MODESTO CITY COUNCIL
RESOLUTION NO. 2006-649

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): OMNIBUS ZONING CODE TEXT AMENDMENT 2006-1

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, the City proposes to amend certain portions of the text of its
Planning and Zoning Code, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to
reviewing subsequent projects 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 & Economic Development
Department by Environmental Assessment Initial Study EA/C&ED 2006-45 (“Initial
Study”) reviewed the proposed Zoning Code Text Amendment 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 concluded that the proposed project is within the
scope of the Master EIR and will have no additional significant effect on the environment
that was not identified in the Master EIR, and further, that no new additional mitigation
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 beginning on July 31, 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, said matter was considered by the City Council at a duly noticed public hearing which was held on October 10, 2006, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed Omnibus Zoning Code Text Amendment, 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. That the proposed project is contemplated and described in the Master EIR (SCH No. 1999082041) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.
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 approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

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

EXHIBIT A
Initial Study
Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. 2006-45

For the proposed:

Omnibus Zoning Code Text Amendment 2006-1

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

August 2, 2006
City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether Omnibus Zoning Code Text Amendment 2006-1 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: Omnibus Zoning Code Text Amendment 2006-1

B. Address or Location: City of Modesto

C. Applicant: City of Modesto

D. City Contact Person: Patrick Kelly

Project Manager: Patrick Kelly
Department: Community & Economic Development Department
Phone Number: (209) 577-5268
E-mail address: pkelly@modestogov.com

E. Current General Plan Designation(s): N/A

F. Current Zoning Classification(s): N/A

G. Surrounding Land Uses: N/A
This project consists of a set of minor amendments to Title 10 of the Modesto Municipal Code (the Zoning Code), to implement goals of the Housing Element and accomplish the following:

1. Second units. The City’s provisions for second units are based on a section of state law that has been amended. Amendment of the City’s provisions is needed to bring the code into conformance. In addition, this update is specified in the Housing Element.

2. Density bonus. The City’s provisions for density bonuses are based on a section of state law that has been amended. Amendment of the City’s provisions is needed to bring the code into conformance. In addition, this update is specified in the Housing Element.

3. Parking requirements for small units and mixed-use projects incorporating housing. The Housing Element specifies review of these requirements.

4. Residential Care Facilities. Better definition in the code is needed for these facilities. The proposed amendment would tie the City’s code to state law provisions.

5. Model Homes. The Municipal Code currently has no definition of model homes. The proposed amendment would provide a definition and would specify the way in which the Subdivision Map Act provision for models is to be used where models are to be constructed prior to recordation of a map.

6. Satellite antennas. The current Code includes extensive provisions for this outdated technology (large, 6'-7' diameter dishes). A clean-up to remove these provisions is suggested. Further amendments to address modern communication technologies are under consideration for future presentation.

I. Other Public Agencies Whose Approval is Required:

None
III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. **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.

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.

For
Patrick Kelly, Project Manager

Principal Planner
Title
August 2, 2006
Date
4. Within the Scope Analysis of this Document:

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

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

(2) City policies 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.

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

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

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

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

Discussion: N/A

5. Currency of the Master EIR Document

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

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

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

(4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.

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

Discussion:

(2) The project is a minor amendment to the Zoning Code. The Zoning Code is implicit in the General Plan and none of the topics of the proposed amendment will alter the Code in such a fashion as to create new environmental issues.
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.

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

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:

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Discussion:

1-4. The project is a minor amendment to the Zoning Code and will have no effect on traffic and transportation issues.

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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

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.

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

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

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

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

Discussion:

1-5. The project is a minor amendment to the Zoning Code and will have no effect on air quality issues.
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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

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. ☐ ☒

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

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

(4) The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. ☐ ☒
Discussion:

1-4. The project is a minor amendment to the Zoning Code and will have no effect on noise issues.

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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

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:

YES NO

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

(2) The project will directly result in the development of land outside the March 2003 planning area boundaries. ☐ ☒
(3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.

(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:

1-4. The project is a minor amendment to the Zoning Code and will have no effect on agricultural land.

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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.
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:

YES NO

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

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

Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on water supply issues.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

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

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

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

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-6-4 through V-6-7 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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

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:

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

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

Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on wastewater issues.

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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

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:

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

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

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

Discussion:

1-3. The project is a minor amendment to the Zoning Code and will have no effect on wildlife or plant habitat.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

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

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

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(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:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on cultural resources.
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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

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

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

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

Discussion:

1-3. The project is a minor amendment to the Zoning Code and will have no effect on storm water runoff.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

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

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

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

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

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

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:

1. The project is inconsistent with the Modesto Urban Area General Plan.
2. The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.
3. The project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.
4. The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.

Discussion:

1-4. The project is a minor amendment to the Zoning Code and will have no effect on flooding and water quality issues.

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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

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:

YES  NO

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

Discussion:

1. The project is a minor amendment to the Zoning Code and will have no effect on parks and open space issues.
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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

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:

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

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:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on schools.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

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

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

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

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

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

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

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

Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on police services issues.

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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.
c. Project-Specific Effects

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

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

YES  NO

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

Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on fire services issues.

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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.
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:

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<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
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<td>(2) The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.</td>
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Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on solid waste issues.

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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.
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. [ ] [X]
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. [ ] [X]
3. The project contains a contaminated site not identified as of March 2003. [ ] [X]
4. The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. [ ] [X]
5. The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment. [ ] [X]

Discussion:

1-5. The project is a minor amendment to the Zoning Code and will have no effect on hazardous materials issues.

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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

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:

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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:

1-5. The project is a minor amendment to the Zoning Code and will have no effect on seismic issues.

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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

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:

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

Discussion:

1-5. The project is a minor amendment to the Zoning Code and will have no effect on seismic issues.

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:

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

Discussion:
1-3. The project is a minor amendment to the Zoning Code and will not divide any 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:

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

Discussion:
1-4. The project is a minor amendment to the Zoning Code and will not affect any aesthetic issues.
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:

N/A

Noise Measures:

N/A

Agricultural Land Measures:

N/A
Water Supply Measures:
N/A

Sanitary Sewer Service Measures:
N/A

Sensitive Wildlife and Plant Habitat Measures:
N/A

Archaeological or Historic Sites Measures:
N/A

Storm Drainage Measures:
N/A

Flooding and Water Quality Measures:
N/A

Parks and Open Space Measures:
N/A

Schools Measures:
N/A

Police Services:
N/A

Fire Services:
N/A

Generation of Solid Waste
N/A

Generation of Hazardous Materials
N/A
Potential for Landslides and Seismic Activity
N/A

Energy
N/A

Planning and Land Use
N/A

Aesthetics
N/A
A RESOLUTION APPROVING THE EXPENDITURE OF THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND (SLESF) GRANT FOR 2006/2007, IN THE AMOUNT OF $405,053, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM GRANT DOCUMENTS.

WHEREAS, in 1996, the State Legislature passed, and the Governor signed, Assembly Bill 3229, the Supplemental Law Enforcement Services Act, and

WHEREAS, the legislation has continued to be funded each subsequent year at $100 million, statewide, from sales and use taxes, for exclusive funding of municipal police services, in accordance with written requests submitted by the Chief of Police of a city to his or her governing body, convened in public hearing, and

WHEREAS, the purpose of the law is to ensure public safety, and

WHEREAS, the funding for each county and city is based upon proportionate population, and

WHEREAS, the allocation to the City of Modesto for fiscal year 2006/2007 is $405,053, and

WHEREAS, the program requires a public hearing by local governmental Chiefs of Police or Sheriffs regarding spending plans, and

WHEREAS, these funds must be held in an interest-bearing Supplemental Law Enforcement Services Fund and must not be used to supplant existing budget funds, and

WHEREAS, the Modesto Police Department plans to budget these funds for technology, additional memory for data storage, field equipment, and storage for property and evidence, which is needed but was not included in the budget due to budget reductions,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that after holding a public hearing, it hereby accepts the Chief of Police's spending plan for the 2006/2007 State Supplemental Law Enforcement Services Fund allocation of $405,053 for memory for data storage, communication equipment, field equipment, and storage of property and evidence, which was not included in the 2006/2007 budget.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary program grant documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th 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. 2006-651

A RESOLUTION AMENDING THE 2006/2007 FISCAL YEAR OPERATING BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES FOR THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND (SLESF) GRANT.

WHEREAS, in 1996, the State Legislature passed, and the Governor signed, Assembly Bill 3229, the Supplemental Law Enforcement Services Act, and

WHEREAS, the legislation has continued to be funded each subsequent year at $100 million, statewide, from sales and use taxes, for exclusive funding of municipal police services, in accordance with written requests submitted by the Chief of Police of a city to his or her governing body, convened in public hearing, and

WHEREAS, the purpose of the law is to ensure public safety, and

WHEREAS, the funding for each county and city is based upon proportionate population, and

WHEREAS, the allocation to the City of Modesto for fiscal year 2006/2007 is $405,053, and

WHEREAS, the Modesto Police Department plans to budget these funds for technology, additional memory for data storage, field equipment, and storage for property and evidence, which is needed but was not included in the budget due to budget reductions, and

WHEREAS, the adopted 2006/2007 Police 06-07 SLESF Grant monies in the amount of $405,053 will be applied to account number 0400-190-2923-5008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that after holding a public hearing, it hereby amends the 2006/2007 operating
budget to appropriate revenues and expenses to 0400-190-2923-5008 for technology, additional memory for data storage, field equipment, and storage for property and evidence, which is needed but was not included in the budget due to budget reductions.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th 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. 2006-652

A RESOLUTION SPONSORING THE STANISLAUS COUNTY AG CENTER FOUNDATION'S APPLICATION TO SECURE $217,500 IN GRANT FUNDING FROM THE ECONOMIC DEVELOPMENT BANK FOR THE INSTALLATION OF WATER, SEWER, AND STORM DRAINAGE INFRASTRUCTURE FOR THE AG SCIENCE CENTER.

WHEREAS, the Stanislaus County Ag Center Foundation (Foundation) desires to apply for grant funding through the Economic Development Bank that was formed by the Stanislaus County Board of Supervisors on February 13, 2001, and

WHEREAS, the Foundation desires to obtain $217,500 in grants to fund the installation of water, sewer, and storm drainage infrastructure that will serve the future Ag Science Center that will be built on the West Campus of the Modesto Junior College, and

WHEREAS, in order to apply for these funds the Foundation must first have its funding request approved and sponsored by the county or city,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves and sponsors the Foundation’s request to submit an application to secure $217,500 in grant funding from the Economic Development Bank for the installation of water, sewer, and storm drainage infrastructure for the Ag Science Center.
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

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-653

A RESOLUTION APPROVING A CAPITAL FACILITIES FEE
REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND
WARNER SOELLING WITH A MAXIMUM REIMBURSEMENT AMOUNT OF
$326,966.77 FOR STREET IMPROVEMENTS ON THE SOUTHWEST CORNER
OF BRIGGSMORE AVENUE AND OAKDALE ROAD, AUTHORIZING THE
CITY MANAGER TO EXECUTE THE AGREEMENT AND FINDING THAT
THE AGREEMENT IS WITHIN THE SCOPE OF THE PREVIOUSLY
CERTIFIED MODESTO URBAN AREA GENERAL PLAN MASTER EIR (SCH
NO. 1999082041)

WHEREAS, WARNER SOELLING, (“Developer”) has an interest in
property located at the southwest corner of Briggsmore Avenue and Oakdale Road in
Modesto, California, commonly known as Eastgate Plaza (“Property), and

WHEREAS, in connection with the development of said Property,
Developer is required to construct street improvements (“Improvements”) on the
southwest corner of Briggsmore Avenue and Oakdale Road, along the frontage of the
Property, as more particularly described on Exhibit “A” attached hereto, and

WHEREAS, a portion of the Improvements have been designated for
funding through the City’s Capital Facilities Fees (“CFF”) Program, and

WHEREAS, Developer has requested, and City has agreed that Developer
be reimbursed for the actual cost of construction of the Improvements after said
Improvements have been completed by Developer and accepted by City, and

WHEREAS, said Agreement has a maximum reimbursement amount of
$326,966.77 which will be allocated from the Streets 1410 CFF fund, and

WHEREAS, the City Council has received and considered the Written
Checklist, Environmental Assessment No. EA/C&ED 2003-91, which concludes that the
Eastgate Plaza, including the improvements for which the Developer will be reimbursed
under the proposed CFF Reimbursement Agreement, is within the scope of the previously
certified Modesto Urban Area General Plan Master EIR (SCH No. 1999082041), and that pursuant to Sections 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required.

