community, and

WHEREAS, at the October 30, 2006, meeting of the Economic Development Committee, the Committee voted unanimously to forward a recommendation to the City Council to reallocate the current Waste Management Service Area to Gilton Solid Waste and Bertolotti Disposal, and

WHEREAS, the City Council has held the required public hearing and considered testimony related thereto, and
WHEREAS, the City Council has added to Section U of the Service Agreement as follows: “COLLECTOR shall notify CITY of its intent to cease providing service within the City of Modesto no less than 18 months prior to ceasing to provide services.”

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that the revised Service Area Map shown as Option 2 in the November 8, 2006, City Council staff report for the Public Hearing on Requests to Enter into Service Agreements for Solid Waste Collection Services in the Service Area Currently Held by Waste Management, a copy of which is attached hereto as ‘Exhibit 1’ and incorporated herein by reference, will be adopted, in which Map customers at build out are allocated to the two service providers in the following ratios; Gilton Solid Waste Sixty-nine percent (69%) and Bertolotti Disposal thirty-one percent (31%).

BE IT FURTHER RESOLVED by the Council that the reallocated areas will be served under the terms and conditions of the current Service Agreements with the two companies.

BE IT FURTHER RESOLVED by the Council that it hereby authorizes the City Manager to execute a letter amendment with Gilton Solid Waste and Bertolotti Disposal referencing the revised Service Area Map as the correct map; and

BE IT FURTHER RESOLVED by the Council that at such time of adoption of Map 2 as referenced above, that certain map entitled “Service Areas” dated January 23, 2001, on file in the office of the City Clerk, will become void.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8\textsuperscript{th} day of November, 2006, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: \underline{Jean Morris}

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By \underline{SUSANA ALCALA WOOD}, City Attorney
WHEREAS, a monthly financial analysis has been completed and it has been determined that certain year-end adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2006-2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2006-2007 budget have been adjusted as shown in Schedule A.

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

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

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’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
# MONTHLY BUDGET ADJUSTMENTS – OCTOBER 2006

## SCHEDULE A

### Parks, Recreation & Neighborhoods

#### Recycling Program/Additional Unbudgeted Revenue

<table>
<thead>
<tr>
<th>To:</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Commercial Recycling Fees Revenue Acct #0310-355-4402-4097</td>
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</tr>
<tr>
<td>Industrial Recycling Fees Revenue Acct #0310-355-4402-4098</td>
<td>$30,000</td>
</tr>
<tr>
<td>Residential Recycling Fees Revenue Acct #0310-355-4402-4096</td>
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<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Promotional Expense Acct #0310-355-4402-0237</td>
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</tr>
<tr>
<td>Advertising Acct #0310-355-4402-0230</td>
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<tr>
<td>Salary/Benefit Acct #0310-355-4402-0110/0188</td>
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<td>Advertising Acct #0310-355-4402-0230</td>
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#### CDBG Operating/HUD Annual Action Plan

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<tr>
<td>CDBG Carryover Revenue Acct #1130-320-3252-3511</td>
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</tr>
<tr>
<td>CDBG Carryover Revenue Acct #1130-320-3256-3511</td>
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<table>
<thead>
<tr>
<th>From:</th>
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<tbody>
<tr>
<td>Homebuyer Acct #1130-320-3254-0494</td>
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<tr>
<td>Professional Services Acct #1130-320-3254-0235</td>
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<td>Paint and Insulation Rebate Acct #1130-320-3256-1101</td>
<td>$(500)</td>
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<tr>
<td>Real Estate Property Rental</td>
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<td>Professional Services Acct #1130-320-3252-0235</td>
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<table>
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<th>To:</th>
<th>Amount</th>
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<tr>
<td>Direct Loans (DPAP) Acct #1130-320-3254-0497</td>
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<td>Property Enhancement Program Acct #1130-320-3256-0261</td>
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<td>Professional Services Acct #1130-320-3256-0235</td>
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#### CDBG/Crime Free Housing

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<tbody>
<tr>
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<table>
<thead>
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<tbody>
<tr>
<td>CDBG Direct Grants Acct #1130-320-3254-0496</td>
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### Public Works Department

#### Project #A008 Airport Parking Lot Expansion

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<tr>
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<tr>
<th>To: Engineering Design Acct #6320-440-A008-6010</th>
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<td>Construction Administration Acct #6320-440-A008-6060</td>
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</tr>
</tbody>
</table>
MONTHLY BUDGET ADJUSTMENTS – OCTOBER 2006
SCHEDULE A

Project #E635/Arterial Roundabouts

From: Project Revenue Acct #1410-160-E635-3531  $(563,703)
       Project Expense Acct #1410-160-E635-6040  $(563,703)

Project #Q312/Sylvan-Roselle Intersection

To:   Project Revenue Acct #2691-020-Q312-3607  $342,378
      Project Expenditure Acct #2691-020-Q312-6040  $342,378
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-710

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF CAST IRON AND DUCTILE IRON FITTINGS AND SPOOLS, FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, 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 $130,000

WHEREAS, the Finance Department, Central Stores Division inventories various materials for use by the Public Works Department, Water Division for City services and projects, including cast iron and ductile iron fittings and spools, and

WHEREAS, these fittings and spools are used to connect water mains to residential homes and businesses, and

WHEREAS, these fittings and spools shall be purchased from an annual agreement as “inventory stock”, and warehoused by the Central Stores Division for release to the Water Division, and

WHEREAS, the need and specifications for these items have been developed over time through collaboration between Central Stores staff and Water Division personnel requesting the materials, and

WHEREAS, competitively bidding and inventorying these materials benefit the City in many ways. Some of the benefits include:

• Consolidation of Citywide requirements to obtain firm pricing for a specified period of time, thereby avoiding price increases in a potentially volatile market.

• Materials are readily available in one location and crews are on the job more quickly and for longer periods.
• Reduction of staff time used in processing one-time bids throughout the year, and

WHEREAS, by issuing formal Request for Bids, the City will achieve the best value for cast iron and ductile iron fittings and spools, and meet Modesto Municipal Code requirements for formal bids, and

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

WHEREAS, the issuance of a formal Request for Bids for the purchase of cast iron and ductile iron fittings and spools will conform to code, and

WHEREAS, funds are budgeted and available in account 6100-480-5012-0360 for the purchase of cast iron and ductile fittings and spools for FY 06/07,

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

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the purchase of cast iron and ductile iron fittings and spools, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed bids are opened they shall be tabulated and analyzed by the Purchasing Division and a report submitted to Council.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 14th day of November, 2006, by Councilmember Hawn,
who moved its adoption, which motion being duly seconded by Councilmember
Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By:                     
Susana Alcala Wood, City Attorney

ATTEST: Jean Morris, City Clerk