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

1. The proposed CFF Right of Way Reimbursement Agreement between the City of Modesto and Warner Soelling ("Project") is consistent with the Modesto Urban Area General Plan.

2. The reimbursement for the proposed right of way is included in the 2003 CFF Program.

3. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Modesto Urban General Plan Master EIR (SCH No. 1999082041) ("Program EIR") and no new environmental documents or findings are required by CEQA.

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

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

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

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

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

   c. previously infeasible mitigation measures; or,

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

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

7. The Written Checklist, Environmental Assessment EA/C&ED 2003-91 provides the substantial evidence to support findings 4-7 above.
BE IT FURTHER RESOLVED by the City Council that the CFF Right of Way Reimbursement Agreement between City of Modesto and Warner Soelling is hereby approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 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
CFF REIMBURSEMENT AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of October, 2006, by and between the City of Modesto, a municipal corporation ("City"), and Warner Soelling, an individual ("Developer").

WHEREAS, Developer has an interest in property located at the southwest corner of Briggsmore Avenue and Oakdale Road in Modesto, California, commonly known as Eastgate Center ("Property"); and,

WHEREAS, in connection with the development of said Property, Developer is required to construct street improvements on Briggsmore Avenue and Oakdale Road, along the frontage of the Property, as more particularly described on Exhibit A attached hereto ("Improvements"); and,

WHEREAS, all or a portion of the Improvements have been designated for funding through the City’s Capital Facilities Fee program; and,

WHEREAS, the Improvements will benefit other properties in addition to the Property, and the other properties will pay Capital Facilities Fees to the City as they develop; and,

WHEREAS, City will oversee the inspection of said Improvements and eventually accept said Improvements as public improvements; and

WHEREAS, Developer has requested, and City has agreed that Developer be reimbursed for the actual costs of constructing the Improvements after said Improvements have been completed by Developer and accepted by City.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements herein contained, the parties hereto mutually agree as follows:

10/4/2006
1. IMPROVEMENTS: Developer agrees to cause the Improvements to be made and constructed to fully comply with the requirements of the Modesto Municipal Code, in accordance with the City of Modesto Standard Drawings and Standard Specifications, and as shown on the engineered and approved Improvement plans submitted by Dr. Warren Soelling, dated April 11, 2006, and accepted by the City’s Engineer, which improvement plans are on file in the office of City’s Engineer. Work on the Improvements shall in no event commence prior to receipt by Developer of a written Notice To Proceed from the City’s CFF Administrator.

2. TIME FOR COMPLETION OF IMPROVEMENTS: Developer agrees that this Agreement is for the benefit of the Developer and, therefore, Developer represents that it will complete the construction of the Improvements and request final reimbursement therefore under this Agreement on or before March 7, 2007. If during the performance of this Agreement, the City determines that Developer is not proceeding with such diligence as to complete the Improvements within such period of time, Developer agrees to meet and confer with the City as to options available to the City to assure the timely completion of such Improvements. Such options, any of which may be taken in the sole discretion of the City, may include, but are not limited to, the termination of this Agreement, or its assignment by Developer, subject to the approval of the City, to others and, in any event, the payment of liquidated damages by Developer pursuant to Standard Specification procedures in the amount of FIVE HUNDRED AND 00/100 ($500.00) DOLLARS per day commencing on March 8, 2007.

3. CONTRACTOR LICENSES: Developer shall insure that all contractors and subcontractors are licensed in accordance with Sections 7000 through 7145 inclusive, of the
California Business and Professions Code and that they maintain adequate insurance for any work or services performed.

4. **REIMBURSEMENTS TO DEVELOPER:**

Notwithstanding anything in this Agreement to the contrary, persons or entities advancing funds or constructing or furnishing facilities contemplated in the City’s CFF program may receive reimbursement from CFF collected by the City only after occurrence of the following conditions:

a. **Conditions Precedent to Reimbursement.**

Prior to issuance of any reimbursement or payment to Developer, the following conditions must be fully satisfied:

i. A valid CFF Reimbursement Agreement exists between the City and Developer,

ii. The Improvements have been completed,

iii. A Notice of Completion for the Improvements has been issued to Developer,

iv. Developer has submitted all bills, invoices, and other documentation the City’s CFF Administrator deems necessary to substantiate Developer’s actual and reasonable costs for installing the Improvements,

v. The Improvements are identified by the City’s CFF Administrator as being eligible for funding from the next available CFF collected,
as more fully set forth in subparagraph 5.c. below; and

vi. City has collected sufficient CFF monies to pay the amount to be reimbursed under this Agreement.

Until the aforementioned conditions are met, Developer shall be denied any reimbursement.

b. **Amount of Reimbursement.** The engineering estimate for the items and amounts eligible for reimbursement is attached as Exhibit “B” hereto and incorporated herein by this reference (“Engineer’s Estimate”). City will reimburse Developer for the Improvements based on Developer’s actual and reasonable costs for constructing the Improvements, including design and construction administration, in an amount up to but not to exceed, the lesser of (i) the actual and reasonable documented costs of constructing the Improvements or (ii) the Engineer’s Estimate as set forth in Exhibit “B”.

c. **Timing of Reimbursement.** Reimbursements for Improvements will be given as follows:

   (1) The City shall effect such reimbursement within thirty (30) days after completion and acceptance of the Improvements; provided, however, City shall not be required to effect any reimbursement until and unless Developer submits all documentation required pursuant to subparagraph 5.c. above.

d. **Payment Only From CFF Proceeds.** The parties understand and agree that the payment obligations set forth herein are payable solely from City’s Capital Facilities Fees program, and from no other source, that the City shall not be obligated to make any payment.

hereunder except out of revenue from the City’s Capital Facilities Fees program, and that the City is not liable to maintain this special fund out of its General Fund or by tax levies. City has used, and will continue to use best efforts to utilize CFF revenue to ensure that the terms and conditions of this Agreement are met.

5. REQUESTS FOR REIMBURSEMENT:

Requests for payment by Developer shall be substantially in the form attached hereto as Exhibit “C” or otherwise acceptable to City’s CFF Administrator, and shall include such supporting documentation to substantiate the request as City’s CFF Administrator may require. For requests for payment, the following shall apply:

a. Final Inspection and Acceptance. No reimbursement shall be made by the City to the Developer for any Improvements until they have been inspected by and are acceptable to the City. For those Improvements to be accepted by the City, the Developer shall request final inspection using applicable procedures.

b. Improvements are Complete. The City shall not make any reimbursements to the Developer for Improvements until they are completed in accordance with approved plans and specifications and approved contracts and change orders. Any Improvement to be accepted by the City must be in such condition that it is ready for use by the City as determined by the City’s Engineer, based on current, applicable City standards.

c. Substantiation of Costs. The Developer shall provide any documentation substantiating the construction and completion of, and the Developer’s cost for constructing the Improvements, as reasonably requested by the City’s CFF Administrator or
d. **Payment of Claims.** The Developer shall provide, in a form satisfactory to the City’s CFF Administrator, evidence that all of the costs of the Improvements have been fully paid, including all lien claims, or that lien releases have been obtained. If required by the City’s CFF Administrator, the Developer shall provide unconditional lien releases under California Civil Code Section 3262(d) to assure that payment of outstanding claims of the Developer’s contractors, subcontractors and suppliers has been made. Said unconditional lien releases shall be provided on forms acceptable to the City’s CFF Administrator.

e. **As-built Drawings.** Developer shall provide as-built drawings or equivalent plans and specifications in a form acceptable to the Engineering & Transportation Department, Development Services Division of City. Developer shall also provide a warranty security in accordance with Paragraph 7, below.

6. **INSPECTIONS:** The City Engineer shall oversee the inspection of the Improvements, and all improvements related thereto, to see that they comply with City regulations.

7. **IMPROVEMENT SECURITIES:** Prior to execution of this Agreement, Developer has or will record a parcel map on the Property, execute a Parcel Map Agreement and provide adequate improvement securities to secure faithful performance of this Agreement and the Parcel Map Agreement, and payment for labor and materials. Developer shall maintain said improvement securities until all Improvements have been completed and accepted by the City. Prior to acceptance of the Improvements, Developer shall also file with the City a Guarantee and Warranty Security as set forth in Section 66499.3(d) of the Government Code of the State of California and as required by the Parcel Map Agreement.

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

(a) **Worker's Compensation** - in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of $500,000.

(b) **General Liability** insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and $100,000 for property damage or $3,000,000 combined single limit. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent consultants and subcontractors; products and completed operations.

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

9. **CHANGES:** Developer shall perform any changes or alterations in the construction and installation of the Improvements required or approved by City, in writing, provided that the combined total of such changes nor alterations do not exceed 10% of the Engineer’s Estimate for all improvements.

10. **SUCCESSORS AND ASSIGNS:** Developer hereby binds itself, its executors, administrators, successors in interest, and assigns to the provision of this Agreement and agrees to accept the amount set forth in this Agreement as full reimbursement for all costs and expenses associated with installation and construction of the Improvements.

11. **DEVIATION FROM STANDARDS:** If Developer deviates from the approved improvement drawings, specifications or standards, or constructs any Improvements in such a manner so as to, in the opinion of the City Engineer, endanger the public safety, the City Engineer may give Developer written notice of such deviations, and Developer shall correct the deviation in the time prescribed by the City Engineer. In the event of the failure of Developer to
make corrections of deviations, whether or not the public safety is affected, City may cause the necessary corrections to be made and shall be reimbursed by Developer at cost plus 25%. Said amount shall be at City’s discretion, deducted from the reimbursement by City to Developer, paid for by Developer prior to the acceptance of the Improvements, or collected from the Improvement security.

12. INDEMNITY: Developer further agrees to defend and indemnify City, its officers and employees, from any and all claims demands, causes of action, liability or loss of any sort, arising out of acts or omissions of Developer, its agents or employees, related to this Agreement. Such obligation to defend and indemnify shall extend to damages to adjacent or downstream properties or the taking of property from owners of such adjacent or downstream properties as a result of the construction of the Improvements.

   It shall also extend to damages resulting from diversion of waters, change in the volume of flow, modification of the velocity of the water, erosion or siltation, or the modification of the point of discharge as the result of the construction and maintenance of the drainage systems.

   The approval of plans providing for any or all of these conditions shall not constitute the assumption by City of any responsibility for such damage or taking, nor shall City, by said approval, be an insurer or surety for the construction of the Improvements pursuant to said approved Improvement plans. The provisions of these “indemnity” issues shall become effective upon the execution of this Agreement and shall remain in full force and effect for one year following the acceptance by City of the Improvements. In accordance with the provisions of Civil Code Section 2782(b) the indemnification provided by this paragraph to indemnitee City by Developer shall not extend to injury, damage, or other liability or loss, arising out of or

occasioned by the active negligence of City or any officer or employee thereof.

Upon demand by City, Developer shall at its own expense, defend City, its officers, agents and employees, against all such liabilities, claims, demands, actions, losses, damages or costs.

13. GENERAL PROVISIONS:

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

b. Amendments. This Agreement, including any exhibits hereto, shall not be amended except in writing, signed by the parties. Any amendment or addendum to this Agreement shall expressly refer to this Agreement.

c. Waiver. Any waiver by either party of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by either party to take action on any breach or default or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time given to perform any obligation under this Agreement shall not operate as a waiver or release from any obligations. Consent to any act or omission shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for written consent to future waivers.

d. Entire Agreement. This Agreement and all exhibits hereto constitute the entire agreement and understanding between the parties relating to the subject matter hereof. All
prior or contemporaneous negotiations, agreements, and understandings, oral or written, are
revoked, cancelled, and rescinded, and are all merged herein and superseded hereby. No
amendment, modification, or supplement to this Agreement will be binding on either party unless
it is in writing and signed by the parties in interest at that time.

e. **Severability.** If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions or part thereof will be stricken from this Agreement, and such provisions will not affect the legality, enforceability, or validity of the remainder of this Agreement.

f. **Headings Not Controlling.** Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement’s provisions.

g. **Language Construction.** The language of each and all paragraphs, terms and/or provisions of this Agreement shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

h. **Discretion of City.** City’s execution of this Agreement in no way limits the discretion of City in the permit and approval process in connection with construction or development of the Property, except as expressly provided for in this Agreement.
IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized
the execution of this Agreement in duplicate by its City Manager and attestation by its City
Clerk, under authority of Resolution No. __________, adopted by the Council of the City of
Modesto on the ___ day of _____________, 2006, and _________________ has
caused this Agreement to be duly executed.

CITY OF MODESTO, a municipal corporation

By: ______________________________________
GEORGE BRITTON, City Manager

ATTEST:

By: ______________________________________
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
RICHARD RUDNANSKY, Interim City
Attorney

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

APPROVED AS TO FORM:

By: ______________________________
MARY AKIN, Risk Manager

### Briggsmore Avenue and Oakdale Road Intersection CFF Reimbursement for Eastgate Center

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<th>Item</th>
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<th>*Available Quantity</th>
<th>Units</th>
<th>Unit Cost</th>
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<td>Concrete Sidewalk</td>
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<td>SF</td>
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<td>Signing/Striping Improvements</td>
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<td>Striping Imps (CBE &amp; CCE - 6 lanes)</td>
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<td>Right-of-way Acquisition</td>
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<td></td>
<td>10%</td>
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<td>$2,185.22</td>
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<td><strong>Intersection Total</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>$295,011.59</strong></td>
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**TOTAL REIMBURSEMENT**

| COLA | 1.90% | $300,616.81 |
| COLA | 5.73% | $317,751.96 |
| COLA | 2.9%  | $326,986.77 |

* Available Quantity = Based on Eastgate Center improving 25% of the total intersection, only 25% of what is available through CFF will be reimbursed at any time.
The undersigned (the "Developer") hereby requests payment pursuant to the CFF Reimbursement Agreement (the "Agreement"), dated ______________, 2006, between the City of Modesto ("City") and the Developer, in the total amount of __________________ Dollars ($______________) for the Improvements identified in Exhibit "A" to the Agreement, all as more fully described in Attachment 1 hereto. In connection with this request for payment, the undersigned hereby represents and warrants to the City as follows:

1. He (she) is a duly authorized representative of the Developer, qualified to execute this request for payment on behalf of the Developer and acknowledgeable as to the matters set forth herein.

2. The Developer has submitted or submits herewith to the City as-built drawings or similar plans and specifications for the Improvements to be acquired as listed in Attachment 1 hereto, and such drawings or plans and specifications, as applicable, are true, correct and complete.

3. Developer has submitted or submits herewith to the City a warranty security for the Improvements to be acquired, in an amount as determined by District’s Engineer and in a form approved by the City Attorney.

4. All costs of the Improvements are actual costs and have not been inflated in any respect.

5. Supporting documentation (such as third party invoices) is attached with respect to each cost.

6. Prevailing wages have been paid relative to the construction of the Improvements and all work has been performed by contractors licensed by the State of California to do said work.

7. The Improvements were constructed in accordance with all applicable City standards, and in accordance with the as-built drawings or plans and specifications, as applicable, referenced in paragraph 2 above.

8. The Developer is in compliance with the terms and provisions of the Agreement.

Dated: 4-24-06

WARREN SOELLING, an individual

By: ________________________________

WARREN SOELLING
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-654

A RESOLUTION APPROVING A MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH MUNI-FINANCIAL FOR THE PREPARATION OF FACILITIES MASTER PLANS, INFRASTRUCTURE FINANCE PLANS, AND FOR FORMATION OF COMMUNITY FACILITIES DISTRICTS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the City, has determined that Facilities Master Plans ("FMPs"), and Infrastructure Finance Plans, ("IFPs") should be prepared for new Specific Plan areas to provide for the public facilities and services needed to serve these areas and to provide for phasing and funding mechanisms, such as Community Facilities District ("CFDs") to ensure that the infrastructure necessary to serve development will be available in a timely manner, and

WHEREAS, the City has also determined that various technical studies and finance-related studies are needed to support the preparation of the FMPs and IFPs, and

WHEREAS, Muni-Financial ("Consultant") has been pre-qualified and approved by the Council to provide the services to prepare said FMPs and IFPs, and

WHEREAS, City and Consultant desire to enter into a Master Professional Services Agreement for Consultant Services ("Master Agreement") pursuant to which Consultant shall prepare FMPs, IFPs, technical studies and related on-call services as assigned by City, and

WHEREAS, prior to commencement of services under the Master Agreement, all work and services to be provided to City by Consultant shall be outlined in a Task Order for each project and shall be approved by the City in accordance with City’s policies regarding contracting authority,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Master Professional Services Agreement for Consultant Services between the City of Modesto and Muni-Financial for the preparation of Facilities Master Plans, Infrastructure Finance Plans, and for formation of Community Facilities Districts is hereby approved.

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

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-655

A RESOLUTION APPROVING TASK ORDER NO. 1 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH MUNIFINANCIAL, A CALIFORNIA CORPORATION, FOR THE PREPARATION OF A FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE PELANDALE-MCHENRY SPECIFIC PLAN AREA

WHEREAS, the City Council is desirous of creating a Facilities Master Plan (“FMP”) and Infrastructure Finance Plan (“IFP”) for the Pelandale-McHenry Specific Plan Area (“Project”), and

WHEREAS, Meritage Homes of California, Incorporated (“Applicant”) has a legal interest in real property located within the Pelandale-McHenry Specific Plan Area, shown in Exhibit “A”, and is interested in pursuing development of properties in the Specific Plan Area, and

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

WHEREAS, Consultant has prepared Task Order No. 1 (“Task Order”) for the Project, attached as Exhibit “B”, and

WHEREAS, Applicant has advanced a deposit in the amount of eight thousand seven hundred and thirty-six dollars ($8,736) to the City to fund a portion of Task Order No. 1 and to pay staff and consultant expenses expected to be incurred in connection with the Project, and
WHEREAS, additional deposits will be provided by Applicant, as required by the
City and as necessary to fund the Task Order, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that Task Order No. 1, attached as Exhibit “B” hereto is hereby approved.

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, Councilmember Marsh, who
moved its adoption, which motion being duly seconded by Councilmember Hawn, was
upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney

ATTEST: JEAN MORRIS, City Clerk
Table 2.1 Pelandale / McHenry Specific Plan Land Use Summary

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Developed Gross Acreage</th>
<th>Net acreage</th>
<th>Open Space</th>
<th>Dwelling Units</th>
<th>Residential Routes</th>
<th>Total Acres</th>
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<tr>
<td>Residential</td>
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<tr>
<td>LD</td>
<td>Single Family Residential</td>
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<td>46.6</td>
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<td>M-HD</td>
<td>Multi-Family Residential</td>
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<td>8.0</td>
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<td>Non-Residential</td>
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<td>C</td>
<td>Commercial</td>
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<td>2.9</td>
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<td>6%</td>
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<td>Inclusive of:</td>
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<td></td>
</tr>
<tr>
<td></td>
<td>Major Right-of-Way</td>
<td>1.9 ac</td>
<td>1.9 ac</td>
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<tr>
<td>OS</td>
<td>Open Space</td>
<td>22.3</td>
<td>4.9</td>
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<td></td>
<td>MID Canal</td>
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<td>1.8 ac</td>
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<td>Hetch-Hetchy</td>
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<td>Virginia Corridor</td>
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</tr>
<tr>
<td></td>
<td>Major Right-of-Way</td>
<td>6.8 ac</td>
<td>6.8 ac</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Project Totals</td>
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<td>81.7</td>
<td>62.4</td>
<td>386</td>
<td>100%</td>
<td>100%</td>
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</table>

* Gross acreages less major right-of-way.
Exhibit “B”

City of Modesto
TASK ORDER NO. 1
for
MuniFinancial
Master Professional Services Agreement for Consultant Services

Pelandale-McHenry Specific Plan Area FMP/IFP

This Task Order No. 1 is made and entered into by and between the City of Modesto, a municipal corporation (hereinafter “CITY”), and MuniFinancial, a California corporation (hereinafter “CONSULTANT”) and is effective as of October 24, 2006.

RECITALS

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

B. At the request of CITY and in compliance with the terms of the AGREEMENT, CONSULTANT has prepared the Task Order No. 1, a copy of which is attached hereto as Exhibit A.

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

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

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

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

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

3. TIME OF PERFORMANCE. CONSULTANT shall commence performance within five (5) working days after receipt of a Notice to Proceed from City, and shall complete all required services no later than the dates set forth in Exhibit “A”.
4. **COMPENSATION.** For services performed by CONSULTANT in accordance with this Task Order, CONSULTANT agrees to accept a sum not to exceed $188,900. CONSULTANT shall be paid at the times and in the manner set forth in Paragraph 3 of the Master Professional Services Agreement, unless expressly provided otherwise in the attached Task Order.

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

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

CITY OF MODESTO, a municipal corporation

By ________________

GEORGE W. BRITTON,
City Manager

CONSULTANT,
MuniFinancial, a California corporation*

By ________________

Name Title

By ________________

Name Title

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

(Seal)

By ________________

ALISON A. BARRATT-GREEN,
Senior Deputy City Attorney

Consultant’s Federal ID #__________

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

Partnership - signature of a partner required
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-656

A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007 OPERATING BUDGET TO CREATE A MULTI-YEAR ACCOUNT (2900-020-0263) AND APPROPRIATING $8,736, FUNDED BY MERITAGE HOMES OF CALIFORNIA, INCORPORATED, FOR THE PREPARATION OF A FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE PELANDALE-MCHENRY SPECIFIC PLAN AREA

WHEREAS, the Pelandale-McHenry Specific Plan Area is in need of a Facilities Master Plan ("FMP"), and Infrastructure Finance Plan ("IFP") to plan for necessary facilities and associated costs for buildout of that specific plan area, and

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

WHEREAS, on October 24, 2006, by Resolution No.2006-655, the Council of the City of Modesto approved Task Order No. 1 to the Agreement for the preparation of a FMP, IFP, and for formation of a Community Facilities District ("CFD"), and

WHEREAS, on October 24, 2006, by Resolution No.2006-657, an Advanced Funding Agreement between the City and Meritage Homes of California, Incorporated ("Applicant") was approved by the City Council, and

WHEREAS, Applicant has deposited with the City the amount of eight thousand seven hundred and thirty-six dollars ($8,736.00) to fund a portion of the costs for the Project and provide for reimbursement as appropriate, and
WHEREAS, additional deposits will be provided by Applicant, as required by the City and as necessary to fund Task Order No. 1, and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2006-2007 operating budget to create a multi-year account for the preparation of the Pelandale-McHenry Specific Plan Area Facilities Master Plan and Infrastructure Finance Plan and appropriates $6,233 to 2900-020-0263-0235 for professional services and $2,513 to 2900-020-0263-0255 for City services.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a 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. 2006-657

A RESOLUTION APPROVING AN ADVANCED FUNDING AGREEMENT FOR THE PELANDALE-MCHENRY SPECIFIC PLAN AREA BETWEEN THE CITY OF MODESTO AND MERITAGE HOMES OF CALIFORNIA, INC. FOR THE PREPARATION OF A FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE PELANDALE-MCHENRY SPECIFIC PLAN AREA AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, Meritage Homes of California, Incorporated ("Applicant") has agreed to advance all funds necessary to prepare a Facilities Master Plan ("FMP") and Infrastructure Finance Plan ("IFP"), and for formation of a Community Facilities District ("CFD") for the Pelandale-McHenry Specific Plan Area, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Advanced Funding Agreement for the Pelandale-McHenry Specific Plan Area between the City of Modesto and Meritage Homes of California, Inc. is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Advanced Funding Agreement.
The foregoing resolution was introduced at a 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
ADVANCED FUNDING AGREEMENT
FOR THE PELANDALE-MCHENRY SPECIFIC PLAN AREA

THIS ADVANCED FUNDING AGREEMENT FOR THE PELANDALE-MCHENRY SPECIFIC PLAN AREA (this "Agreement"), dated as of ________________, 2006, is entered into by and between the CITY OF MODESTO, a municipal corporation of the State of California (the "City") and MERITAGE HOMES OF CALIFORNIA, INCORPORATED (the "Applicant").

RECITALS:

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

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

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

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

E. Applicant is prepared to deposit with the City the amount needed to fund Task 1 as set forth in the Scope plus 30% for staff time and expenses in order to provide the City with an initial source of funds with which to pay expenses expected to be incurred in connection with the Project. Additional deposits will be provided by Applicant, as required by the City.

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

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

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

AGREEMENT

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

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

2. Proposed Preparation of the Facilities Master Plan (“FMP”) and Infrastructure
Financing Plan (“IFP”).

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

   b. Within ten (10) calendar days after the City Council approves this Agreement,
Applicant shall deposit with the City the sum of $8,736.00 (“Initial Deposit”) to
fund Task 1 as identified in the Scope (“Task 1”). The Initial Deposit includes
30% for staff time and expenses associated with said Task. The Initial Deposit
will be held in trust by the City and used solely for the purposes set forth in this
Agreement. Upon receipt by the City of the Initial Deposit and all documents
deemed necessary by the City to proceed with the Project, the City will
commence work on Task 1 on a time and materials basis and will provide a
Notice to Proceed to its Consultant to proceed with Task 1. In connection
therewith, the City has either retained, or will retain, the consultants that the City
determines necessary or convenient to assist it with the Project and, if the City
determines to proceed with the formation of the CFD, to assist it in connection
therewith and with the possible issuance of bonds.

After the Initial Deposit has been expended on the Project, Applicant shall make
additional advances to the City as provided by subparagraph (d), below, until the
Project has been completed or terminated, and all costs associated with the
Project have been fully paid. City will commence work on subsequent Tasks as identified in the Scope on a time and materials basis and will provide a Notice to Proceed to Consultant for each such Task within ten (10) calendar days after it has received an additional deposit sufficient to cover the estimated costs for said Task plus 30% for staff time and expenses associated with said Task.

c. The consultants shall submit invoices to the City for payments based on work completed; such invoices will be promptly sent by the City to the Applicant, which will have ten (10) business days to challenge the work performed, and the City will in good faith consider the position of the Applicant prior to approving payment. Applicant understands and agrees that City shall have the right, in its sole discretion, to approve and pay all such consultant invoices, and may do so consistent with this subsection (c) without obtaining Applicant’s approval.

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

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

e. Applicant agrees that, notwithstanding the Applicant’s funding and reimbursement obligation under this Agreement, the consultants selected by the City shall be the contractors exclusively of the City and not of the Applicant. Except for those disclosures required by law including, without limitation the Public Records Act, all conversations, notes, memoranda, correspondence, and other forms of communication by and between the City and its consultants shall be, to the extent permissible by law, privileged and confidential and not subject to disclosure to the Applicant. Applicant agrees that it shall have no claim to, nor shall it assert any right in any reports, correspondence, plans, maps, drawings, news releases or any and all other documents or work project produced by City’s consultants. Applicant understands that it will not be a third party beneficiary to City’s contracts with the consultant. City will consult with Applicant prior to replacing its current consultants; however, Applicant agrees that City may select other consultants to replace its current consultants and may do so without obtaining Applicant’s approval.
f. City and Applicant shall work cooperatively and in good faith to facilitate completion of Project as quickly as possible and in the most cost effective way. City and Applicant shall meet and consult on dates and times as may be mutually agreed upon to discuss the progress and any key issues involved in the Project; provided, however, that Applicant's role is advisory only and that City shall control all aspects of the Project. The final work product to be produced by City's consultants shall be subject to the City's sole approval and control.


a. Applicant agrees to pay all costs of preparing, processing and forming a CFD for the Specific Plan area if a CFD is determined to be necessary by the IFP.

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

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

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

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

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

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

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

**Applicant:** Meritage Homes  
Attn: Michael P. Evans  
1800 Sutter Street, Suite 500  
Concord, California 94520
Each party may change its address for delivery of notice by delivering written notice of such change of address to the other party.

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

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

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

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

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

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

15. **Singular and Plural; Gender.** As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.
16. **Termination.** This Agreement shall terminate and be of no further force and effect on the fifth (5th) anniversary of the date of this Agreement unless expressly amended by the parties; provided, however, that the Applicant’s obligations under Section 7 shall survive the termination and the City’s obligation to provide reimbursement in accordance with Section 4 for expenses incurred prior to the termination date shall also survive termination.

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

18. **Language Construction.** The language of each and all paragraphs, terms and/or provisions of this Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

19. **Representations of Authority.** Each party signing this Agreement on behalf of a party which is not a natural person hereby represents and warrants to the other party that all necessary legal prerequisites to that party’s execution of this Agreement have been satisfied and that he or she has been authorized to sign this Agreement and bind the party on whose behalf he or she signs.

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

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

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

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

CITY OF MODESTO, a municipal corporation

By: __________________________
    GEORGE W. BRITTON, City Manager

ATTEST:

By: __________________________
    JEAN MORRIS, City Clerk

MERITAGE HOMES OF CALIFORNIA, INCORPORATED

By: __________________________

Name: __________________________

Title: __________________________

APPROVED AS TO FORM:

SUSANA ALACALA WOOD, City Attorney

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

Signature Requirements

Corporation:
1. Signature of two (2) officers
   or
2. Signature of one (1) officer plus the corporate seal

Partnership: Signature of one partner

Sole Proprietorship: Signature of proprietor
Table 2.1 Pelandale / McHenry Specific Plan Land Use Summary

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<thead>
<tr>
<th>Land Use</th>
<th>Density Max</th>
<th>Acreage Gross</th>
<th>Acreage Net*</th>
<th>Dwelling Units Max</th>
<th>Percent Units</th>
<th>Percent Acres</th>
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</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LD Single Family Residential</td>
<td>4.5</td>
<td>46.6</td>
<td>46.6</td>
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<tr>
<td>M-HD Multi-Family Residential</td>
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<td>8.0</td>
<td>176</td>
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<tr>
<td>Non-Residential</td>
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<tr>
<td>C Commercial</td>
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<td></td>
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<tr>
<td>Major Right-of-Way</td>
<td>1.9 ac</td>
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<tr>
<td>OS Open Space</td>
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<tr>
<td>Inclusive of:</td>
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<tr>
<td>MID Canal</td>
<td></td>
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<tr>
<td>Hetch-Hetchy</td>
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<tr>
<td>Virginia Corridor</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Major Right-of-Way</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Project Totals</td>
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<td>81.7</td>
<td>62.4</td>
<td>386</td>
<td>100%</td>
<td>100%</td>
</tr>
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</table>

* Gross acreages less major right-of-way.
EXHIBIT B

MuniFinancial Scope of Work
Facilities Master Plan and
Infrastructure Financing Plan for the
Pelandale/McHenry Specific Plan

Introduction

The objective of this project is to prepare a Facilities Master Plan (FMP) and an Infrastructure Financing Plan (IFP) for the Pelandale/McHenry Specific Plan (PMSP). The PMSP provides development requirements for approximately 82 acres of land in the City of Modesto. The PMSP anticipates build out of 386 dwelling units and 2.9 acres (net) of commercial uses. Existing development on the site includes a 15-acre mobile home park, several single family residents, and about eight acres of commercial uses. The site also has existing and future rights-of-way for the Hetch-Hetchy Aqueduct, Modesto Irrigation District Lateral No. 6, an arterial, and an expressway.

The primary purposes of the FMP are to:

- Define the public facilities needed to accommodate development in the specific plan area;
- Provide cost estimates for those facilities; and
- Identify any facility phasing requirements, particularly the need for “backbone” infrastructure in advance of development.

The primary purposes of the IFP are to:

- Estimate market absorption rates for proposed development in the project area;
- Allocate a fair share of public facility costs identified in the IFP to each proposed land use in the project area;
- Recommend appropriate funding sources and financing mechanisms to fund public facilities (1) in a financially feasible manner, and (2) phased as necessary to adequately serve projected development;
- Identify special districts that provide funding for public services such as landscape and lighting that should be expanded to include the project; and
- Form a community facilities district to finance proposed improvements.

Task Plan

Task 1.1: Provide Project Management & Policy Development

Objective: Identify and resolve policy issues; ensure the project is completed within budget and on schedule.
We will identify and resolve policy issues with City staff as we review existing documents and develop the financing plan. These issues may include, for example:

- Allocation of costs for planned facilities with a citywide impact to a citywide impact fee program;
- Threshold facility standards that determine backbone infrastructure;
- Integration of private and other non-impact fee funding sources into the funding plan; and
- Implementation strategies and policies.

This task includes outside coordination with city staff and the EIR consultant, and inside coordination between MuniFinancial and Willdan. We will keep City staff informed on a regular basis (e.g. monthly conference call) regarding outstanding information needs, unresolved issues, and progress of the project to date. We will prepare and send invoices for project billing.

Meetings: One meeting to kick off the project with city staff and the developer.

Deliverables: None.

Task 1.2: Prepare Facilities Plans & Costs

Objective: Prepare design drawings and cost estimates for needed public improvements.

Description: Outside City consultants have prepared or are in the process of preparing capacity studies detailing infrastructure needs for the specific plan area for water, sanitary sewer, drainage, and roads. The project proponent's engineer has also prepared a number of engineering reports and documents. Based on our initial review, these documents provide the needed engineering analysis to support the sizing and routing of the improvements. These documents appear to be sufficient for the purposes of this task to proceed with the development of design drawings, to the extent needed, and the preparation or review and approval of cost estimates.

Although the proposed development is relatively small the project raises facility design and phasing issues that we will specifically address, including a temporary sewer line which may be needed to provide service pending the completion of a permanent line as part of the City's wastewater master plan.

This analysis will assume that development of the specific plan area will not require an adjustment to current citywide impact fee programs. The project represents too small an increment in relation to the overall service area of the City to significantly impact citywide impact fee rates.

In addition, the City is currently updating the master plan for the wastewater treatment plant that serves this area. We anticipate that we will be provided with service area growth projections and cost estimates to accommodate growth so that we can calculate the Pelandale/McHenry project's fair share of those improvements.

The work proposed for this task is as follows:
• Review the capacity studies, Specific Plan and project proponent's engineering documents to extract a description of the needed improvements for purposes of preparing cost estimates.

• Identify and describe, if appropriate by reference to existing facility funding programs, all other facility needs not addressed by the capacity studies including general government, parks and recreation, public safety, schools, and transit.

• Review citywide impact fee programs and identify any overlap of facilities that may exist for potential developer reimbursement.

• Identify any backbone infrastructure needed in advance of development based on applicable facility standards.

• Based on the above descriptions, prepare a basis of cost for the facilities plan. Carefully identify and cost elements, if any, that are more properly funded by existing impact fee programs.

• Prepare 30 percent design drawings requiring an estimated 30 sheets for water, wastewater, storm drain, and street infrastructure.

Meetings: Two meetings, one to review facility needs with city staff and one to review preliminary drafts of facility plans and costs.

Deliverables: Facility descriptions and cost estimate tables to be included in final report with 30 percent design drawings provided as an appendix.

Task 1.3: Conduct Market Analysis

Objective: Ensure that the financial feasibility of financing plan is based on current and projected real estate market conditions.

Description: We will develop an understanding of the market conditions for the project area based on site visits, interviews with real estate professionals, and web-based research. We will use the City’s boundaries to define the market area, and will evaluate historical development trends and land supply available for development within this area.

We will use this analysis to estimate absorption rates within the project area through build out. We will focus on (1) immediate absorption for the purposes of financing backbone infrastructure; (2) long-term absorption (typically 20 to 30 years), and (3) build out.

We will also estimate current market values by land use category or product type to support the financial feasibility analysis conducted in the following task.

Meetings: None.

Deliverable: Market context, absorption projection, and unit values to be included in final report.
Task 1.4: Develop Infrastructure Financing Plan

Objective: Identify and program the appropriate revenues sources and financing mechanisms to ensure a financially feasible financing plan.

Description: This task will develop a financial model to provide a tool for development of the financing plan. The plan will be based on planned public facilities costs and phasing requirements, and the results of the market analysis. We will identify sufficient funding sources to fully fund facility costs. We will recommend appropriate financing mechanisms for facilities that must be phased in advance of available funding. We will also identify special districts that provide funding for public services such as landscape and lighting that should be expanded to include the project.

Funding sources. We will develop the funding plans based on the following potential sources:

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

Financing mechanisms. As necessary we will evaluate and recommend use of one or more of the following financing mechanisms:

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

We will present the recommended funding and financing plan as a matrix of revenue sources and capital projects. We will provide separate matrices for the initial development phase (including backbone infrastructure), any applicable interim phases, and build out. We will indicate required financing mechanisms by phase including the total amount bonded and the amount of construction proceeds.
Financial Feasibility (burden analysis). We will estimate the total cost burden on new development for facilities and services in terms of (1) value-to-lien ratios and (2) the rate of annual taxes, charges, and assessments. The analysis will be used to develop the funding and financing approach and demonstrate that the proposed financing plan remains within acceptable real estate market and underwriting standards.

Implementation. Evaluate sensitivity of the financing plan to future land uses that may vary from those assumed as a basis for this analysis.

Meetings: One meeting with city staff and the developer to discuss financial modeling results.

Deliverables: Financing plan matrices and tables to be included in final report.

Task 1.5: Prepare Facilities Master Plan / Infrastructure Financing Plan Report

Objective: Communicate the assumptions, methodologies, and results of FMP and IFP to City staff, elected officials, and the public. Provide an FMP/IFP report for adoption in conjunction with the PMSP.

Description: We proposed combining the FMP and IFP into a single document because the infrastructure capacity studies that have already been completed provide substantial documentation that can be summarized in the report without the need to prepare a separate FMP.

Based on the results of prior tasks we will first prepare a package of draft report tables and charts for City staff to review. The tables will document each step of the analysis including:

- Public facility locations, descriptions, and costs;
- Funding source/capital project matrices and debt financing requirements;
- Cost allocations by land use including impact fee, special tax, and special assessment rates; and
- Financial feasibility metrics.

Following City staff approval of the quantitative analysis and graphic presentations, we will prepare a preliminary administrative draft report for staff comment and then a final administrative draft for final comments. Based on those final comments we will prepare a public draft for presentation the City Council and the public.

The FMP/IFP will include the following chapters:

1. Public Facility Planning and Financing Policies. Describe policies that guide development and implementation of the FMP/IFP including public facility standards and new development's funding responsibilities.

2. Land Use and Market Analysis. Summarize proposed land use plan, absorption rates, development phases, and market values by land use category.
3. **Public Facility Costs and Phasing.** Identify public facilities required to serve development and mitigate environmental impacts by development phase, including backbone infrastructure needed in advance of development.

4. **Funding and Financing Plan.** Present funding sources and financing mechanisms by development phase that enable delivery of planned facilities. Include indicators of financial feasibility.

5. **Implementation Measures.** Recommend implementation measures including preparation of fee nexus studies, formation of special districts, and development of credit and reimbursement programs. Recommend measures for accommodating future land use changes that vary from those assumed in the analysis.

**Meetings:** Three meetings total: one to review the package of draft report tables and charts, one to review the first administrative draft report, and one to present the report to the City Council.

**Deliverables:** (1) Draft report tables and charts; (2) preliminary administrative draft report; (3) final administrative draft report; (4) public draft report.

**Task 1.6: Support Community Facilities District Formation**

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

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

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

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

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

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

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

The following table provides the level of effort and budget by task for the scope of services described above. This budget includes up to seven on-site meetings (conference calls are not considered meetings for the purposes of this budget).

<table>
<thead>
<tr>
<th>Task</th>
<th>Total Hours</th>
<th>Total Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1 Provide Project Management &amp; Policy Development</td>
<td>48</td>
<td>$6,720</td>
</tr>
<tr>
<td>1.2 Prepare Facilities Plans &amp; Costs</td>
<td>1,068</td>
<td>118,440</td>
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<tr>
<td>1.3 Conduct Market Analysis</td>
<td>36</td>
<td>3,600</td>
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<tr>
<td>1.4 Develop Infrastructure Financing Plan</td>
<td>184</td>
<td>21,200</td>
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<tr>
<td>1.5 Prepare Report</td>
<td>128</td>
<td>16,000</td>
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<tr>
<td>1.6 Support CFD formation</td>
<td>168</td>
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<td>Subtotal Labor</td>
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MODESTO CITY COUNCIL
RESOLUTION NO. 2006-658

A RESOLUTION APPROVING AN ACQUISITION AND SHORTFALL AGREEMENT BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) AND STANDARD PACIFIC HOMES CORP., A DELAWARE CORPORATION, FOR IMPROVEMENTS ON THE EAST SIDE OF ROSELLE AVENUE, NORTH OF KODIAK DRIVE, WITH A MAXIMUM REIMBURSEMENT AMOUNT OF $506,782, AUTHORIZING THE DISTRICT ADMINISTRATOR TO EXECUTE THE AGREEMENT, AND FINDING THAT THE POTENTIAL ENVIRONMENTAL EFFECTS OF THIS AGREEMENT HAVE BEEN ADEQUATELY ADDRESSED BY THE PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM EIR AS AMENDED BY THE 1994 FINAL SUPPLEMENTAL EIR (SCH NO. 90020181), AND THE 2003 ADDENDUM TO THE EIR

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

WHEREAS, Standard Pacific Homes Corp., a Delaware Corporation, (“Developer”) has agreed to install certain improvements on the east side of Roselle Avenue, north of Kodiak Drive, and

WHEREAS, the City Council has considered the proposed Acquisition & Shortfall Agreement (“Agreement”) between City of Modesto Community Facilities District No. 2004-1 (Village One #2) and Developer, and

WHEREAS, said Agreement shall have a maximum reimbursement amount of $506,782, and

WHEREAS, the City Council has received and considered the Written Checklist, Environmental Assessment EA/C&ED 2004-24, which concludes that the Developer’s project, including the improvements for which the Developer will be reimbursed under the proposed agreement, is within the scope of the previously certified
Village One Specific Plan Program EIR as amended by the 1994 Final Supplemental EIR (SCH No. 90020181), and the 2003 Addendum to the EIR, and that, pursuant to Sections 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required.

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

1. The proposed Acquisition and Shortfall Agreement between City of Modesto Community Facilities District No. 2004-1 and Standard Pacific Homes Corp., a Delaware Corporation, ("Project") is consistent with the Village One Specific Plan and the Modesto Urban Area General Plan.

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

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

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

5. There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Program EIR, was adopted which shows any of the following:
   a. one or more significant effects which is not discussed in the Program EIR; or,
   b. significant effects which were previously examined will be substantially more severe than previously shown; or,
   c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the Project proponents decline to adopt the mitigation measure or alternative; or,
   d. mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the Project proponents decline to adopt the mitigation measure or alternative.
6. The Written Checklist, Environmental Assessment EA/C&ED 2004-24, provide the substantial evidence to support findings 1-5, above.

BE IT FURTHER RESOLVED that the Acquisition and Shortfall Agreement between the City of Modesto Community Facilities District No. 2004-1 (Village One #2) and Standard Pacific Homes Corp. for construction of certain improvements on Roselle Avenue is hereby approved.

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
JEAN MORRIS, City

Clerk
(SEAL)

APPROVED AS TO FORM:

By: Susana Acalá Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-659

A RESOLUTION APPROVING AN ACQUISITION AND SHORTFALL AGREEMENT BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) AND PPC SUNRISE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR IMPROVEMENTS ON THE EAST SIDE OF OAKDALE ROAD, NORTH OF LAFORCE DRIVE, WITH A MAXIMUM REIMBURSEMENT AMOUNT OF $180,658.62, AUTHORIZING THE DISTRICT ADMINISTRATOR TO EXECUTE THE AGREEMENT, AND FINDING THAT THE POTENTIAL ENVIRONMENTAL EFFECTS OF THIS AGREEMENT HAVE BEEN ADEQUATELY ADDRESSED BY THE PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM EIR AS AMENDED BY THE 1994 FINAL SUPPLEMENTAL EIR (SCH NO. 90020181), AND THE 2003 ADDENDUM TO THE EIR

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

WHEREAS, PPC Sunrise, LLC, a California Limited Liability Company, ("Developer") has agreed to install certain improvements on the east side of Oakdale Road, north of LaForce Drive, and

WHEREAS, the City Council has considered the proposed Acquisition & Shortfall Agreement ("Agreement") between City of Modesto Community Facilities District No. 2004-1 (Village One #2) and Developer, and

WHEREAS, said Agreement shall have a maximum reimbursement amount of $180,658.62, and

WHEREAS, the City Council has received and considered Written Checklist, Environmental Assessment EA/C&ED 2006-31, which concludes that the Developer’s project, including improvements for which the Developer will be reimbursed under the proposed agreement, is within the scope of the previously certified Village One
Specific Plan Program EIR as amended by the 1994 Final Supplemental EIR (SCH No. 90020181), and the 2003 Addendum to the EIR, and that, pursuant to Sections 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required,

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

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

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

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

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

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

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

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

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

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

6. The Written Checklist, Environmental Assessment EA/C&ED No. 2006-31, provide the substantial evidence to support findings 1-5, above.
BE IT FURTHER RESOLVED that the Acquisition and Shortfall Agreement between the City of Modesto Community Facilities District No. 2004-1 (Village One #2) and PPC Sunrise, LLC for construction of certain improvements on Oakdale Road is hereby approved.

BE IT FURTHER RESOLVED that the District Administrator, or his designee, is hereby authorized to execute the Agreement.

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

Clerk
(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-660

A RESOLUTION APPROVING A CFD RIGHT-OF-WAY REIMBURSEMENT AGREEMENT BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) AND PPC SUNRISE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR APPROXIMATELY 0.1583 ACRES ON THE EAST SIDE OF OAKDALE ROAD, NORTH OF LAFORCE DRIVE, WITH A MAXIMUM REIMBURSEMENT AMOUNT OF $58,779.16, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND FINDING THAT THE POTENTIAL ENVIRONMENTAL EFFECTS OF THE AGREEMENT HAVE BEEN ADEQUATELY ADDRESSED BY THE PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM EIR AS AMENDED BY THE 1994 FINAL SUPPLEMENTAL EIR (SCH NO. #90020181), AND THE 2003 ADDENDUM TO THE EIR

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

WHEREAS, PPC Sunrise, LLC, A California Limited Liability Company, ("Developer") has agreed to sell approximately 0.1583 acres on the east side of Oakdale Road, north of LaForce Drive, to the City of Modesto so that certain improvements to Oakdale Road can occur, and

WHEREAS, the City Council has considered the proposed CFD Right-of-Way Reimbursement Agreement ("Agreement") between City of Modesto Community Facilities District No. 2004-1 (Village One #2) and Developer, and

WHEREAS, said Agreement shall have a maximum reimbursement amount of $58,779.16, and

WHEREAS, the City Council has received and considered Written Checklist, Environmental Assessment EA/C&ED 2006-31, which concludes that the Developer’s project, including improvements for which the Developer will be reimbursed under the proposed
agreement, is within the scope of the previously certified Village One Specific Plan Program EIR as amended by the 1994 Final Supplemental EIR (SCH No. 90020181), and the 2003 Addendum to the EIR, and that, pursuant to Sections 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required.

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

1. The proposed CFD Right-of-Way Reimbursement Agreement between City of Modesto Community Facilities District No. 2004-1 and PPC Sunrise, LLC ("Project") is consistent with the Village One Specific Plan and the Modesto Urban Area General Plan.

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

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

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

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

6. The Written Checklist, Environmental Assessment EA/C&ED No. 2006-31, provide the substantial evidence to support findings 1-5, above.
BE IT FURTHER RESOLVED that the CFD Right-of-Way Reimbursement Agreement between the City of Modesto Community Facilities District No. 2004-1 (Village One #2) and PPC Sunrise, LLC for right-of-way acquisition for construction of certain improvements on Oakdale Road is hereby approved.

BE IT FURTHER RESOLVED that the District Administrator, or his designee, is hereby authorized to execute the Agreement and all related property documents as Grantee on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24 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 Acalal Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-661

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PROVISION OF RENTAL EQUIPMENT SERVICES ON A CITYWIDE BASIS TO HERTZ EQUIPMENT RENTAL CORPORATION OF MODESTO, CA, HOLT OF CALIFORNIA OF TURLOCK, CA, AND UNITED RENTAL COLDWELL OF MODESTO, CA 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 $350,000.

WHEREAS, the Public Works Department has requested the provision of rental equipment services, and is the primary user of rental equipment, and

WHEREAS, various divisions within the Public Works Department may have a need for rental equipment services for City projects, and

WHEREAS, rental equipment services are used over the last fiscal year consisted of: trenchers, rollers, concrete saws, saws, trailers, one-half ton pickups, water trucks, dump trucks, forklifts, loaders, crane trucks, compactors, air compressors, and jack hammers, and

WHEREAS, Resolution No. 2006-309 adopted May 23, 2006, authorized the Purchasing Manager to solicit formal bids for rental equipment services, and

WHEREAS, the Purchasing Division solicited formal bids for rental equipment services on Request for Bid (RFB) 0607-05, and

WHEREAS, twelve (12) vendors were solicited, six (6) of which were local vendors, and

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

WHEREAS, bids were evaluated on a weekly rental rate and awarded by line item, and
WHEREAS, the following vendors were deemed to be the lowest responsive and responsible bidders for rental equipment services:

- Hertz Equipment Rental Corporation of Modesto, CA.
- Holt of California of Turlock, CA.
- United Rental Coldwell of Modesto, CA.

and,

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

WHEREAS, Section 8-3.203(a) of the MMC states that purchases whose total maximum cost to the City exceed $50,000 shall receive preliminary approval of Council, and

WHEREAS, this requirement for the provision of rental equipment service received said approval by Resolution No. 2006-309, and

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

WHEREAS, the City Council has appropriated funds for rental equipment services in the following accounts: 6180-Various-85 (Water Fund-CIP), 0100-350-32522-0216 (General Fund), 6210-480-5213-0216 (Sewer Operations), 6210-480-5214-0216 (Sewer Operations), 0700-480-4622-0218 (Street, Traffic & Forestry), 0700-160-1612-0365 (Street, Traffic & Forestry), 0700-160-1612-0308 (Street, Traffic & Forestry), and

WHEREAS, the Purchasing Division has coordinated the solicitation and evaluation of bids for rental equipment services with the Public Works Department Divisional staff,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the provision of rental equipment services on a Citywide basis to Hertz Equipment Rental Corporation of Modesto, CA, Holt Of California of Turlock, CA, United Rental Coldwell of Modesto, CA 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 $350,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of October, 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

APPROVED AS TO FORM:

BY: Susana Alcala Wood, City Attorney
RESOLUTION NO. 2006-662

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF LIQUID CHLORINE AND SODIUM HYPOCHLORITE FOR AN INITIAL TWO (2) YEAR PERIOD, WITH THREE (3) ONE-YEAR CONTRACT EXTENSIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $147,000.

WHEREAS, the Public Works Department-Water Quality Control (WQC) Division has requested the purchase of liquid chlorine, and

WHEREAS, the estimated annual cost for liquid chlorine is $147,000.00, and

WHEREAS, the Public Works Department-Water Division is requesting the purchase sodium hypochlorite, and

WHEREAS, the estimated annual cost for sodium hypochlorite is $50,000.00, and

WHEREAS, liquid chlorine (CL2) is used during river discharge season from October 1st through May 31, and

WHEREAS, this product is utilized at the Jennings Road facility to chlorinate and disinfect our final effluent to the San Joaquin River, as required in the City’s permit, and

WHEREAS, the Jennings Road facility, located at 7007 Jennings Road, borders the San Joaquin River, and

WHEREAS, the plant was constructed in 1965 and in 1985 the CL2 system was installed, and

WHEREAS, the system includes 26 one-ton tanks with four chlorinators, and

WHEREAS, at present, the Jennings Facility is using a gas feed system, and

WHEREAS, to unload the one-ton chlorine cylinders, the unloading station uses a 4,000 pound capacity hoist to unload the one-ton cylinder, and

WHEREAS, the City of Modesto Water Division uses sodium hypochlorite to disinfect
the domestic water supply as specified by water purveyors permit as issued by the California Department of Health Services, and

WHEREAS, the disinfection process, using a 12.5% Sodium Hypochlorite Solution, has provided drinking water disinfection while maintaining a chlorine residual in the distribution system to protect our customers from possible water-borne disease, since 1995, and

WHEREAS, sodium hypochlorite is a liquid solution containing chlorine in a salt form, and

WHEREAS, this is a more concentrated form of the same solution that is the familiar laundry bleach (5.5% sodium hypochlorite), and

WHEREAS, this allows for well water and the water distribution systems to be chlorinated in as safe a form as possible for both City personnel and City customers, and

WHEREAS, the City of Modesto Water Division Staff has found that the use of a pure solution of 12.5% Sodium Hypochlorite solution has several disinfecting benefits, and

WHEREAS, sodium hypochlorite is a more stable solution that does not deteriorate as quickly as the solutions of less pure quality, and

WHEREAS, the more stable the solution, the greater the consistency of the chlorine dosage, and

WHEREAS, there are fewer residues, and therefore less maintenance time required on the chlorinating system, and

WHEREAS, by soliciting competitive bids for liquid chlorine and sodium hypochlorite, the Finance Department, City Purchasing Division will comply with the Modesto Municipal Code, (MMC) requires for formal bids,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves formal solicitation of bids for liquid chlorine and sodium hypochlorite for an
initial two (2) year period, with three (3) one-year contract extensions, at the sole discretion of 
the City, for an estimated annual cost of $147,000.00 as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bid 
bids for liquid chlorine and sodium hypochlorite to be opened in the City Clerk, 1010 10TH 
Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such 
sealed bids in the time, form, and manner provided by law.

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

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

APPROVED AS TO FORM:

BY: Susana Alcala Wood, City Attorney
A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF LIQUID FERRIC CHLORIDE TO KEMIRON COMPANIES, INC. OF LAWRENCE, KANSAS 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 $178,551.40.

WHEREAS, the Water Quality Control Plant (WQCP) has requested the purchase of liquid ferric chloride, and

WHEREAS, odors and corrosion are generated in the wastewater collections system and treatment process due to natural occurring levels of hydrogen sulfide, and

WHEREAS, to properly control the hydrogen sulfide gas, staff must inject a non-hazardous solution of iron, in the form of ferric chloride, into the influent wastewater at the primary treatment plant, and

WHEREAS, ferric chloride can be safely handled and does not require specialized control or safety devices for use, and

WHEREAS, the WQCP has estimated the normal annual usage of liquid ferric chloride to be approximately 147,680 gallons or approximately 2,840 gallons per week, and

WHEREAS, Resolution No. 2006-313 authorized the Purchasing Manager to issue formal Request for Bids (RFB) for liquid ferric chloride, and

WHEREAS, the Purchasing Division issued formal bids for liquid ferric chloride on Request for Bid (RFB) 0607-03, and

WHEREAS, eighteen (18) vendors were solicited, and one (1) of which was a local vendor, and

WHEREAS, out of eighteen (18) vendors solicited, six (6) chose to respond, and
WHEREAS, four (4) bid responses were a no bid, and

WHEREAS, the Purchasing Division and Public Works Department-Water Quality Control Division 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 ferric chloride, and

WHEREAS, Kemiron Companies, Inc. of Lawrence, Kansas is hereby deemed to be the lowest responsive and responsible bidder, 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 exceeds $50,000 shall receive preliminary approval of Council, and

WHEREAS, the liquid ferric chloride received said approval with Resolution No. 2006-313, and

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

WHEREAS, funds are available in account number 6210-480-5213-0312 for this purchase, and

WHEREAS, the Purchasing Division has coordinated the solicitation and evaluation of bids for liquid ferric chloride with the Public Works Department-Water Quality Control Division staff, and

WHEREAS, the Public Work Department has included $178,551.40 in their operating budget for sewer operations fund for FY 2006/2007, which includes funding for liquid ferric chloride, and
WHEREAS, the estimated annual cost for liquid ferric chloride based on normal usage volume is $178,551.40,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorized the award of bid and contract for liquid ferric chloride 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 $178,551.40.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a purchase order to Kemiron Companies, Inc. of Lawrence, Kansas for liquid ferric chloride for an estimated annual cost of $178,551.40.

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

APPROVED AS TO FORM:

BY: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-664

A RESOLUTION ADOPTING THE NATIONAL INCIDENT MANAGEMENT SYSTEM

WHEREAS, response to and recovery from major emergencies and disasters requires integrated professional management and coordination, and

WHEREAS, President Bush directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System (NIMS) to standardize and enhance incident management procedures nationwide, and

WHEREAS, NIMS provides a structure and process to effectively coordinate responders from multiple disciplines and levels of government and to integrate them with resources from the private sector and non-governmental organizations, and

WHEREAS, the Incident Command System components of NIMS are already an integral part of various incident management activities throughout the City of Modesto and Stanislaus County, including the Emergency Operations Plan, and

WHEREAS, failure to adopt and use NIMS may preclude the City of Modesto from receiving federal preparedness grants or reimbursement for costs expended during major emergency and disaster response and recovery operations.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the National Incident Management System as the foundation for incident command, management, coordination and support activities.

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

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-665  

A RESOLUTION AMENDING THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT POSITION ALLOCATION AS ADOPTED BY THE CITY COUNCIL AS PART OF THE FY 06-07 BUDGET TO REALLOCATE ONE (1) EQUIPMENT OPERATOR POSITION IN ORGANIZATION 5222, COMPOST ENTERPRISE FUND, TO THE POSITION OF EQUIPMENT MECHANIC IN ORGANIZATION 5222, COMPOST ENTERPRISE FUND, IN THE SOLID WASTE DIVISION.

WHEREAS, on January 3, 2006, by Resolution No. 2006-009A, the City Council approved the transfer of the Compost Enterprise Fund from the Public Works Department, Wastewater Division to the Solid Waste Division of the Parks, Recreation and Neighborhoods Department, and

WHEREAS, with the transfer, the Compost Enterprise Fund was allocated six (6) full-time positions, including (1) Compost Facility Supervisor (a new position), one (1) Operations and Maintenance Crew Leader, and four (4) Equipment Operators, and

WHEREAS, one (1) of the Equipment Operator positions is currently vacant and is being filled by a temporary worker, and

WHEREAS, the compost facility currently has six (6) major pieces of heavy equipment that are non-Fleet vehicles: the tub grinder, power screen, windrow turner, water truck, and two loaders, and

WHEREAS, in addition, there are two dump trucks, a service vehicle, and several pickup trucks on site, and

WHEREAS, because the majority of the heavy equipment at the site is not designed for transport over the road, all of the repairs and maintenance of this equipment take place in the maintenance building at the facility, and
WHEREAS, due to the extreme conditions at compost facilities (dirt, mud, etcetera) this equipment requires daily (and in some instances twice daily) preventive maintenance as well as frequent repair, and

WHEREAS, equipment repair and maintenance work is performed on site by the Compost Crew Leader and the Equipment Operators, which takes the crew members away from performing their primary task, which is running the equipment and producing compost, and

WHEREAS, staff is therefore requesting that the vacant Equipment Operator position be reallocated to Equipment Mechanic to address the critical need for a full time mechanic at the facility,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Parks, Recreation and Neighborhoods Department position allocation as adopted by the City Council as part of the FY 06-07 budget to reallocate one (1) Equipment Operator Position in Organization 5222, Compost Enterprise Fund, to the position of Equipment Mechanic in Organization 5222, Compost Enterprise Fund, in the Solid Waste Division.

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

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

Attest: JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-666

A RESOLUTION SETTING PUBLIC HEARING FOR
NOVEMBER 8, 2006 TO CONSIDER REQUEST (S) TO
ENTER INTO SERVICE AGREEMENT (S) FOR
SOLID WASTE COLLECTION SERVICES IN THE
SERVICE AREA CURRENTLY SERVED BY WASTE
MANAGEMENT

WHEREAS, since November, 2003 Waste Management has provided solid waste
collection services in the City of Modesto under an Interim Service Agreement for such
services, and

WHEREAS, Waste Management currently provides services to approximately
27,000 residential customers in Modesto, and

WHEREAS, on September 26, 2006, the City received a letter from Waste
Management notifying the City that the company does not wish to seek an extension of
its current Service Agreement, and

WHEREAS, Waste Management’s Agreement with the City to provide solid
waste collection services expires on December 31, 2006, and

WHEREAS, pursuant to California Public Resources Code Section 49510 (b), the
City Council 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 willing
and financially able to furnish needed solid waste handling services, and

WHEREAS, several other collection companies have stated their intent to submit
requests to the City to provide solid waste collection services in the area currently served
by Waste Management, and
WHEREAS, Section 5-5.17 of the Modesto Municipal Code requires that persons engaging in the business of solid waste collection in the City be party to an Agreement with the City to provide such services, and

WHEREAS, Sections 5-5.23 through 5-5.33 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, Modesto Municipal Code section 5-5.32 requires that collection companies obtain written consent from the City Council after a public hearing is held, prior to an Assignment of a Service Agreement,

WHEREAS, the Economic Development Committee will consider options for providing service in the Waste Management Service area at a special meeting on October 30, 2006, and its recommendation will be incorporated in the Council Agenda report for the public hearing to be held on November 3, 2006,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that Wednesday, November 8, 2006, at 5:30 p.m., in the Tenth Street Chambers located at 1010 Tenth Street, Modesto, California, is hereby set as the time and place for a public hearing to consider request(s) to enter into Service Agreement(s) for solid waste collection services in the Service Area currently served by Waste Management, with such Agreement(s) to become effective January 1, 2007.
The foregoing resolution was introduced at a 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
A RESOLUTION AUTHORIZING THE PURCHASING
MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB)
FOR THE LEASE/PURCHASE OF A MODULAR BUILDING FOR
THE COMPOST FACILITY, THE RELOCATION/RENOVATION
OF THE EXISTING MODULAR BUILDING, AND FOR THE
PURCHASE AND INSTALLATION OF A SOLAR SHADE COVER
FOR A FY 2006-2007 ESTIMATED COST OF $80,000, AND A
TOTAL ESTIMATED COST OF $189,500 OVER THE LIFE OF
THIS PORTION OF THE CAPITAL PROJECT.

WHEREAS, the City of Modesto’s Compost Facility (Facility) at 7007 Jennings
Road has been in operation since 1997, and

WHEREAS, the Facility is operated as a separate Enterprise Fund in the Solid
Waste Division of the Parks, Recreation, and Neighborhoods Department, and

WHEREAS, the existing modular office building at the Facility is 14 feet wide by
48 feet long, and is too small for the 7-member staff, and

WHEREAS, to provide adequate space for staff and visitors, funds were budgeted
in the FY 2006-2007 CIP for the lease/purchase of a new, 24 foot by 60 foot modular
building, and for the relocation/renovation of the existing modular building for use as a
Resource Recovery Education Center, and funds were also budgeted for the installation
of a solar shade structure between the two buildings, to link the two modular units and to
provide a shady outdoor area in which to meet with tour groups and demonstrate smaller
scale composting methods, and

WHEREAS, staff is requesting authorization by Council to issue a formal Request
for Bids,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the Council hereby authorizes the Purchasing Manager to issue formal Request for
Bids (RFB), to be advertised and opened by the City Clerk, for the lease/purchase of a modular building for the Compost Facility, the relocation/renovation of the existing modular building, and for a solar shade structure for a FY 2006-2007 estimated cost of $80,000, and a total estimated cost of $189,500 over the life of this portion of the capital 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: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: 
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2006-668

A RESOLUTION ACCEPTING THE COPS 2006 TECHNOLOGY GRANT IN THE AMOUNT OF $394,891 FROM THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES TO PROVIDE PARTIAL FUNDING FOR THE COMPUTER AIDED DISPATCH (CAD) SYSTEM, INTEGRATED PUBLIC SAFETY SYSTEM AND RECORDS MANAGEMENT SYSTEM; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS.

WHEREAS, the City of Modesto Police Department desires to undertake a grant designated as the COPS 2006 Technology grant to be funded from the U.S. Department of Justice, Office of Community Oriented Policing Services, and

WHEREAS, said $394,891 grant will provide partial funding for the Computer Aided Dispatch (CAD) System, Integrated Public Safety System and Records Management System, and

WHEREAS, these funds will replace existing outdated equipment, provide adequate storage and processing power, provide a structured database for data access and statistical reporting, provide near real-time access to data for proactive policing decisions, allow data transfer in the field and incorporate the use of global positioning and automated vehicle location (GPS/AVL) technology, and

WHEREAS, these upgrades will allow the Modesto Police Department to implement a comprehensive, integrated system resulting in greater communication between agencies, increased and timely access to relevant data to field personnel, and improved officer safety at a reduced cost of operation while improving efficiency, and

WHEREAS, the COPS 2006 Technology grant addresses CAD/Integrated Public Safety System (IPSS) systems software, licensing and interface costs,
NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the COPS 2006 Technology grant in the amount of $394,891 from the U.S. Department of Justice, Office of Community Oriented Policing Services.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary program documents, including any extensions, amendments, or subsequent contracts with the U.S. Department of Justice, Office of Community Oriented Policing Services, in relation thereto.

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. 2006-669

A RESOLUTION AMENDING THE FISCAL YEAR 2006/07 OPERATING BUDGET, ESTIMATING REVENUE OF $394,891 FOR THE COPS 2006 TECHNOLOGY GRANT TO PROVIDE PARTIAL FUNDING FOR THE COMPUTER AIDED DISPATCH (CAD) SYSTEM, INTEGRATED PUBLIC SAFETY SYSTEM AND RECORDS MANAGEMENT SYSTEM.

WHEREAS, the City of Modesto Police Department desires to undertake a grant designated as the COPS 2006 Technology grant to be funded from the U.S. Department of Justice, Office of Community Oriented Policing Services, and

WHEREAS, said $394,891 grant will provide partial funding for the Computer Aided Dispatch (CAD) System, Integrated Public Safety System and Records Management System, and

WHEREAS, these funds will replace existing outdated equipment, provide adequate storage and processing power, provide a structured database for data access and statistical reporting, provide near real-time access to data for proactive policing decisions, allow data transfer in the field and incorporate the use of global positioning and automated vehicle location (GPS/AVL) technology, and

WHEREAS, these upgrades will allow Modesto Police Department to implement a comprehensive, integrated system resulting in greater communication between agencies, increased and timely access to relevant data to field personnel, and improved officer safety at a reduced cost of operation while improving efficiency, and

WHEREAS, the COPS 2006 Technology grant addresses CAD/Integrated Public Safety System (IPSS) systems software, licensing and interface costs, and

WHEREAS, there is no fiscal impact to the City of Modesto,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the FY 2006/2007 Operating Budget is hereby amended as indicated below to initiate said grant:

**Expense:**

To: 7130-070-M780-(M483)-6040 $394,891 Technology Grant/CAD

**Revenue:**

To: 7130-070-M780-3508 $394,891 Federal Police Grant

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of 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. 2006-670

A RESOLUTION ACCEPTING THE BUCKLE UP STANISLAUS GRANT IN THE AMOUNT OF $297,900 FROM THE STATE OF CALIFORNIA, OFFICE OF TRAFFIC SAFETY (OTS), TO FUND ONE FULL-TIME COMMUNITY SERVICES OFFICER AND OFFICER OVERTIME TO CONDUCT CAR SEAT CHECKUPS AND CHECKPOINTS AND PROMOTE THE PROPER USE OF SEAT BELT AND CHILD RESTRRAINT SYSTEMS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS.

WHEREAS, the City of Modesto Police Department desires to undertake a grant designated as the Buckle Up Stanislaus grant to be funded from the State of California, Office of Traffic Safety (OTS), and

WHEREAS, said $297,900 grant will provide 100% funding for a Community Services Officer for the two-year program to oversee and run the Buckle Up Stanislaus Program, and

WHEREAS, these funds will also provide overtime for officers to conduct Child Passenger Safety Checkups, and

WHEREAS, this grant will focus on decreasing the child passenger safety seat misuse rate, and

WHEREAS, the Buckle of Up Stanislaus grant commences on October 1, 2006 and ends September 30, 2008, and

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

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the Buckle Up Stanislaus grant in the amount of $297,900 from the State of California, Office of Traffic Safety (OTS).
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary program documents, including any extensions, amendments, or subsequent contracts with the State of California, Office of Traffic Safety, in relation thereto.

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
A RESOLUTION AMENDING THE FISCAL YEAR 2006/07 OPERATING BUDGET, ESTIMATING REVENUE OF $297,900 FOR THE BUCKLE UP STANISLAUS GRANT TO CONDUCT CAR SEAT CHECKUPS AND CHECKPOINTS AND PROMOTE THE PROPER USE OF SEAT BELT AND CHILD RESTRAINT SYSTEMS.

WHEREAS, the City of Modesto Police Department desires to undertake a grant designated as the Buckle Up Stanislaus grant to be funded from the State of California, Office of Traffic Safety (OTS), and

WHEREAS, said $297,900 grant will provide 100% funding for a Community Services Officer for the two-year program to oversee and run the Buckle Up Stanislaus Program, and

WHEREAS, upon completion of the grant the one Community Services Officer position will be absorbed into the General Fund, and

WHEREAS, these funds will also provide overtime for officers to conduct Child Passenger Safety Checkups, and

WHEREAS, this grant will focus on decreasing the child passenger safety seat misuse rate, and

WHEREAS, the Buckle of Up Stanislaus grant commences on October 1, 2006 and ends Setpember 30, 2008, and

WHEREAS, there is no fiscal impact to the City of Modesto,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the FY 2006/2007 Operating Budget is hereby amended as indicated below to initiate said grant:

<table>
<thead>
<tr>
<th>Expense:</th>
<th>Revenue:</th>
</tr>
</thead>
<tbody>
<tr>
<td>To:</td>
<td>To:</td>
</tr>
<tr>
<td>0410-190-2969-0110</td>
<td>$97,228</td>
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<td>0410-190-2969-0130</td>
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<td>77,635</td>
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<tr>
<td>0410-190-2969-0308</td>
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<td>0410-190-2969-0350</td>
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<tr>
<td>0410-190-2969-0205</td>
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<td>TOTAL</td>
<td>$297,900</td>
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</table>

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of 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. 2006-672

A RESOLUTION ACCEPTING THE VEHICLE IMPOUND/DUI/SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT IN THE AMOUNT OF $1,000,000 FROM THE STATE OF CALIFORNIA, OFFICE OF TRAFFIC SAFETY (OTS), TO PROVIDE FOUR NEW FULL-TIME MOTOR POLICE OFFICERS AND EQUIPMENT TO REDUCE PERSONS KILLED AND INJURED IN TRAFFIC COLLISIONS, ALCOHOL INVOLVED CRASHES, AND TRAFFIC CRASHES INVOLVING DRIVERS WITH SUSPENDED OR REVOKED LICENSES; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS.

WHEREAS, the City of Modesto Police Department desires to undertake a grant designated as the Vehicle Impound/DUI/Selective Traffic Enforcement Program (STEP) grant to be funded from the State of California, Office of Traffic Safety, and

WHEREAS, said $1,000,000 grant will provide four new full-time motor police officers and equipment, and

WHEREAS, these funds will be used to pay 100% of the salary for the four motor police officers the first operational year and 50% salary for the second year, and

WHEREAS, the grant will also fund four fully equipped police motorcycles for these officers, and

WHEREAS, the City agrees to increase the traffic unit from its current complement of 16 officers to 20 officers and maintain a minimum of 20 officers throughout the grant period, and

WHEREAS, the motor police officers will be responsible for achieving the grant goals and objectives to reduce persons killed and injured in traffic collisions,
alcohol involved crashes, and traffic crashes involving drivers with suspended or revoked licenses, and

WHEREAS, upon completion of the grant these four motor police officer positions will be absorbed into the General Fund, and

WHEREAS, one of the requirements of the grant is that the City of Modesto should be able to sustain the enforcement program by creating a self-sustaining Vehicle Impound Program, which will continue after the grant monies are expended to satisfy the National Highway Traffic Safety program income requirements, and

WHEREAS, on August 8, 2006, the City Council approved Resolution Nos. 2006-514A and 2006-515 at the Public Hearing to increase the vehicle impound fee, and establish a Traffic Offender Fund, and

WHEREAS, the Traffic Offender Fund will be subject to a financial audit by the State of California, Office of Traffic Safety, and

WHEREAS, the Vehicle Impound Fee will receive a “Sunset” review by the City Council in FY 2013-2014, to determine if the program should be terminated, modified, or remain in place, and

WHEREAS, all collected vehicle release fees will be placed in the Traffic Offender Fund, and pursuant to the agreement with the State of California, Office of Traffic Safety, each fiscal year $210,000 of the Vehicle Impound Fees collected will be transferred to the General Fund, and

WHEREAS, any and all additional fees collected, above and beyond the $210,000 will remain in the Traffic Offender Fund to be used solely for traffic safety
programs with the City of Modesto, as administered by the Modesto Police Department, and

WHEREAS, monies in the Traffic Offender Fund will cover the administrative costs incurred by the City relating to the removal, impoundment, storage and release of vehicles allowed under the authority of Section 22850.5 of the California Vehicle Code, and

WHEREAS, the grant will commence on October 1, 2006 and end on September 30, 2008,

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the Vehicle Impound/DUI/Selective Traffic Enforcement Program (STEP) grant in the amount of $1,000,000 from the State of California, Office of Traffic Safety (OTS), to provide four new full-time motor police officers and equipment to reduce persons killed and injured in traffic collisions, alcohol involved crashes, and traffic crashes involving drivers with suspended or revoked licenses.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary program documents, including any extensions, amendments, or subsequent contracts with the State of California, Office of Traffic Safety (OTS), in relation thereto.
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. 2006-673

A RESOLUTION AMENDING THE FISCAL YEAR 2006/07 OPERATING BUDGET, ESTIMATING REVENUE OF $1,000,000 FOR THE VEHICLE IMPOUND/DUI/SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT TO REDUCE PERSONS KILLED AND INJURED IN TRAFFIC COLLISIONS, ALCOHOL INVOLVED CRASHES, AND TRAFFIC CRASHES INVOLVING DRIVERS WITH SUSPENDED OR REVOKED LICENSES.

WHEREAS, the City of Modesto Police Department desires to undertake a grant designated as the Vehicle Impound/DUI/Selective Traffic Enforcement Program (STEP) grant to be funded from the State of California, Office of Traffic Safety, and

WHEREAS, said $1,000,000 grant will provide four new full-time motor police officers and equipment, and

WHEREAS, these funds will be used to pay 100% of the salary for the four motor police officers the first operational year and 50% salary for the second year, and

WHEREAS, the grant will also fund four fully equipped police motorcycles for these officers, and

WHEREAS, the City agrees to increase the traffic unit from its current complement of 16 officers to 20 officers and maintain a minimum of 20 officers throughout the grant period, and

WHEREAS, the motor police officers will be responsible for achieving the grant goals and objectives to reduce persons killed and injured in traffic collisions, alcohol involved crashes, and traffic crashes involving drivers with suspended or revoked licenses, and
WHEREAS, upon completion of the grant these four motor police officer positions will be absorbed into the General Fund, and

WHEREAS, one of the requirements of the grant is that the City of Modesto should be able to sustain the enforcement program by creating a self-sustaining Vehicle Impound Program, which will continue after the grant monies are expended to satisfy the National Highway Traffic Safety program income requirements, and

WHEREAS, on August 8, 2006, City Council approved Resolution No. 2006-514A and 2006-515 at the Public Hearing to increase the vehicle impound fee, and establish a Traffic Offender Fund, and

WHEREAS, the Traffic Offender Fund will be subject to a financial audit by the State of California, Office of Traffic Safety, and

WHEREAS, the Vehicle Impound Fee will receive a “Sunset” review by the City Council in FY 2013-2014, to determine if the program should be terminated, modified, or remain in place, and

WHEREAS, all collected vehicle release fees will be placed in the Traffic Offender Fund, and pursuant to the agreement with the State of California, Office of Traffic Safety, each fiscal year $210,000 of the Vehicle Impound Fees collected will be transferred to the General Fund, and

WHEREAS, any and all additional fees collected, above and beyond the $210,000 will remain in the Traffic Offender Fund to be used solely for traffic safety programs with the City of Modesto, as administered by the Modesto Police Department, and
WHEREAS, monies in the Traffic Offender Fund will cover the administrative costs incurred by the City relating to the removal, impoundment, storage and release of vehicles allowed by the authority of Section 22850.5 of the California Vehicle Code, and

WHEREAS, the grant will commence on October 1, 2006 and end on September 30, 2008,

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

**Expense:**

<table>
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<tr>
<th>To</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0410-190-2968-0110</td>
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<td>Salaries</td>
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<td>0410-190-2968-0130</td>
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<td>0410-190-2968-0188</td>
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<td>0410-190-2968-0209</td>
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<td>112,000</td>
<td>Equipment</td>
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<tr>
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<td>Radar Units/Helmets/Radios</td>
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<tr>
<td>0410-190-2968-0308</td>
<td>4,000</td>
<td>Checkpoint Supplies</td>
</tr>
<tr>
<td>0410-190-2968-0205</td>
<td>1,000</td>
<td>Printing</td>
</tr>
</tbody>
</table>

**TOTAL** $1,000,000

**Revenue:**

<table>
<thead>
<tr>
<th>To</th>
<th>Amount</th>
<th>Description</th>
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<tbody>
<tr>
<td>0410-190-2968-3490</td>
<td>$1,000,000</td>
<td>State Grant</td>
</tr>
</tbody>
</table>

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of 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. 2006-674

A RESOLUTION AMENDING THE FISCAL YEAR 2006/07 OPERATING BUDGET TO APPROPRIATE A TOTAL OF $315,000 IN REVENUES TO 0610-190-1908-1028 AND INCREASE THE TRANSFER TO THE GENERAL FUND FROM $185,000 TO $210,000 (0100-190-1961-4028).

WHEREAS, the City of Modesto Police Department desires to undertake a grant designated as the Vehicle Impound/DUI/Selective Traffic Enforcement Program (STEP) grant to be funded from the State of California, Office of Traffic Safety, and

WHEREAS, said $1,000,000 grant will provide four new full-time motor police officers and equipment, and

WHEREAS, on August 8, 2006, the City Council approved Resolution Nos. 2006-514A and 2006-515 at the Public Hearing to increase the vehicle impound fee, and establish a Traffic Offender Fund, and

WHEREAS, the Traffic Offender Fund will be subject to a financial audit by the State of California, Office of Traffic Safety, and

WHEREAS, the Vehicle Impound Fee will receive a “Sunset” review by the City Council in FY 2013-2014, to determine if the program should be terminated, modified, or remain in place, and

WHEREAS, any and all additional fees collected, above and beyond the $210,000 will remain in the Traffic Offender Fund to be used solely for traffic safety programs with the City of Modesto, as administered by the Modesto Police Department, and
WHEREAS, the grant will commence on October 1, 2006 and end on September 30, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the FY 2006/2007 Operating Budget is hereby amended to appropriate a total of $315,000 in revenues to 0610-190-1908-4028 and increase the transfer to the general fund from $185,000 to $210,000 (0100-190-1961-4028).

Organization 2968 is Multi-year.

Revenue:
To: 0610-190-1908-4028 $315,000
From: 0100-190-1961-4028 -$185,000
Transfers To: 0100-700-1961-9061 $210,000
Transfers From: 0610-700-1961-7010 $210,000

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of 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. 2006-675

A RESOLUTION APPROVING AN AGREEMENT WITH STANTEC CONSULTING INC. FOR ON-CALL SURVEY AND PLAN LINE SERVICES FOR VARIOUS PUBLIC WORKS – CAPITAL IMPROVEMENT SERVICES (CIS) PROJECTS FOR ONE (1) YEAR WITH THREE (3) ONE (1) YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF CITY, IN AN AMOUNT NOT-TO-EXCEED $100,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND UP TO THREE (3) ONE (1) YEAR EXTENSION OPTIONS. TOTAL COST FOR FOUR (4) YEARS IS NOT TO EXCEED $400,000

WHEREAS, the Public Works Department – Capital Improvement Services (CIS) Division performs a number of tasks requiring a field survey to identify the existing topography and related engineering support services that, because of workload levels and/or staff experience, are beyond the ability of City’s engineering staff to gather topographic surveys, or to create plan lines in a timely manner, and

WHEREAS, in the past, CIS has utilized the services of consultant engineers to perform targeted engineering services, and

WHEREAS, retaining a survey and plan line consultant will allow CIS to have quick access to survey, plan line and related engineering support services, when needed, and to complete the survey and plan lines in a timely manner, and

WHEREAS, in addition, an on-call survey and plan line consultant can provide services for projects by providing field personnel to perform field surveys, perform research and review of record information, topographic surveys, right-of-way surveys, horizontal control surveys, and Global Positioning System (GPS) surveys, provide field personnel and equipment for traffic control purposes, engineering design and drafting services to establish preliminary street “plan lines” documents, and offer a quick turnaround, which is essential to efficient response to the large undertaking of numerous
Capital Improvement Projects presently scheduled for review and processing by City staff, and

WHEREAS, Stantec Consulting Inc. (Stantec) is a nationwide company with a local office, and is deemed the most qualified to provide the requested on-call survey and plan line services and has the ability to respond quickly to City staff requests in a timely and cost effective manner, and

WHEREAS, Stantec technicians have an intimate knowledge of surveying and plan line procedures and can provide related engineering support services as specified, and

WHEREAS, Stantec is familiar with the City's survey needs and has demonstrated satisfactory services to the City on a past project. For example, Stantec (formerly Thompson-Hysell Engineers) assisted with engineering services for a recent project by successfully completing the Pelandale Intersection Improvements design which included all survey work; therefore, City staff recommends consultant, Stantec, be awarded a contract for On-call Survey and Plan Line Services, and

WHEREAS, City staff recommends consultant, Stantec, be awarded a one-year contract for On-call Survey and Plan Line Services, with three (3) one (1) year extension options, at the sole discretion of City, and

WHEREAS, the consultant is paid on an hourly basis for actual hours required to perform specific task orders at a set rate, and

WHEREAS, the consultant will submit a written scope of services outlining the specific work, schedule and cost estimate associated with each task order, and
WHEREAS, Stantec will perform no service until the Director of Public Works Department has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to Stantec prior to commencement of services, and

WHEREAS, the City Manager will have authority to approve task orders greater than $50,000, not-to-exceed $100,000 per year,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Stantec Consulting Inc. for On-call Survey and Plan Line Services for various Public Works – Capital Improvement Services projects for one (1) year with three (3) one (1) year extension options, at the sole discretion of City, in an amount not to exceed $100,000 per year. Total cost for four (4) years is not to exceed $400,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement with Stantec Consulting Inc., and up to three (3) one (1) year extension options.
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:

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING AN AGREEMENT WITH TBE GROUP, INC. FOR ON-CALL UTILITY LOCATION SERVICES FOR VARIOUS PUBLIC WORKS – CAPITAL IMPROVEMENT SERVICES (CIS) PROJECTS FOR ONE (1) YEAR WITH THREE (3) ONE (1) YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF CITY, IN AN AMOUNT NOT-TO-EXCEED $40,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND UP TO THREE (3) ONE (1) YEAR EXTENSION OPTIONS. TOTAL COST FOR FOUR (4) YEARS IS NOT TO EXCEED $160,000

WHEREAS, the Public Works Department – Capital Improvement Services (CIS) Division performs a number of tasks requiring underground utilities location and related engineering support services that, because of workload levels and/or staff experience, are beyond the ability of City’s engineering staff to accomplish for every project prior to construction or in a timely manner, and

WHEREAS, retaining an on-call utility location consultant allows CIS to have quick access to specific utility location and related engineering support services, when needed, and will allow the division to confirm the locations of utilities prior to bidding projects thus saving money in change orders after the construction contract has been issued, and

WHEREAS, in addition, an on-call utility location consultant can provide services for projects by performing preparation and submittal of Traffic Control Plans and Right of Way Use Permit Applications, pre-mark test hole locations and make the Underground Service Alert (USA) utility notification, deployment of all necessary traffic control devices, coordinate with utility companies, excavation of test holes, restoration of asphalt or concrete surfaces, preparation of Test Hole Data Sheets, QA/QC of field data, and offer a quick turnaround, which is essential to efficient response to the large undertaking
of numerous Capital Improvement Projects presently scheduled for review and processing by City staff, and

WHEREAS, TBE Group, Inc. (TBE Group) is a nationwide company with a large staff size, and is deemed the most qualified to provide the requested on-call utility location and related engineering support services and has the ability to respond quickly to City staff requests in a timely and cost effective manner, and

WHEREAS, TBE Group technicians have an intimate knowledge of utility location services and procedures and can provide related engineering support services as specified, and

WHEREAS, in addition, TBE Group is currently the on-call consultant used locally by Caltrans, therefore, City staff recommends consultant, TBE Group, be awarded a contract for On-call Utility Location Services, and

WHEREAS, City staff recommends consultant, TBE Group be awarded a one-year contract for On-call Utility Location Services, with three (3) one (1) year extension options, at the sole discretion of City, and

WHEREAS, the consultant is paid on an hourly basis for actual hours required to perform specific task orders at a set rate, and

WHEREAS, the consultant will submit a written scope of services outlining the specific work, schedule and cost estimate associated with each task order, and

WHEREAS, TBE Group will perform no service until the Director of Public Works Department has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to TBE Group prior to commencement of services,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with TBE Group, Inc., for On-call Utility Location Services for various Public Works – Capital Improvement Services projects for one (1) year with three (3) one (1) year extension options, at the sole discretion of City, in an amount not to exceed $40,000 per year. Total cost for four (4) years is not to exceed $160,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement with TBE Group, Inc., and up to three (3) one (1) year extension options.

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

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney