MODESTO CITY COUNCIL
RESOLUTION NO. 2004-574

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING SECTION 19-3-9 OF THE ZONING MAP TO REZONE FROM R-1, LOW-DENSITY RESIDENTIAL ZONE, TO PLANNED DEVELOPMENT ZONE, P-D(87), PROPERTY LOCATED ON THE WEST SIDE OF TULLY ROAD SOUTH OF PEARL STREET (TED BRANDVOLD/JAMES CHAMPION)

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, Mr. Ted Brandvold, architect on behalf of Mr. James Champion has proposed that Section 19-3-9 of the Zoning Map be amended to rezone from R-1, Low-Density Residential Zone, to Planned Development Zone, P-D(87), as an addition to P-D(87) and to amend P-D(87) to allow twelve additional one and two-story apartments, property located on the west side of Tully Road, south of Pearl Street, 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 No. 2004-53 (“Initial Study”) reviewed the proposed amendment to the zoning map and rezone to P-D(87) and the
proposed amendment to P-D(87) to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no or new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on October 9, 2004, the City caused to be published a 10-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 26, 2004, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to the zoning map and rezone to P-D(87) and amendment to P-D(87), a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:
1. The type of project is described in Chapter II of the Modesto Urban Area General Plan Master EIR (MEIR).

2. All applicable policies, regulation, and mitigation measures identified in the MEIR have been applied to the project or otherwise made Conditions of Approval of the project.

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

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

5. The Initial Study, Environmental Assessment No. EA/C&ED 2004-53, provides the substantial evidence to support finding numbers 1-4, noted above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 2004, by Councilmember O’Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
EXHIBIT A

Initial Study

EA/C&ED No. 2004-53
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. 2004-53

For the proposed:
Rezoning to P-D(87) and Amend P-D(87) to Add 12 One-and Two-Story Apartments

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

September 1, 2004
City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the proposed rezone R-1 to P-D(87) and amendment to P-D(87) for the addition of 12 apartment units is “within the scope” of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

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

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

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

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

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

II. PROJECT DESCRIPTION

A. Title: Rezone R-1 to P-D(87) and Amendment to P-D(87) for the addition of 12 apartment units.

B. Address or Location: 1425, 1427, and 1435 Tully Road
Modesto, CA 95350

C. Applicant: Ted Brandvold, Architect
for Mr. Jim Champion (Owner)
Commercial Architecture
1300 Tenth Street, Suite B
Modesto, CA 95354

D. City Contact Person:

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

F. Current Zoning Classification(s): P-D(87) for the existing 11 apartment units; R-1 for area undergoing change to P-D(87) for additional 12 units.

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

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

The applicant seeks approval of a rezoning for R-1 to P-D(87) as an addition to P-D(87) currently containing 11 apartment units, and to amend P-D(87) to allow an additional 12 dwelling units.

I. Other Public Agencies Whose Approval is Required: None

III. FINDINGS / DETERMINATION

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

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

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

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

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

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

Robert J. Connell
Project Manager

Senior Planner

September 1, 2004

Initial Study
C&ED No. 2004-53

City of Modesto Finding of Conformance
General Plan Master EIR
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.

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

(2) City policies that reduce, avoid, or mitigate environmental effects will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures contained within the Master EIR.

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

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

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

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

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any negative response must be discussed.

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

(2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project.

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

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

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

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

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

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

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

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

c. Project-Specific Effects

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

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

YES NO

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

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

YES NO

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

(3) Result in inadequate emergency access.

(4) Result in inadequate parking capacity.
Discussion:

The proposed project would generate less than 100 ADT, and would have no impact relative to transportation system design, incompatible uses, and emergency access, nor would it result in inadequate parking capacity.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

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

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

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

These are also cumulative impacts on air quality.

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

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

c. Project-Specific Effects

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

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

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<tr>
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<th>YES</th>
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<tbody>
<tr>
<td>1</td>
<td>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.</td>
<td>X</td>
</tr>
<tr>
<td>1</td>
<td>The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.</td>
<td>X</td>
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<tr>
<td>2</td>
<td>The project does not comply with the air quality policies of the Modesto Urban Area General Plan.</td>
<td>X</td>
</tr>
<tr>
<td>4</td>
<td>The project would expose sensitive receptors to substantial pollutant concentrations.</td>
<td>X</td>
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</table>
The project would create objectionable odors affecting a substantial number of people.  

Discussion:

The proposed project would not result in long-term air quality-related impacts, as it is only an additional 12 apartment units. However, in order to minimize any short-term air quality-related impacts associated with construction, the appropriate mitigation measures will be applied from the MEIR.

3. NOISE

a. Significant Effects Identified in the Master EIR

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

**Effect:** Traffic noise levels for future conditions in the plan area have the potential to exceed the City's Noise Significance Standards (see Table 3-3 MEIR).

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

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

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

c. Project-Specific Effects

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

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

YES NO

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

(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?
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:

The proposed project will not result in any substantial increase in noise levels that exist without the project. Any noise thus generated by expansion is well-insulated by the enclosed design of the building complex. The appropriate mitigation measures will be applied from the MEIR.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

c. Project-Specific Effects

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

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

YES NO

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

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

(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:

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

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

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

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

YES NO

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

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

Discussion:
Water supplies are available to serve the existing and expanding apartment development.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

c. Project-Specific Effects

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

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

YES NO

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

(2) The project will result in a determination by the wastewater treatment provider who serves or may serve the project that there is not adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments. □ X

Discussion:

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

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

1. The project is inconsistent with the Modesto Urban Area General Plan.
2. Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.
3. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

Discussion:

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

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

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

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

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

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

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

c. Project-Specific Effects

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

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

YES NO

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

(2) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. □ X

Discussion:

The proposed 12 additional apartments would have absolutely no impact whatsoever on archaeological/historical sites.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

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

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

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

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

c. Project-Specific Effects

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

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

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

Discussion:

The proposed 12 additional apartments would not at all affect substantially increase the rate nor amount of surface runoff. Furthermore, the storm water-drainage system will accommodate all on-site runoff.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

**c. Project-Specific Effects**

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

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

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>1</td>
<td></td>
<td>X</td>
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<tr>
<td>2</td>
<td></td>
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<tr>
<td>3</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

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

(2) The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.

(3) The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.

(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.
Discussion:

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

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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<tbody>
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</table>

The project is inconsistent with the Modesto Urban Area General Plan. □ X
12. SCHOOLS

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

c. Project-Specific Effects

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

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

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

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

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

Discussion:

The proposed 12 additional apartments would have negligible impact to schools.
13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

c. Project-Specific Effects

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

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

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:

The proposed project would have little effect relative to provision of police services.
14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

c. Project-Specific Effects

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

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

YES NO

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

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

Discussion:

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

a. Significant Effects identified in the Master EIR

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

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

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

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

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

c. Project-Specific Effects

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

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

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

Discussion:

The proposed project will have not impact relative to solid waste.
16. **HAZARDOUS MATERIALS**

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

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

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

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

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

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

c. **Project-Specific Effects**

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

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

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

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>Threshold</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(2) The project would be located on soil that is unstable, or that would</td>
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<td>X</td>
</tr>
<tr>
<td>become unstable as a result of the project, and potentially result in on or</td>
<td></td>
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<tr>
<td>off-site landslide, lateral spreading, subsidence, liquefaction or collapse.</td>
<td></td>
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</tbody>
</table>

Discussion:
The proposed 12 additional apartments would have no potential to increase risks associated with landslides or seismic activity.
18. ENERGY

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

c. Project-Specific Effects

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

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

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

19. PLANNING AND LAND USE

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

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

YES NO

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

Discussion:
The proposed 12 additional apartments is consistent with the Modesto Urban Area General Plan, and would not physically divide an established community.

20. AESTHETICS

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

a. Project-Specific Effects

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

YES NO

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

A. Master EIR Mitigation Measures Applied to the Project

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

Traffic and Circulation Measures: N/A

Air Quality Measures:

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

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

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

Noise Measures:

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

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

1. A hammer, or any other device or implement used to pound or strike an object.
2. An impact wrench, or other tool or equipment powered by compressed air.
3. A hand-powered saw.
4. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
5. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
6. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, backhoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compaction equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

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

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

Agricultural Land Measures: N/A

Water Supply Measures: N/A

Sanitary Sewer Service Measures: N/A

Sensitive Wildlife and Plant Habitat Measures: N/A

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

Storm Drainage Measures: N/A

Flooding and Water Quality Measures: N/A

Parks and Open Space Measures: N/A

Schools Measures: N/A

Police Services: N/A

Fire Services: N/A

Generation of Solid Waste: N/A

City of Modesto Finding of Conformance
General Plan Master EIR

Initial Study
C&ED No. 2004-53
September 1, 2004
Generation of Hazardous Materials: N/A

Potential for Landslides and Seismic Activity: N/A

Energy: N/A

Planning and Land Use: N/A

Aesthetics: N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: None.
A RESOLUTION DENYING THE APPEAL BY KAREN BURDICK AND UPHOLDING THE DENIAL BY THE BOARD OF ZONING ADJUSTMENT OF A VARIANCE TO RETAIN A FENCE ENCROACHING INTO THE 15-FOOT SETBACKS FROM TWO ADJOINING STREETS, PROPERTY LOCATED AT 1201 OJAI LANE

WHEREAS, Sections 10-1.202(a) and 10-2.2501 of the Modesto Municipal Code authorizes the Board of Zoning Adjustment to grant variances subject to findings specified in Section 10-2.2502, and

WHEREAS, the applicant has caused a new five-and-one-half-foot high fence to be constructed within the fifteen-foot setbacks from the two adjoining streets of her corner lot at 1201 Ojai Lane, on the northwest corner of Ojai Lane and Wildflower Drive, and

WHEREAS, the fence is constructed approximately six and one-half feet from the Ojai Lane property line and only three feet from the Wildflower Drive property line and also encroaches into the clear vision triangle, as defined in Section 10-2.2314(a) of the Modesto Municipal Code, and

WHEREAS, an application for a variance from the provisions of Section 10-2.510 of the Modesto Municipal Code to allow retention of the fence which encroaches into the respective street setbacks was filed by Karen Burdick on July 12, 2004, and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on September 23, 2004, in Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and
WHEREAS, after public hearing, the Board of Zoning Adjustment, by Resolution No. 2004-22, denied the application for a variance, finding that the findings for granting a variance cannot be made as required in Section 10-2.2502 of the Modesto Municipal Code, because there are no special circumstances or conditions applicable to the subject property which do not exist for other property in the same zone and immediate vicinity, and that strict application of setback provisions would not deprive the applicant of practical use of the property in question, and

WHEREAS, on October 1, 2004, an appeal to the denial by the Board of Zoning Adjustment was filed by Karen Burdick, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council to be held on October 26, 2004, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which time said public hearing was held, and evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing the Council of the City of Modesto found and determined that the appeal to the decision of the Board of Zoning Adjustment to deny the variance should be denied and that this decision by the Board should be upheld for the reason set forth in Board of Zoning Adjustment Resolution No. 2004-22 and set forth above, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of Karen Burdick of denial by the Board of Zoning Adjustment of a variance to retain a fence encroaching into the 15-foot setbacks from two adjoining streets at 1201 Ojai Lane is hereby denied and the decision of the Board of Zoning Adjustment is hereby affirmed.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 2004, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: \underline{Jean Zahr} City Clerk

(SEAL)

APPROVED AS TO FORM:

By: \underline{Michael D. Milich}, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-576

A RESOLUTION APPROVING THE 2005 CITY COUNCIL MEETING CALENDAR.

BE IT HEREBY RESOLVED by the Council of the City of Modesto that 2005 City Council Meeting, attached hereto as “Exhibit A”, is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: [Signature]
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:
By [Signature]
MICHAEL D. MILICH, City Attorney
# City Council Calendar

## 2005

### January 2005

<table>
<thead>
<tr>
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<tr>
<td>4&lt;sup&gt;th&lt;/sup&gt;</td>
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<td>11&lt;sup&gt;th&lt;/sup&gt;</td>
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<td>25&lt;sup&gt;th&lt;/sup&gt;</td>
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### February 2005

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<td>15&lt;sup&gt;th&lt;/sup&gt;</td>
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<tr>
<td>22&lt;sup&gt;nd&lt;/sup&gt;</td>
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<tr>
<td>29&lt;sup&gt;th&lt;/sup&gt;</td>
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### March 2005

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### April 2005

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<td>19&lt;sup&gt;th&lt;/sup&gt;</td>
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<td>26&lt;sup&gt;th&lt;/sup&gt;</td>
<td>Council Meeting (regular)</td>
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### May 2005

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### August 2005

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### December 2005

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<td>27&lt;sup&gt;th&lt;/sup&gt;</td>
<td>CANCELLED per MMC 2-1.01</td>
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</table>

### NOTE:

- Aug 3<sup>rd</sup> Wed mtg due to Nat'l Night Out on 2<sup>nd</sup>
- Nov 9<sup>th</sup> mtg due to Election Day on 8<sup>th</sup>
- Dec 14<sup>th</sup> mtg due to Run-Off Election on 13<sup>th</sup>
- Dec 21<sup>st</sup> mtg to canvass Run-Off results (if needed)
A RESOLUTION AMENDING THE FISCAL YEAR 2004-2005 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2004-2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2004-2005 budget have been adjusted as shown in Schedule A.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES:       Councilmembers:  Hawn, Jackman, Keating, Marsh, O'Bryant
NOES:       Councilmembers:  None
ABSENT:     Councilmembers:  Dunbar, Mayor Ridenour

ATTEST:   JEAN ZAHN, City Clerk

(seal)

APPROVED AS TO FORM:

By: MIKE MILICH, City Attorney

11/03/04/Finance/ G Bailey/Item 04  1  2004-577
On July 22, 2003 (FY 03-04), Council amended the budget to appropriate $112,784 from the Traffic Safety Fund to police operations for the purchase of recommended traffic equipment. In FY 03-04, PD spent $97,013 with $15,771 available. This A/T is to appropriate the remaining amount in organization 1906 for the FY 04-05 budget.
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Lisa Forester
Telephone No.: 577-6480
Department: Parks, Recreation and Neighborhoods
Fund Title: General

Council Action Date: Resolution Number: ------------

DEPARTMENTAL REVENUES

FROM

TO

APPROPRIATIONS

FROM
0100-800-8000-8003 0100R ($43,574) ($43,574) General Fund Reserves

TO
0100 360 3614 0235 3600C $13,163 $43,574 $56,737 McClure Country Place

COMMENTS/JUSTIFICATION

In September 2001, Council approved $220,014 for capital improvements to the McClure Country Place. These major improvements included a sewer line, HVAC, electrical wiring, foundation repair, fencing and security. Progress has been slow in completing these improvements to ready the house for possible rental. There was $43,574 remaining in the McClure budget in 03/04 that was not encumbered with specific contractors. These funds need to be re-appropriated to finish the remaining work on the McClure Country Place.

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

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

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

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

Contact Person: Jana Coons
Telephone No.: 2-2281
Department: Public Works
Fund Title: Gas Tax

Council Action Date: November 3, 2004
Resolution Number: 

FY: 04-05

<table>
<thead>
<tr>
<th>Fund-Agency-Obj-Object</th>
<th>Appropriation Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Description of Object</th>
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<td>FROM</td>
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<tr>
<td>05-0700-800-8000-8003</td>
<td>0700R</td>
<td>($147,000)</td>
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<td>$147,000</td>
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<td>MY-0700-700-A019-7230</td>
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<td>$50,000</td>
<td>$50,000</td>
<td>Transfer Gas Tax to 2300 fund</td>
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**COMMENTS/JUSTIFICATION**

In FY04 several organization were identified to carry budget forward to complete two projects: E Bluegum and Culpepper overlay and the 8th St Restripping. Those budgets were not moved into FY05. This adjustment would be the budgets for each of these to be increased and work to move forward.

**AUTHORIZATION (check if required)**

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

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

CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)
MODESTO CITY COUNCIL
RESOLUTION NO. 2004 - 578

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO SOLICIT FORMAL REQUEST FOR BIDS (RFB) FOR STORM BASIN WEED ABATEMENT SERVICES FOR AN INITIAL TWO-YEAR PERIOD WITH THREE (3) ONE-YEAR CONTRACT EXTENSION OPTIONS FOR A TOTAL ESTIMATED ANNUAL COST OF $22,450.00

WHEREAS, the Public Works Department-Waste Water Collections Division has requested the purchase of storm basin weed abatement services, and

WHEREAS, currently the City of Modesto has twenty (20) storm basins throughout the storm collection system, and

WHEREAS, some are detention basins, while others are detentions basins, and

WHEREAS, retention basins collect water through a sequence of underground pipes that feed the basin, and

WHEREAS, storm water is stored in these basins and allowed to percolate or evaporate, and

WHEREAS, detention basins have the added component of removing the storm water via a lift station located at the basin that pumps to an open waterway, MID canal, creek or river, and

WHEREAS, it is very important to maintain the integrity of these basins to be able to hold as much capacity as possible, and

WHEREAS, this allows removal of storm water from streets during heavy rain events, thus removing a public safety hazard, and

WHEREAS, basins are excavated into the ground and consist of sloped dirt banks with access roads around the basins for maintenance, and
WHEREAS, it is imperative that weeds be kept at a minimum to allow for optimal percolation and prevent possible vegetation from reaching the pump stations, and

WHEREAS, our current weed abatement contract includes regularly scheduled spraying of weeds throughout our basin system, and

WHEREAS, this includes spraying at needed basins a total of four (4) times a year or as needed, and

WHEREAS, any chemicals used in the process are applied by a licensed and certified weed abatement contractor, and

WHEREAS, by soliciting competitive bids the City will achieve the best value for storm basin weed abatement services and meet City requirements for formal bids, and

WHEREAS, the City Council has appropriated $22,450.00 in account number 6280-480-5312-0212-50 for storm basin weed abatement, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases that meet or exceed $50,000.00 for material, equipment, or contractual services to be formally bid, and

WHEREAS, by soliciting formal bids for the purchase of storm basin weed abatement services for an initial two-year period with three (3) one-year contact extension options for a total estimated annual cost of $22,450.00, the Finance Department, Purchasing Division will comply with MMC Section 8-3.203 regarding formal bid procedures.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Supervisor to solicit formal Request for Bids (RFB) for storm basin weed abatement services for an initial two-year period with three (3) one-year contact extension options for an estimated annual cost of $22,450.00 as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the purchase of storm basin weed abatement services to be opened in the office of the City Clerk, 1010 Tenth 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 sealed 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 3rd day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Jackman, Keating, Marsh, O’Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Mayor Ridenour

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION AWARDING THE BID FOR PERSONAL PROTECTIVE EQUIPMENT (GROUPS 1 AND 6) TO L.N. CURTIS FOR AN ESTIMATED ANNUAL AMOUNT OF $120,000.00.

WHEREAS, personal protective equipment is paramount to the well being of line personnel, and

WHEREAS, the equipment includes turnout pants and jackets, structure boots, hoods, helmets, gloves, etc., and

WHEREAS, the City provides personal protective equipment to line personnel at the time of hire, and

WHEREAS, that equipment is then replaced when it no longer meets standards for said equipment, and

WHEREAS, on March 2, 2004, Council approved by Resolution the formal solicitation of bids for personal protective equipment, and

WHEREAS, bids were solicited from twenty-two (22) companies, and

WHEREAS, the bid specification was also posted on the City’s web site and formally advertised by the City Clerk’s office, and

WHEREAS, four (4) companies responded with valid bids, and

WHEREAS, a cost analysis was performed on the bids received, and

WHEREAS, it is recommended that the bids be awarded by grouping, and

WHEREAS, L. N. Curtis submitted the lowest responsive and responsible bid for Groups 1 and 6 of the Personal Protective Equipment bid for an estimated annual amount of $120,000.00,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for Groups 1 and 6 of the personal protective equipment bid to L.N. Curtis, for an estimated annual amount of $120,000.00.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Jackman, Keating, Marsh, O’Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Mayor Ridenour

ATTEST: Jean Zehr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-580

A RESOLUTION AWARDING THE BID FOR PERSONAL PROTECTIVE EQUIPMENT (GROUPS 2, 3D, 4 AND 7) TO P & R PRODUCTS FOR AN ESTIMATED ANNUAL AMOUNT OF $25,000.00.

WHEREAS, personal protective equipment is paramount to the well being of line personnel, and

WHEREAS, the equipment includes turnout pants and jackets, structure boots, hoods, helmets, gloves, etc., and

WHEREAS, the City provides personal protective equipment to line personnel at the time of hire, and

WHEREAS, that equipment is then replaced when it no longer meets standards for said equipment, and

WHEREAS, on March 2, 2004, Council approved by Resolution the formal solicitation of bids for personal protective equipment, and

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WHEREAS, a cost analysis was performed on the bids received, and

WHEREAS, it is recommended that the bids be awarded by grouping, and

WHEREAS, P & R PRODUCTS submitted the lowest responsive and responsible bid for Groups 2, 3d, 4 and 7 of the Personal Protective Equipment bid for an estimated annual amount of $25,000.00,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby authorizes the award of bid for Groups 2, 3d, 4 and 7 of the personal
protective equipment bid to P&R Products, for an estimated annual amount of
$25,000.00.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 3rd day of November, 2004, by Councilmember Jackman,
who moved its adoption, which motion being duly seconded by Councilmember
O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

APPROVED AS TO FORM:

By:  
Michael D. Milich, City Attorney

ATTEST:  
JEAN ZAHR, City Clerk
A RESOLUTION AWARDING THE BID FOR PERSONAL PROTECTIVE EQUIPMENT (GROUPS 3B AND 8) TO CASCADE FIRE FOR AN ESTIMATED ANNUAL AMOUNT OF $3,000.00.

WHEREAS, personal protective equipment is paramount to the well being of line personnel, and

WHEREAS, the equipment includes turnout pants and jackets, structure boots, hoods, helmets, gloves, etc., and

WHEREAS, the City provides personal protective equipment to line personnel at the time of hire, and

WHEREAS, that equipment is then replaced when it no longer meets standards for said equipment, and

WHEREAS, on March 2, 2004, Council approved by Resolution the formal solicitation of bids for personal protective equipment, and

WHEREAS, bids were solicited from twenty-two (22) companies, and

WHEREAS, the bid specification was also posted on the City’s web site and formally advertised by the City Clerk’s office, and

WHEREAS, four (4) companies responded with valid bids, and

WHEREAS, a cost analysis was performed on the bids received, and

WHEREAS, it is recommended that the bids be awarded by grouping, and

WHEREAS, Cascade Fire submitted the lowest responsive and responsible bid for Groups 3b and 8 of the Personal Protective Equipment bid for an estimated annual amount of $3,000.00,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for Groups 3b and 8 of the personal protective equipment bid to Cascade Fire, for an estimated annual amount of $3,000.00.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Mayor Ridenour

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:
By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-582

A RESOLUTION AWARDING THE BID FOR PERSONAL PROTECTIVE EQUIPMENT (GROUP 3A AND 3C) TO FISHER FOR AN ESTIMATED ANNUAL AMOUNT OF $2,000.00.

WHEREAS, personal protective equipment is paramount to the well being of line personnel, and
WHEREAS, the equipment includes turnout pants and jackets, structure boots, hoods, helmets, gloves, etc., and
WHEREAS, the City provides personal protective equipment to line personnel at the time of hire, and
WHEREAS, that equipment is then replaced when it no longer meets standards for said equipment, and
WHEREAS, on March 2, 2004, Council approved by Resolution the formal solicitation of bids for personal protective equipment, and
WHEREAS, bids were solicited from twenty-two (22) companies, and
WHEREAS, the bid specification was also posted on the City’s web site and formally advertised by the City Clerk’s office, and
WHEREAS, four (4) companies responded with valid bids, and
WHEREAS, a cost analysis was performed on the bids received, and
WHEREAS, it is recommended that the bids be awarded by grouping, and
WHEREAS, Fisher submitted the lowest responsive and responsible bid for Group 3a and 3c of the Personal Protective Equipment bid for an estimated annual amount of $2,000.00.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for Group 3a and 3c of the personal protective equipment bid to Fisher, for an estimated annual amount of $2,000.00.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Mayor Ridenour

ATTEST: ________________________________

JEAN ZAHRI City Clerk

APPROVED AS TO FORM:

By: ________________________________

Michael D. Milich, City Attorney
RESOLUTION APPROVING A SECOND AMENDMENT TO AN AGREEMENT WITH KRAMER,FIRM, INC. FOR PROFESSIONAL CABLE CONSULTATION SERVICES IN AN AMOUNT NOT TO EXCEED $355,000 AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, ON April 23, 2002, Council approved an Agreement between City and Kramer.Firm, Inc for consulting services relating to the City’s cable franchise in the amount of $55,000 and,

WHEREAS, on January 6, 2003 Council adopted a resolution approving a first amendment to an Agreement with Kramer.Firm, Inc for professional cable consultation services for an amount not to exceed $155,000, and

WHEREAS, since that time Kramer.Firm, Inc has been conducting grounding inspections and providing sighting services for the issue of permits related to the cable rebuild, and

WHEREAS, the City continues to work with Comcast Corporation on franchise compliance issues but has concerns regarding progress toward meeting the franchise requirements, and

WHEREAS, existing staff does not have the expertise to assess legal and technical issues pertaining to the cable franchise transfer and compliance, and

WHEREAS, the City has utilized the services of Kramer.Firm, Inc., in the past and been very satisfied with the level of technical knowledge and expertise of that firm, and

WHEREAS, City wishes to enter into a second Amendment to Agreement with Kramer.Firm, Inc, for an additional $200,000, and
WHEREAS the cost of continued services by Kramer.Firm, Inc., to resolve technical issues pertaining to the transfer and cable franchise compliance is estimated at $355,000, and

WHEREAS, the City is reimbursed for expenditures for these purposes, as per the Cable Transfer Agreement, and

WHEREAS, an additional funding allocation is not being requested,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to Item 3 Compensation of the existing agreement with Kramer.Firm, Inc., for professional technical cable services in an amount not to exceed $355,000, a copy of which is attached hereto as Attachment 1.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Mayor Ridenour

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

MICHAEL D. MILICH, CITY ATTORNEY
SECOND AMENDMENT TO STANDARD AGREEMENT FOR CONSULTING SERVICES

This Amendment is made and entered into in the City of Modesto, County of Stanislaus, State of California, effective the ___ day of October, 2004, by and between the City of Modesto, ("City"), a municipal corporation of the State of California, and Kramer.Firm, Inc. ("Consultant").

This Amendment is made with reference to the following recitals:

A. City and Consultant executed an agreement for consulting services in connection with City's cable franchise on April 23, 2002.

B. City and Consultant now desire to amend the Agreement to amend paragraph 3.

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

1. Except as provided herein, the terms used in this Second Amendment shall have the same meaning as the terms have in the original Agreement.

2. The Agreement is hereby amended as follows: Paragraph 3 of said Agreement entitled Compensation is hereby amended to read as follows:

   3. Compensation. Consultant agrees to perform the services set forth in Exhibit A at the rates set forth in Exhibit B, both exhibits are incorporated herein by reference. The total amount of the contract including salaries and expenses shall not exceed three hundred fifty-five thousand and no/100ths ($355,000.00) dollars without the express written permission of the City to extend the contract above this amount. Payment of all vendor costs, salaries, wages and other forms of compensation or reimbursement, and all applicable federal, state and local taxes, including unemployment taxes, social security and state disability insurance as well as all other payroll charges are the responsibility of the Consultant. City shall make
payments to Consultant within thirty (30) business days of timely submission of invoice.

3. Except as provided herein, all other terms and provisions of the Agreement shall remain in full force and effective.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, and Consultant have caused this Amendment to be executed in duplicate by its Acting 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 __________, 2004 and Kramer.Firm, Inc. has caused this agreement to be duly executed.

CITY OF MODESTO, a municipal corporation
KRAMER.FIRM, inc.

By ________________________________  By ________________________________
GEORGE BRITTON, Acting City Manager  JONATHAN KRAMER, FAIE

ATTEST:

Consultant’s Federal ID# ______________

By ________________________________
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By ________________________________
MICHAEL D. MILICH, City Attorneys

Corporations – signature of two (2) officers required or one (1) officer plus corporate seal.
Partnership – signature of a partner required.
Sole Proprietorship – signature of proprietor required.
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-584

A RESOLUTION REVISIONING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO.

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

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

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

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

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

Emergency Dispatch Director

The job specification for this classification is being created for use as part of a joint powers authority between the City of Modesto and the Consolidated Emergency Dispatch Agency. This classification is in the unclassified service and the individual appointed will be considered an “at will” employee of the City of Modesto pursuant to Section 1201(a)(6) of the City’s Charter. The job specification for the classification of Emergency Dispatch Director as shown on the attached Exhibit “A,” which is hereby
made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after November 1, 2004.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Mayor Ridenour

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
EMERGENCY DISPATCH DIRECTOR

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

DEFINITION

Subject to the Joint Powers Agency Commission determination of policy, the Emergency Dispatch Director is to manage and lead a centralized emergency dispatch operation for the Joint Powers Agency and to perform related duties as required.

As such, the incumbent shall be considered "at will".

SUPERVISION EXERCISED AND RECEIVED

Receives administrative direction from the Joint Powers Agency Commission.

Exercises direct supervision over administrative, technical, and support staff.

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

Essential Functions:

Plan and supervise the day-to-day operation of Stanislaus Regional 911 Dispatch Center including managing the work of staff performing emergency dispatching services as well as the administrative, technical and support personnel necessary to operate a consolidated emergency dispatch service.

Meet regularly with dispatch liaison officers, appointed by the Advisory, to consider and implement recommendations concerning the processing and resolution of complaints and the day-to-day coordination of dispatch Services between the City, County and participating agencies.

Work with the Advisory Board, staff and representatives of member agencies to set the direction of the department based on customer expectations and the Dispatch Commission’s missions, values and objectives.
Essential Functions: (Continued)

Prepare Emergency Dispatch budget requests, estimating and anticipating changes in the level of service required and continuously monitor, administer, and report on the budget after approval and adoption.

Design and implement a staff development system consistent with the Agency’s goals and objectives and enthusiastically promote the professional growth and recognition of all employees.

Coordinate and participate in the maintenance, design, modification and installation of the communications systems and equipment.

Insure all technical problems arising in or resulting from the operation of communications systems and equipment are corrected.

Appear before public groups and give talks on functions and activities of the Consolidated Dispatch Agency.

Focus on the future, creating linkages with internal and external customers, translating strategy into effective action plans, continually assessing these plans and taking action as appropriate.

Working with the Commission and Advisory Board, develop the human resource plan to support the Consolidated Emergency Dispatch services needs to include change in work design, employee development, recruitment and compensation.

Perform internal and external customer needs assessments and establish an effective response system for ongoing internal/external customer feedback to insure continuous improvement.

Maintain information, prepare reports and use information and analysis to anticipate potential issues/trends and implements appropriation actions.

Identify and prioritize key processes for improvement based upon customer feedback/trends and develop and implement process improvement measures and controls and recommend and advise on procedures and policies required in the public interest.

Establish operational performance indicators and measures them to ensure results.

Review, implement and monitor Federal Communications Commission operational directives and procedures and work with all user agencies relative to these directives.
Essential Functions: (Continued)

Foster a cooperative relationship with employee organization, promoting an interest-based problem solving approach to resolve employee issues.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS:

Knowledge of:

Consolidated emergency dispatch operations, including staffing, and methods, materials and equipment requirements used in the design, installation, operation and maintenance of a complex emergency communication system.

Applicable State and Federal laws regarding CLETS, communications standards and rules and regulations of the Federal Communications Commission.

Functions of human resource development and management including work design, employee development, evaluation, recruitment, retention and recognition.

Principles, practices, technology and trends in public safety emergency communication systems operations and administration.

Information gathering methods and analysis, budget preparation and report writing techniques.

Ability to:

Effectively plan, develop, implement and maintain consolidated emergency dispatch services, policies and procedures.

Manage highly technical programs and activities.

Meet with user committees and other agencies in resolving problems, developing programs or discussing services.

Work effectively and cooperatively with all customers including staff, Commission members, Advisory Board, and agency partners.
Ability to: (Continued)

Serve as an effective leader, promoting personal responsibility, integrity and accountability.

Provide appropriate and effective written and verbal communication including preparation of the annual report of Emergency Dispatch services.

Create a positive and optimistic work environment, maintaining the self-confidence and self-esteem of others.

Analyze information, anticipate potential issues and trends and make decision based upon facts.

Perform customer needs assessments and benchmarking and evaluate the data collected.

Plan, direct and evaluate the work of staff engaged in all aspects of a consolidated emergency dispatch operation.

Establish and maintain an effective response system for ongoing internal/external customer feedback.

Experience and Training Guidelines:

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Five (5) years progressively responsible experience in an administrative managerial capacity, which includes experience in budget preparation and personnel administration, or any equivalent combination of experience and training which clearly demonstrates the ability to perform the typical tasks.

Training:

Bachelor's degree in public or business administration from an accredited college or university (qualifying experience may be substituted for college education on a year for year basis.)
License or Certificate:

Possession of, or the ability to obtain, an appropriate, valid California driver’s license.

WORKING CONDITIONS

Environmental Conditions:

Office and field environment; exposure to computers.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking, standing or sitting for prolonged periods of time using a personal computer and attending meetings.
MODESTO CITY COUNCIL
RESOLUTION No. 2004-585


WHEREAS, Resolution No. 2003-330 granted salary and benefit changes to Unrepresented Management and Confidential Employees including Charter Officers and Executives, effective June 26, 2003, and

WHEREAS, the City Council desires to amend Resolution No. 2003-330,

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


Exhibit "N" entitled "City of Modesto Class Range Table, Executive Management Effective July 1, 2003," attached to Resolution No. 2003-330, is hereby amended as shown on the amended Exhibit "A" entitled, “City of Modesto Class Range Table Executive Management Effective November 1, 2004,” which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit “A” establishes the Salary Range for Emergency Dispatch Director at Range 1417.

SECTION 2. EFFECTIVE DATE. The resolution shall become effective on and
after November 1, 2004.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Jackman, Keating, Marsh, O’Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Mayor Ridenour

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich

MICHAEL D. MILICH, City Attorney
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Exhibit 'A'
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-586

A RESOLUTION ALLOCATING A NEW POSITION TITLED EMERGENCY DISPATCH DIRECTOR TO THE POLICE DEPARTMENT.

WHEREAS, the City of Modesto and the County of Stanislaus have entered into a Joint Exercise of Powers Agreement (JPA), and

WHEREAS, this JPA provides for the sharing of cost for dispatch services between the City, County, and other participating agencies, and

WHEREAS, the JPA also calls for the hiring of an Emergency Dispatch Director to manage and lead a centralized emergency dispatch operation for the JPA, and

WHEREAS, the Emergency Dispatch Director will be an employee of the City of Modesto, and

WHEREAS, the JPA members will reimburse the City of Modesto for the salary and benefit costs associated with this position on a quarterly basis beginning January 15, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that the following position change is hereby approved in the Police Department: as follows:

Add one (1) full-time Emergency Dispatch Director position in the unclassified services at salary range of 1417, in organization 1901, effective November 1, 2004.

BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary allocation changes in coordination with the Personnel Department.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 3rd day of November, 2004, by Councilmember Jackman,
who moved its adoption, which motion being duly seconded by Councilmember
O‘Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Jackman, Keating, Marsh, O‘Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Mayor Ridenour

ATTEST:  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  
MICHAEL D. MILICH, City Attorney
RESOLUTION ACCEPTING THE WORK BY BARHAM, INC., FOR THE “MCKINNEY COLONY PARK” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $230,572.76 PER THE CONTRACT. TOTAL PROJECT COST IS $294,583.50.

WHEREAS, a report has been filed by the Public Works Director that the project titled “McKinney Colony Park” has been completed by Barham, Inc., in accordance with the contract agreement dated June 10, 2003.

NOW, THEREFORE, BE IT RESOLVED that the “McKinney Colony Park” project be accepted from said contractor, Barham, Inc., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $230,572.76 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: ____________________________
JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By ____________________________
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-588

A RESOLUTION REJECTING THE SOLE IRREGULAR BID OF $189,900 FROM JVD, INC., FOR THE PROJECT TITLED "ROTARY CENTENNIAL JUNCTION INFRASTRUCTURE," AND AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT AT A FUTURE DATE

WHEREAS, the sole bid received for “Rotary Centennial Junction Infrastructure Project” was opened at 11:00 a.m. on October 5, 2004, and

WHEREAS, during the bid evaluation process staff discovered a discrepancy between the unit cost and the total for a unit bid basis line item, and

WHEREAS, the City Attorney’s office determined that the existence of the irregularity in the bid made the bid unacceptable and also recommended that the project be rebid, and

WHEREAS, the Public Works Director also recommends that the bid be rejected and that staff be allowed to re-advertise the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bid received for the “Rotary Centennial Junction Project,” opened in the office of the City Clerk on October 5, 2004, is hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project at a future date.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Jackman, Keating, Marsh, O’Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Mayor Ridenour

ATTEST: [Signature]

JHAN ZAHN, City Clerk

APPROVED AS TO FORM:

By [Signature]

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-589

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(568). (ARCHITECTURE PLUS)

WHEREAS, a verified application for an amendment to Section 9-3-9 of the Zoning Map was filed by Architecture Plus on July 5, 2004, to reclassify from Professional Office Zone, P-O, to Planned Development Zone, P-D(568), to allow the creation of a parcel without street frontage in conjunction with development of previously-approved office buildings, property located on the north side of Sylvan Avenue west of Claremont Avenue, described as follows:

P-O to P-D(564)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, and being a portion of the Northeast Quarter of Section 9, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

All of Parcel 1 as shown in Book 49 of Parcel Maps, Page 46, Stanislaus County Records;

Also including the northerly half of Sylvan Avenue, being immediately adjacent to the above described property.

WHEREAS, after a public hearing held on September 20, 2004, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2004-57, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed rezoning will not result in any additional development beyond what has previously been approved for the site.
2. The proposed project is compatible with existing and potential surrounding development, because it consists of single-story offices that orient to Sylvan Avenue, a Principal Arterial street.

WHEREAS, said matter was set for a public hearing of the City Council to be held on November 3, 2004, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Architecture Plus for a Planned Development Zone should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2004-57 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3360-C.S. on the 3rd day of November, 2004, reclassifying the above-described property from Professional Office Zone, P-O, to Planned Development Zone, P-D(568).

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

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(568), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and floor plans titled "Proposed Development for 1001 Sylvan" as amended in red, stamped approved by the City Council on November 3, 2004.

2. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhood Director or designee. Screen landscaping shall be installed along the north and west
property lines. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

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

   a. Six-foot-high wood fence with decorative masonry pilasters at 16-foot on centers along the west property line adjacent to the professional office buildings.

   b. Six-foot-high, solid double-sided alternating board fence with decorative masonry pilasters at 16-foot on centers, or stucco wall with masonry pilasters at 16-foot on centers, or masonry wall along the entire north property line and along that portion of the west property line adjacent to the parking area.

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

5. Seven-foot street dedication, consistent with Standard Specifications, shall be made on Sylvan Avenue prior to occupancy or at any time requested by the City Engineer or designee to alleviate a health, safety, or traffic problem in the area.

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

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

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

9. Prior to the issuance of a building permit, the developer shall, in a manner approved by the City Attorney, provide a vehicular accessway for on-site traffic circulation for the benefit of the property to the east, substantially as shown in red on the plot plan.
10. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building & Development Services all fire hydrants as required by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures.

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

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

13. All signs shall comply with the sign requirements of the P-O Zone.

14. All conditions of Board of Zoning Adjustment Resolution No. 98-14 not in conflict with this action shall remain in full force and effect.

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

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

The following conditions of approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report:
17. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

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

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

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

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

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

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

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

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

b. An impact wrench or other tool or equipment powered by compressed air.
c. A hand-powered saw.

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

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

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

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

h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.
24. If archaeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archaeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K of the CEQA Guidelines.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(568):

The entire construction program be accomplished in one phase, construction to begin on or before November 3, 2006, and completion to be not later than November 3, 2007.

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

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

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(568), becomes effective.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Mayor Ridenour

ATTEST: 

JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:
By: 
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION
By: 
Community & Economic Development Department Planning Division
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-590

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING SECTION 9-3-9 OF THE ZONING MAP TO REZONE FROM PROFESSIONAL OFFICE ZONE, P-O, TO PLANNED DEVELOPMENT ZONE, P-D(568) PROPERTY LOCATED ON THE NORTH SIDE OF SYLVAN AVENUE WEST OF CLAREMONT AVENUE (ARCHITECTURE PLUS)

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

WHEREAS, Architecture Plus has proposed that the zoning designation for property located on the north side of Sylvan Avenue west of Claremont Avenue be amended to rezone from Professional Office Zone, P-O, to Planned Development Zone, P-D(568), in the City of Modesto ("the project") to allow the creation of a parcel without street frontage in conjunction with development of previously-approved office buildings, 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 2004-52 ("Initial Study") reviewed
the proposed amendment to the Zoning Map and rezone to P-D(568) project to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new or additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on October 14, 2004, the City caused to be published a 10-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 November 3, 2004, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to the Zoning Map and rezone to P-D(568) project, 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 3rd day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Jackman, Keating, Marsh, O’Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Mayor Ridenour

ATTEST: ________________________

JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ____________________________

MICHAEL D. MILICH, City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2004-52
Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. (2004-52)

For the proposed:

Rezoning from P-O to P-D, 1001 Sylvan Avenue

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

September 1, 2004
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 P-D (Eastgate Center) is “within the scope” of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

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

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

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

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

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

II. PROJECT DESCRIPTION

A. Title: Rezone P-O to P-D, 1001 Sylvan.

B. Address or Location: 1001 Sylvan Avenue.

C. Applicant: Architecture Plus, 1207 Thirteenth Street, Suite 6, Modesto, CA 95354

D. City Contact Person: Josh Bridegroom
   Project Manager: Josh Bridegroom
   Department: Community and Economic Development Department
   Phone Number: (209) 571-5540
   E-mail address: jbridegroom@modestogov.com

E. Current General Plan Designation(s): Mixed Use (MU)

F. Current Zoning Classification(s): Professional Office (P-O) Zone

G. Surrounding Land Uses: North: Single family residences
   South: Single-family residences on south side of Sylvan Avenue
   East: Offices
   West: Single family residences
H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

This is miscellaneous land use project as defined by Section II.C of the MEIR. This is an application to rezone a 1.15-acre parcel from Professional Office (P-O) Zone to Planned Development (P-D) Zone to allow a parcel split which would result in the creation of a parcel without street frontage, in conjunction with development of previously-approved office buildings. The office buildings are single-story, and total 10,976 square feet. They will be accessed via an existing driveway that will be shared with the existing office development to the east.

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

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

A. __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:

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

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

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

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

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

B. __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:

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

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

3. 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.

C. **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:

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

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

3. 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.

**Steve Mitchell**
Project Manager

**Principal Planner**
Title

**9/11/04**
Date
D. 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.

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

(b) 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.

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

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan 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 IV, Mitigation Measures Applied to Project.

Discussion:

No Traffic and Circulation mitigation measures are appropriate to the project. The project will pay its fair share for Citywide traffic mitigation measures by paying the City’s Capital Facilities Fees, which is a Citywide financing mechanism to pay for Traffic and Circulation mitigation measures identified in the Master EIR.

c. Project-Specific Effects

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

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

YES NO

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

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

YES NO

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

(3) Result in inadequate emergency access.
(4) Result in inadequate parking capacity.

Discussion:

(1) The Institute of Traffic Engineers (ITE) Manual specifies a P.M. Peak Hour Trip Generation rate of 3.72 trips per 1,000 square feet of medical/dental offices. Using this rate, the 10,976 square feet of offices proposed by this development would generate 41 peak-hour trips, well below the 100 peak-hour threshold for additional study.

(2) The project does not substantially increase hazards due to the fact that it will use an existing driveway, and thereby will not introduce a new access point onto public streets.

(3) The project meets the City’s Standards with regard to the maneuverability of emergency vehicles, and therefore will provide adequate emergency access.

(4) The project will provide 71 parking spaces, well in excess of the minimum 55 spaces that the Modesto Municipal Code requires, so the project will have ample parking capacity.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

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

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

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

These are also cumulative impacts on air quality.

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

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

Discussion:

Air Quality mitigation measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(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.</td>
<td>☐ ☒</td>
</tr>
<tr>
<td>(2) The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.</td>
<td>☐ ☒</td>
</tr>
<tr>
<td>(3) The project does not comply with the air quality policies of the Modesto Urban Area General Plan.</td>
<td>☐ ☒</td>
</tr>
<tr>
<td>(4) The project would expose sensitive receptors to substantial pollutant concentrations.</td>
<td>☐ ☒</td>
</tr>
<tr>
<td>(5) The project would create objectionable odors affecting a substantial number of people.</td>
<td>☐ ☒</td>
</tr>
</tbody>
</table>

Discussion:

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

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

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

(4) The project will not generate substantial pollutant concentrations because of the small size (10,900 square feet) of the project, and because the traffic impacts are within the scope of the MEIR. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measures listed above.

(5) As the project is medical and professional offices, it should not produce objectionable odors.

3. **NOISE**

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

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:
Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City's Noise Significance Standards (see Table 3-3 MEIR).

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

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

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

Discussion:

Noise mitigation measures appropriate to this project include: N-4, N-5 and N-6

c. Project-Specific Effects

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

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

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

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

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

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

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 measures pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

Discussion:

There are no Agricultural Land mitigation measures applicable to this project.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>(1)</td>
<td>The project is inconsistent with the Modesto Urban Area General Plan.</td>
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</table>
The project will directly result in the development of land outside the March 2003 planning area boundaries.

The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.

The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.

Discussion:

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

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

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

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

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

Discussion:

There are no Water Supply mitigation measure applicable to this project.

c. **Project-Specific Effects**

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

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

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</table>

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

(2) Sufficient water supplies are available to serve the proposed development.

6. **SANITARY SEWER SERVICES**

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

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

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

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

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

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

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

**Discussion:**

There are no Sewer Service mitigation measure applicable to this project.

**c. Project-Specific Effects**

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

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

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**Discussion:**

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

(2) Sufficient sewer capacity is available to serve the proposed development.
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 IV, Mitigation Measures Applied to Project:

Discussion:

There are no Wildlife and Plant Habitat mitigation measure applicable to this project. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

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

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

YES NO

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

(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) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

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

8. **ARCHAEOLOGICAL OR HISTORICAL SITES**

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

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

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

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

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

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

Archaeological or Historical mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-8-13 and V-8-14 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

**Discussion:**

Archaeological and Historic mitigation measures applicable to this project include: AH-8.

c. **Project-Specific Effects**

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

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

(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. ☐ ☒

Discussion:

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

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

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

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

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

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

Storm Drainage mitigation measures 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 IV, Mitigation Measures Applied to Project:

Discussion:

Storm Drainage mitigation measures appropriate to this project include: SD-7. This mitigation measure is addressed by condition of approval no. 12.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>☒</td>
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</tr>
<tr>
<td>(2) The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site.</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>(3) Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

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

(2) The project proposes to increase the impervious surface. However, it will be designed to meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City and applied to the project as a Mitigation Measure. With the application of the appropriate mitigation, the effect will be less than significant.

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

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

Discussion:

Flooding and Water Quality mitigation measures appropriate to this project include: FWQ-14. This is addressed by condition of approval no. 12.

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:

YES NO

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

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

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

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

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

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

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

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

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

**Discussion:**

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

c. **Project-Specific Effects**

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

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

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<th>YES</th>
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</table>

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

**Discussion:**

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

12. **SCHOOLS**

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

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

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

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

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

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

Discussion:

There are no mitigation measure applicable to this project. The project will pay applicable schools fees as provided under state law.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>□</td>
</tr>
<tr>
<td>(2) The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.</td>
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Discussion:

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

(2) The project will pay any schools fees applicable under SB 50.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

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

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less-than-significant.
Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

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

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

Discussion:

No Police Services mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

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

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

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

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

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

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

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:

No Fire Services mitigation measures are applicable to this project.

c. Project-Specific Effects

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

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-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) The project is consistent with the General Plan in both land use and intensity.

(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. The project meets City Standards for emergency services access.
15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

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

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

Discussion:

No Solid Waste mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

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

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

(2) The existing disposal systems have adequate capacity to serve the project.
16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

Discussion:

No Hazardous Materials mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

1. The project is inconsistent with the Modesto Urban Area General Plan.
2. The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.
3. The project contains a contaminated site not identified as of March 2003.

City of Modesto Finding of Conformance
General Plan Master EIR 26
Initial Study
EA/C&ED No. 2004-52
September 1, 2004
(4) The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

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

Discussion:

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

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.

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

(4) The project is not located within a ¼ mile of any existing school.

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

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

Discussion:

No Landslide and Seismic Activity mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

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

Discussion:

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

18. ENERGY

a. Significant Effects Identified in the Master EIR

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

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

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

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

Discussion:

No Energy mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

YES NO

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

Discussion:

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

19. PLANNING AND LAND USE

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

a. Project-Specific Effects

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

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. ☐ ☒
The project includes a substantive amendment to the Modesto Urban Area General Plan. □ X

The project would physically divide an established community □ □

Discussion:

1. The project is consistent with the General Plan in both land use and intensity.
2. No amendment to the General Plan is required by this project.
3. The project will be located immediately adjacent to existing offices, and is currently zoned to allow offices. Further, it is located on a principal arterial street, and does not separate existing residential neighborhoods.

20. AESTHETICS

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

a. Project-Specific Effects

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

YES NO

1. The project is inconsistent with the Modesto Urban Area General Plan. □ □
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. The project is consistent with the General Plan in both land use and intensity.
2. There are no scenic vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.
3. The project would not substantially degrade the existing visual character or quality of the project site and its surroundings. The new office buildings are single-story, and design of the buildings is...
residential in character, to complement the existing adjacent residential areas. The project will be made to meet City Standards for setbacks from public streets and landscaping.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area, as all parking area lighting will be required to be shielded from adjacent residential areas.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

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

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

Traffic and Circulation Measures:

No Traffic and Circulation Measures have been identified as appropriate for the project.

Air Quality Measures:

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

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

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

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

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

**Noise Measures:**

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

   The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):
   
   a. A hammer, or any other device or implement used to pound or strike an object.
   
   b. An impact wrench, or other tool or equipment powered by compressed air.
   
   c. A hand-powered saw.
   
   d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
   
   e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
   
   f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
   
   g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.
   
   h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers’ recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.
2. Construction equipment and vehicles shall be equipped with properly operating mufflers according to the manufacturer’s recommendations. Air compressors and pneumatic equipment shall be equipped with mufflers and impact tools shall be equipped with shrouds or shields.

**Agricultural Land Measures:**

No Agricultural Land Measures have been identified as appropriate for the project.

**Water Supply Measures:**

No Water Supply Measures have been identified as appropriate for the project.

**Sanitary Sewer Service Measures:**

No Sanitary Sewer Service Measures have been identified as appropriate for the project.

**Sensitive Wildlife and Plant Habitat Measures:**

No Sensitive Wildlife and Plant Habitat Measures have been identified as appropriate for the project.

**Archaeological or Historic Sites Measures:**

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

**Storm Drainage Measures:**

Addressed by condition of approval no. 12.

**Flooding and Water Quality Measures:**

Addressed by condition of approval no. 12.

**Parks and Open Space Measures:**

No Parks and Open Space Measures have been identified as appropriate for the project.

**Schools Measures:**

No Schools Measures have been identified as appropriate for the project.

**Police Services Measures:**

No Police Services Measures have been identified as appropriate for the project.

**Fire Services Measures:**
No Fire Services Measures have been identified as appropriate for the project.

**Generation of Solid Waste**
No Solid Waste Measures have been identified as appropriate for the project.

**Generation of Hazardous Materials**
No Hazardous Materials Measures have been identified as appropriate for the project.

**Potential for Landslides and Seismic Activity Measures**
No Landslides and Seismic Activity Measures have been identified as appropriate for the project.

**Energy Measures**
No Energy Measures have been identified as appropriate for the project.

**Planning and Land Use Measures**
No Planning and Land Use Measures have been identified as appropriate for the project.

**Aesthetics Measures**
No Aesthetics Measures have been identified as appropriate for the project.
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-591

A RESOLUTION APPOINTING MEMBERS TO THE PLANNING COMMISSION

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

WHEREAS, the Economic Development Committee met on October 27, 2004, and recommended appointment of MARY ARIAS and F. TOM BERGLUND to the Planning Commission.

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

SECTION 1. MARY ARIAS, is hereby appointed to the Planning Commission with a term expiration of January 1, 2007.

SECTION 2. F. TOM BERGLUND is hereby appointed to the Planning Commission commencing January 1, 2005, with a term expiration of January 1, 2009.

SECTION 3. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed members of the Planning Commission, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

APPROVED AS TO FORM

Michael D. Milich, City Attorney
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
DECLARING THE OFFICIAL INTENT OF THE CITY TO BE REIMBURSED
FOR CERTAIN CAPITAL EXPENDITURES FROM THE PROCEEDS OF
INDEBTEDNESS

(Village One Project)

WHEREAS, this City intends to acquire and construct certain capital facilities
(collectively, the "Village One Project") authorized to be financed for its Community
Facilities District No. 2004-1 (Village One #2) under proceedings being conducted
pursuant to this Council’s Resolution Nos. 2004-127 and -128, each adopted on March 2,
2004, and

WHEREAS, the City has paid, and will pay on or after the date hereof certain
capital expenditures (the "Expenditures") in connection with the Village One Project
prior to the issuance of one or more series of tax-exempt bonds or other forms of
indebtedness (the "Indebtedness"), in the principal amount of not to exceed $75,000,000,
for the purpose of financing the Village One Project, and

WHEREAS, the City reasonably expects that it will be reimbursed for the
Expenditures from the proceeds of the Indebtedness, and

WHEREAS, Section 1.150-2 of the Treasury Regulations requires the City to
declare its reasonable official intent to be reimbursed for prior capital expenditures made
for the Village One Project with proceeds of the Indebtedness,

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The City declares its official intent to use proceeds of the
Indebtedness to reimburse itself for Expenditures paid on or after the date which is no
more than 60 days prior to the date hereof. This declaration is made solely for the
purpose of establishing compliance with the requirements of Section 1.150-2 of the Treasury Regulations, and does not bind the City to make any expenditure, incur any indebtedness, or proceed with the Village One Project.

SECTION 3. The City will make a reimbursement allocation, which is a written allocation by the City that evidences the City’s use of proceeds of the Indebtedness to reimburse itself for an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the facility with respect to which such Expenditure relates is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid.

SECTION 4. The City recognizes that exceptions are also available under the Treasury Regulations for certain “preliminary expenditures,” costs of issuance, certain *de minimis* amounts, expenditures by “small issuers” (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least 5 years.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmember: Hawn, Jackman, Keating, O’Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Marsh, Mayor Ridenour

ATTEST: [Signature]
JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-593

A RESOLUTION APPROVING AN AGREEMENT AMENDING THE DESIGN SERVICE CONTRACT WITH O’DELL ENGINEERING TO INCREASE THE CONTRACT AMOUNT FROM $190,700 TO $207,580 WITH AN ADDITIONAL $5,000 CONTINGENCY AND AUTHORIZING THE COMMUNITY FACILITIES DISTRICT ADMINISTRATOR TO EXECUTE SAID AMENDMENT.

WHEREAS, on March 16, 2004, the Village One Community Facilities District (CFD #1996-1) retained O’Dell Engineering to design the necessary road improvements along Floyd Ave. between Oakdale Rd. and Roselle Ave., and

WHEREAS, it is necessary that O’Dell Engineering perform additional tasks that were not included in the original scope of work, and the total cost proposal for these additional items is $16,880, and

WHEREAS, in order to complete the design of the Floyd Ave. improvement project, an amendment to the design service contract with O’Dell Engineering to increase the fee from $190,700 to $207,580, with an additional $5,000 contingency is necessary,

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves an amendment to the design service contract with O’Dell Engineering to increase the contract amount from $190,700.00 to $207,580.00 with an additional $5,000 contingency.

BE IT FURTHER RESOLVED that the Council hereby authorizes the District Administrator, or his designee, to execute said amendment to agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: 

JEAN ZAHN,
City Clerk

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR HYDROCHLORIC ACID TO REAGENT CHEMICAL OF APPLEGATE, CA. FOR AN INITIAL ONE-YEAR PERIOD, WITH THREE (3) ONE-YEAR CONTRACT EXTENSION OPTIONS FOR A TOTAL ESTIMATED ANNUAL COST OF $31,625

WHEREAS, the Public Works Department-Water Quality Control (WQC) has requested the purchase of hydrochloric acid, and

WHEREAS, by Resolution No. 2004-436, the City Council authorized the Purchasing Supervisor to solicit Request for Bids (RFB) for hydrochloric acid, and

WHEREAS, hydrochloric acid (HCL) is used during the river discharge season from October 1st through May 31. This product is utilized at the Jennings Road facility for pH adjustment as required in the City’s NPDES permit, and

WHEREAS, the Jennings Road facility, located at 7007 Jennings Road, borders the San Joaquin River. The plant was constructed in 1965, and in 2002 the HCL system was installed due to change in NPDES permit requirements, and

WHEREAS, the system includes a 10,000 gallon storage tank and 2-75 gph feed pumps, and

WHEREAS, the hydrochloric acid is delivered by tanker truck with a maximum load capacity of 4,000 gallons per delivery, and

WHEREAS, the City Council has appropriated $210,149.00 in account number 6210-480-5214-0312 for hydrochloric acid, and

WHEREAS, the Purchasing Division solicited formal bids for hydrochloric acid on RFB 0405-06, and

WHEREAS, out of nine (9) vendors solicited, three (3) responded to the RFB, and
WHEREAS, one of the bids was deemed to be non-responsive because the bidder did not provide two signed original bid documents as required, and

WHEREAS, based on bids received, Reagent Chemical of Applegate, CA. is the lowest responsive and responsible bidder for hydrochloric acid,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for hydrochloric acid to Reagent Chemical of Applegate, CA. for an initial one-year period, with three (3) one-year contract extension options, for an estimated annual cost of $31,625.00.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a contract not to exceed $31,625 to Reagent Chemical of Applegate, CA. for an initial one-year period, with three (3) one-year contract extensions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:
By: Michael D. Milich, City Attorney

11/09/04/Finance/T Reddie/Item 10 2 2004-594
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-595

A RESOLUTION APPROVING A GRANT APPLICATION FOR $10,000 IN FUNDING FROM THE STANISLAUS COUNTY CHILDREN AND FAMILIES COMMISSION (PROPOSITION 10) FOR PLAYGROUND EQUIPMENT AT MANCINI PARK, A PART OF THE TUOLUMNE RIVER REGIONAL PARK, AND AUTHORIZING THE ACTING CITY MANAGER TO SIGN THE GRANT APPLICATION.

WHEREAS, Parks, Recreation and Neighborhoods Department staff has been notified of the opportunity to apply for Stanislaus County Children and Families Commission (Proposition 10) funding, and

WHEREAS, the intent of this program is to address the health, safety, children developing in emotionally supportive environments, quality child care and school readiness, and

WHEREAS, this program will provide Mini-Grant funds to support community-based activities that support children 0 through 5 years old, and

WHEREAS, staff is recommending submission of an application for construction of a “tot lot” at Mancini Park, which is a part of the Tuolumne River Regional Park, to include installation of ADA accessible play equipment, scaled and designed for children ages 2 to 5 years,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the filing of an Application for $10,000 in Proposition 10 funds from the Stanislaus County Children and Families Commission for construction of a “tot lot” at Mancini Park, which is a part of the Tuolumne River Regional Park.

BE IT FURTHER RESOLVED that the City Council hereby authorizes the Acting City Manager or his designee to execute the grant application.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: ____________________________
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: _______________________________
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-596

A RESOLUTION APPROVING ALLOCATION OF $15,000 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING TO COMMUNITY HOUSING AND SHELTER SERVICES TO PROVIDE MOTEL VOUCHERS FOR HOMELESS FAMILIES DURING THE WINTER SEASON, APPROVING $2000 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING TO INTER-FAITH MINISTRIES FOR THE OPERATION AND PROVISION OF A WINTER SHELTER FOR HOMELESS FAMILIES, AND APPROVING $43,884 IN EMERGENCY SHELTER GRANT (ESG) FUNDING AND $23,103 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING TO THE SALVATION ARMY FOR THE OPERATION AND PROVISION OF A WINTER SHELTER FOR THE HOMELESS, FOR FISCAL YEAR 2004-2005, AND AUTHORIZING THE ACTING CITY MANAGER OR HIS DESIGNEE TO SIGN AND EXECUTE THE AGREEMENTS.

WHEREAS, the City of Modesto receives annual entitlements from the Department of Housing and Urban Development (HUD) based on population size, number of households living below poverty level and number of sub-standard housing units; up to fifteen percent of the Community Development Block Grant (CDBG) entitlement amount for the year, plus up to fifteen percent of the previous year’s program income, may be programmed for public service activities, as defined in the regulations, and

WHEREAS, for fiscal year 2004-2005, 15% of the CDBG entitlement and program income is $458,100, 15% of the prior year program income from the Revolving Loan Fund is $110,000, and ESG entitlement for fiscal year 2004-2005 is $105,715, and

WHEREAS, on April 6, 2004, the City Council by Resolution 2004-211 approved the allocation of Community Development Block Grant (CDBG) funds of $308,100 for public services and $109,443 for services for the homeless, and Emergency Shelter Grant
(ESG) funds of $61,831, and authorized staff to release a Request for Proposal (RFP) for a Winter Shelter for the remaining $43,884 of ESG funds, and

WHEREAS, an additional $40,103 was allocated from the CDBG program income and Revolving Loan Fund program income, providing a total of $83,987 for the Winter Shelter RFP for fiscal year 2004-2005, and

WHEREAS, staff issued the RFP on September 13, 2004, with a proposal due date of October 8, 2004; in response to the RFP, proposals were received from The Salvation Army, Community Housing and Shelter Services and Inter-Faith Ministries, and

WHEREAS, a proposal review committee, consisting of one Council member, Parks, Recreation and Neighborhoods Department staff, three members of the Citizens Housing and Community Development Committee (CH&CDC), and a representative from the City’s Fire Department, evaluated the proposals received and provided funding recommendations to the CH&CDC as follows,

- Community Housing and Shelter Services, Winter Shelter for Homeless 04-05, $15,000 in CDBG funding to provide motel vouchers for homeless families, for the period of November 1, 2004 through April 30, 2005,

- Inter-Faith Ministries for the Santa Fe Project Winter Shelter for Homeless Families, $2,000 in CDBG funds. This program has been previously funded with CDBG funds to pay the rent of the units to be utilized by homeless families, and

- The Salvation Army, Emergency Winter Shelter, $23,103 in CDBG funding and 43,884 in ESG funding to provide for the operational costs of a 100-bed congregate shelter site located at 320 Ninth Street, Modesto. Single (male and female) homeless adults over the age of 18 will be the target population to be served from the period of November 1, 2004 through April 30, 2005,
WHEREAS, the reasons for the funding recommendations are:

- Community Housing and Shelter Services is proposing to serve homeless families. The funds will cover five motel rooms and the committee agreed that the vouchers could be used only at the Travelodge Motel on Kansas Avenue,

- Inter-Faith Ministries is proposing to serve only homeless families,

- The Salvation Army is proposing to serve single homeless adults. There is currently one shelter option within the City for single adults, and this will provide additional shelter beds for this population, which is greatly needed;

and

WHEREAS, there is a tremendous need for additional emergency shelter beds in our community; the most recent Continuum of Care Plan for Stanislaus County estimates that the unmet need for emergency shelter beds county-wide is 458 beds for individuals and 340 beds for families with children; at a minimum, half of this need is in the City of Modesto, where most of the County’s population resides, and

WHEREAS, the Citizens Housing and Community Development Committee met on October 22, 2004, and accepted the review committee’s recommendations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the allocation of $15,000 in Community Development Block Grant (CDBG) funding to Community Housing and Shelter Services to provide motel vouchers for homeless families during the winter season.

BE IT FURTHER RESOLVED that the Council hereby approves the allocation of $2,000 in Community Development Block Grant (CDBG) funding to Inter-Faith Ministries for the operation and provision of a winter shelter for homeless families.
BE IT FURTHER RESOLVED that the Council hereby approves the allocation $43,884 in Emergency Shelter Grant (ESG) funding and $23,103 in Community Development Block Grant (CDBG) funding to The Salvation Army for the operation and provision of a winter shelter for the homeless.

BE IT FURTHER RESOLVED that the Acting City Manager or his authorized designee is hereby authorized to execute the necessary documents with respect to implementation of the allocation of Fiscal Year 2004-2005 CDBG Public Service Grant funding and ESG funding to the Community Housing and Shelter Services, Inter-Faith Ministries, and The Salvation Army.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest:  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:  
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-597

WAS NOT USED
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-598

WAS NOT USED
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-599


WHEREAS, the Federal Government has made funding available through the Federal Highways Administration and the California Transportation Commission to the regionally designated agencies for project selection and programming of the Transportation Equity Act For The 21st Century (Tea-21), which provides funds to the State of California for the Transportation Enhancement grants to eligible applicants, and

WHEREAS, the Stanislaus Council of Governments (Stan COG) was designated as the regional agency for the administration of the Transportation Enhancement Program, and

WHEREAS, development of the Virginia Avenue Corridor Trail Project (the “Project”) is consistent with the Transportation Enhancement Program under (TEA-21), and

WHEREAS, said procedures established by the California Transportation Commission require the applicant’s governing body to certify by resolution the approval of the applicants before submission of said application to the State, and

WHEREAS, the applicant will enter into a contract with the State of California for the Project,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby:

1. Approves the filing of an application for up to $940,000 in local assistance funds from the Transportation Enhancements project through the Transportation Equity Act for the 21st Century (TEA-21); and

2. Certifies that the applicant has or will have sufficient funds to operate and maintain the Project; and

3. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and

4. Authorizes the Acting City Manager, or his designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, payment requests and so on, which may be necessary for the completion of the Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: Jean Zahm, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION APPROVING A TWO-YEAR LEASE AGREEMENT BETWEEN TOM AND STACY ANNE SAUREY AND THE CITY OF MODEST FOR THE LEASE OF PROPERTY LOCATED AT THE SOUTHWEST CORNER OF N WASHINGTON STREET AND LAUREL STREET FOR TEMPORARY PARKING AND STORAGE AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE LEASE AGREEMENT.

WHEREAS, a majority of the funding for a new Bus Maintenance Facility at the Corporation Yard has been received, and

WHEREAS, demolition to remove existing structures in support of the Bus Maintenance Facility project was completed in September of 2004, and

WHEREAS, construction for the Bus Maintenance Facility project is anticipated to begin in spring of 2005, and

WHEREAS, during the construction phase of the Bus Maintenance Facility project existing City equipment and employee parking will be displaced, and

WHEREAS, staff has negotiated with the owner of property located at the southwest corner of N Washington Street and Laurel Street (the “property”) for a temporary lease of said property to be used to support parking and temporary storage needs associated with the Bus Maintenance Facility project, and

WHEREAS, the property is located within close proximity to the Corporation Yard and the Bus Maintenance Facility, and

WHEREAS, the property is located in the Downtown Improvement District where temporary parking is permitted, and

WHEREAS, the property has been used for parking in the past, and
WHEREAS, the property owners, Tom and Stacy Anne Saurey, are willing to lease the property to the City for $700 per month plus an initial $700 security deposit, and

WHEREAS, the proposed lease is for a period of two years commencing on December 1, 2004,

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the Lease Agreement between Tom and Stacy Anne Saurey and the City of Modesto for temporary parking and storage on property located at the Southwest Corner of Washington and Laurel Streets for a period of two years commencing on December 1, 2004.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr, City Clerk

(S seal)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION APPROVING AN AGREEMENT IN THE AMOUNT OF $200,000 WITH KAISER FOUNDATION HOSPITALS FOR PARTIAL FUNDING OF A FULL-TIME, LIMITED TERM PROJECT MANAGER TO ACT AS A LIAISON BETWEEN THE CITY AND KAISER AND OVERSEE DEVELOPMENT OF THE KAISER FACILITY PROJECT AND AUTHORIZING THE ACTING CITY MANAGER TO SIGN THE AGREEMENT.

WHEREAS, Council approved development of a state-of-the-art Kaiser Medical Center (the “Project”) campus to be located at the southeast corner of Dale Road and the future Healthcare Way, and

WHEREAS, the Project will be constructed in phases and includes installation of substantial on-site and off-site public infrastructure to both serve the Project and to mitigate impacts of the Project, and

WHEREAS, construction for the Project will require significant oversight and coordination between Kaiser, the City and other public agencies in order to ensure timely completion of initial project phases, and

WHEREAS, the City and Kaiser have agreed to jointly fund a full-time, limited term project manager to serve as a liaison between the City and Kaiser, and

WHEREAS, this project manager would provide oversight and construction management for the public infrastructure associated with the Project, as well as assist in obtaining permits and approvals from other agencies, and

WHEREAS, Kaiser agrees to pay $200,000 to fund the project manager position, which represents sixty percent (60%) of the salary, benefits and associated costs for a Senior Civil Engineer for a term of three (3) years, and
WHEREAS, Kaiser’s share of these costs will be paid up front (within 10 days of agreement execution), and

WHEREAS, the remaining funding for the position ($80,000) will be provided by Capital Facility Fees associated with infrastructure improvements needed for construction of the project, and

WHEREAS, the City has the option to terminate the agreement on July 1 of any fiscal year during which the agreement is in effect, should the City determine insufficient funds are available to continue the City’s support for the proposed position, and

WHEREAS, the Finance Committee considered the limited term position at its September 27, 2004 meeting and recommended approval to the Council,

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the Agreement between Kaiser and the City of Modesto in the amount of $200,000 for partially funding a full-time, limited term Project Manager for a period of three years commencing on November 19, 2004.

BE IT FURTHER RESOLVED that the Acting 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 9th day of November, 2004, by Councilmember Jackman,
who moved its adoption, which motion being duly seconded by Councilmember
O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By 

MICHAEL D. MILICH, City Attorney
RESOLUTION INCREASING THE DIRECTOR OF PUBLIC WORKS’ AUTHORITY TO ISSUE CHANGE ORDERS ON THE “USTACH NEIGHBORHOOD PARK” PROJECT FROM 8 PERCENT ($83,112.00) TO 8.5 PERCENT ($88,306.50) OF THE ORIGINAL CONTRACT PRICE WITH GOODLAND LANDSCAPE COMPANY, INC.

WHEREAS, on June 24, 2003, the City Council awarded a $1,038,900 contract to Goodland Landscape Company, Inc., to construct the “Ustach Neighborhood Park” project, and

WHEREAS, the contractor started work on August 25, 2003, and

WHEREAS, during the course of construction the Contractor was required to perform extra work not anticipated or included in the original contract, and

WHEREAS, the cost of the extra work is estimated to be as high as $88,306.50, an amount which exceeds the Director’s authority for the project as established by the Council’s Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of 8 percent of the original contract price, which amounts to $83,112.00 on a project this size,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Director of Public Works’ authority to issue change orders from 8 percent ($83,112.00) to 8.5 percent ($88,306.50) for the project entitled “Ustach Neighborhood Park.”
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 9\textsuperscript{th} day of November, 2004, by Councilmember Jackman,
who moved its adoption, which motion being duly seconded by Councilmember
O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

**AYES:** Councilmembers: Hawn, Jackman, Keating, Marsh, O'Bryant,
Mayor Ridenour

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: Dunbar

ATTEST: Jean Zahr

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-603

A RESOLUTION INCREASING THE DIRECTOR OF PUBLIC WORKS' AUTHORITY TO ISSUE CHANGE ORDERS ON THE "CENTRE PLAZA ELEVATOR EXTENSION" PROJECT FROM $41,000 TO $45,000.

WHEREAS, on February 24, 2004, the City Council awarded a $232,900 contract to TCB Industrial, Inc., to construct the "Centre Plaza Elevator Extension" project, and

WHEREAS, the contractor started work on March 29, 2004, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of a useable elevator that conforms to code requirements, and

WHEREAS, the cost of the extra work was estimated to be as high as $41,000, an amount which exceeded the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Council by Resolution No. 2004-445 increased the Director of Public Works' authority to approve change orders up to a cumulative amount of $41,000, and

WHEREAS, additional work needed to be performed that was not included in the previous estimate for the project, and

WHEREAS, the total cost of the extra work is estimated to be as high as $45,000, which will exceed the previously approved Director's Authority increase to $41,000,
NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director’s authority level to issue change orders from $41,000 to $45,000 for the project entitled “Centre Plaza Elevator Extension.”

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Jackman, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Hawn

ATTEST:  

JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  

MICHAEL D. MILICH, City Attorney

11/09/04/Public Works/T. Parmen/Item 17 2004-603
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-604

A RESOLUTION ACCEPTING IMPROVEMENTS IN THE MIRA LOMA SUBDIVISION AND AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION AND AUTHORIZING RELEASE OF BONDS

WHEREAS, RIDGE SUTTER, a married man as his sole and separate property, is the subdivider of MIRA LOMA SUDIVISION ("SUBDIVISION"), and

WHEREAS, RIDGE SUTTER, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $309,350.00 and $154,675.00, respectively, and

WHEREAS, RIDGE SUTTER, has filed a warranty letter of credit in the amount of $30,935.00 to guarantee improvements in the Mira Lorna Subdivision, and

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

WHEREAS, the City Engineer has indicated that it would be in order for the City Council to accept the improvements in said subdivision as complete, and authorize the City Clerk to file a Notice of Completion and release the bonds upon expiration of the statutory periods,

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

1. The improvements in the Mira Loma Subdivision are hereby accepted and the City Clerk is hereby authorized to record a Notice of Completion for the improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $309,350.00 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $154,675.00 sixty (60) days after the recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty letter of credit to guarantee improvements in the amount of $30,935.00 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr

APPROVED AS TO FORM:

By Alisson Barrett-Green

ALISON BARRATT-GREEN, City Attorney
A RESOLUTION APPROVING THE EXPENDITURE OF THE STATE OF CALIFORNIA SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND GRANT MONIES ALLOCATED TO THE CITY OF MODESTO IN THE 2004/2005 FISCAL YEAR

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 2004/2005 is $302,843, 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 overtime in patrol operations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, after holding a public hearing, that it hereby approves the Chief of Police’s spending plan for the 2004/2005 State Supplemental Law Enforcement Services Fund allocation of $302,843 for overtime in patrol operations.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2004, by Councilmember O’Bryant, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: 
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney
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 2004/2005 is $302,843, and

WHEREAS, the Modesto Police Department plans to budget these funds for overtime in patrol operations, and

WHEREAS, the adopted 2004/2005 Police Overtime budget is $2,288,914 and it will be increased to $2,591,757 with these funds,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto, after holding a public hearing, that it amends the 2004/2005
budget to appropriate revenues and expenses to move all SLESF functions from Fund 0400 to the General Fund except overtime and to use the 2004 SLESF revenues for overtime only.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2004, by Councilmember O’Bryant, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: ___________________________
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ____________________________
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-606

A RESOLUTION APPROVING A REFUND TO HABITAT FOR HUMANITY, STANISLAUS, FOR CAPITAL FACILITIES FEES (CFF) PAID ON PROPERTIES LOCATED AT 1308, 1312 AND 1320 DAN WEST COURT, MODESTO, AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE CFF REFUND AGREEMENTS WITH HABITAT FOR HUMANITY, STANISLAUS, AND TO EXECUTE A CFF EXEMPTION AGREEMENT WITH EACH OF THE THREE OWNERS OF THESE PROPERTIES.

WHEREAS, On September 21, 2004, Anita Hellam, Executive Director of the Habitat for Humanity, Stanislaus, local chapter, submitted a letter requesting a refund for $11,457 in Capital Facilities Fees (CFF) fees already paid on three properties on Dan West Court located in the Modesto City Limits, and

WHEREAS, Habitat for Humanity (Habitat) is a non-profit organization created in 1976; through volunteer labor and donations of money and materials, Habitat for Humanity builds and rehabilitates simple, decent houses with the help of the homeowner (partner) families, and

WHEREAS, Habitat for Humanity’s houses are sold to partner families at no profit, financed with affordable, no-interest loans; the loan payments are based on what is affordable to the families; the homeowners' monthly mortgage payments are used to build more houses by Habitat for Humanity; and, in essence, Habitat for Humanity creates affordable houses for low-income households, and

WHEREAS, Habitat for Humanity completed two of the three homes on Dan West Court in 1998 and the third home in 2000, but Habitat is requesting the refunds at this time, after completing all the paperwork on this project, and
WHEREAS, in 1997, by Resolution 97-148, the City Council approved Habitat’s request for the deferral of Capital Facilities Fees at the time the building permits were issued; however, Habitat did not complete the paperwork for the CFF exemption to transfer to the low-income buyers upon completion of the homes, and therefore, Habitat had to pay $3,819 per home to obtain the occupancy permits for the completed homes, and

WHEREAS, under the current CFF policy, the homeowners at 1308, 1312 and 1320 Dan West Court are eligible for CFF exemptions based on household income level and family size, the income is based on the household income at the time the families moved into the completed homes, and the CFF exemption will be based on ten years of residency from the date of move in, and

WHEREAS, City development fees as determined by the City, in its Housing Element and Consolidated Plan, often serve as barriers to quality housing for working families; the City is interested in further housing opportunities to all segments of our community and has adopted an exemption and deferral policy for housing units dedicated to low-income households; and, the creation of affordable housing has been established as a high priority by the Department of Housing and Urban Development, and

WHEREAS, although Habitat for Humanity is aware that they should have completed the paperwork for the exemption of the fees prior to the completion of the homes, they have now completed the required documentation to have the fees assumed by the eligible households, and

WHEREAS, there is a need for the creation of affordable housing in the Modesto community, and the refund will be done in an effort to assist Habitat for Humanity and
their partner families; the partner families will receive credits toward their existing mortgage loans with Habitat for Humanity,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a refund to Habitat for Humanity, Stanislaus, for $11,457 paid for Capital Facilities Fees (CFF) on properties located at 1308, 1312 and 1320 Dan West Court, Modesto.

BE IT FURTHER RESOLVED that the Acting City Manager, or his designee, is hereby authorized to execute CFF refund agreements with Habitat for Humanity, Stanislaus.

BE IT FURTHER RESOLVED that the Acting City Manager, or his designee, is hereby authorized to execute a CFF exemption agreement with each of the three owners of properties located at 1308, 1312 and 1320 Dan West Court, Modesto.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney

Attest: Jean Zahr, City Clerk

11/09/04/PR&N/J. Hannon/Item 21  4  2004-606
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-607

A RESOLUTION ACCEPTING STAFF'S REPORT ON WASTE MANAGEMENT’S PERFORMANCE DURING THE PERIOD DECEMBER 2003 THROUGH SEPTEMBER 30, 2004 GRANTING A ONE (1) YEAR EXTENSION OF THE INTERIM SERVICE AGREEMENT THROUGH JANUARY 1, 2006, AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, on November 1, 1997, the City executed a Service Agreement with Modesto Garbage Company, Inc., D.B.A. Modesto Disposal Service, which was then a subsidiary of USA Waste of California, which later acquired Waste Management and changed the name of the corporate parent to Waste Management, for a term through January 1, 2007, and

WHEREAS, while the term of this Service Agreement with Waste Management was for 10 years, due to concerns about the corporation’s problems in other cities, the City Council added a provision to the Service Agreement to allow the City to terminate the agreement on January 1, 2004, if the City found the company did not meet certain performance standards to the satisfaction of the City, and

WHEREAS, pursuant to Modesto Municipal Code Section 5-5.33, the City Council held a public hearing, on Thursday, November 13th, 2003, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which hearing the Council heard a report from City staff detailing that over a 3 year period, the company had violated multiple provisions of Section b.1. of their Service Agreement, and

WHEREAS, at said hearing, having considered evidence presented by staff as well as testimony from the Company and members of the public, the Council terminated the Service Agreement with Waste Management (D.B.A. Modesto Disposal Service)
effective January 1, 2004, authorized the City Manager to execute a one (1) year Interim Agreement with Waste Management allowing them to continue providing service through January, 2005, authorized the City Manager to extend the Interim Agreement for a total of two, one (1) year extensions if the company fully complies with the service requirements of the City, and required Waste Management to compensate the City for staff time expended in the resolution of customer service complaints, and

WHEREAS, the Interim Agreement required the City to review Waste Management’s performance after 9 months to determine whether the company was making progress in complying with the terms and conditions of the Agreement, and

WHEREAS, staff has conducted this 9 month review, and believes that the performance improvements reflected by the service logs and the improved operations at Waste Management’s transfer station warrant a one (1) year extension of the Interim Agreement, and

WHEREAS, staff presented a recommendation to the Economic Development Committee at its October 11, 2004 meeting, that the Acting City Manager be authorized to execute a one (1) year extension of the Interim Agreement, through January 1, 2006, and that the City conduct a second performance review in July, 2005, and return to the Council with a recommendation on whether or not the City should give the company a second, one (1) year extension through January 1, 2007, and either go out to bid at the end of the additional year, allocate Waste Management’s Service Area to the other collection companies, or enter into negotiations with Waste Management on a new, longer term contract, and
WHEREAS, the Economic Development Committee voted 2:1 to approve this recommendation,

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

1. Authorizes the Acting City Manager to execute a one (1) year extension of the Interim Agreement, through January 1, 2006,
2. Directs staff to conduct a second 9 month performance review in July, 2005, and return to the Council with a recommendation on whether or not the City should give the company a second, one (1) year extension, through January 1, 2007, and either go out to bid at the end of the additional year, allocate Waste Management's Service Area to the other collection companies, or enter into negotiations with Waste Management on a new, longer term contract.

The foregoing resolution was introduced at a public hearing of the Council of the City of Modesto held on the 9th day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunar

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION AUTHORIZING THE ACTING CITY MANAGER TO TAKE ALL APPROPRIATE ACTIONS TO COMPLETE THE SALE OF APPROXIMATELY 17,000 SQUARE FEET OF APN 033-22-16 LOCATED AT DRY CREEK AND SCENIC AVENUE; AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE ALL REQUIRED DOCUMENTS RELATED TO THE PROPERTY SALE

WHEREAS, the City of Modesto acquired APN 033-22-16 located at Dry Creek and Scenic Avenue in 1973, and it is now part of Dry Creek Regional Park, and

WHEREAS, approximately 17,000 square feet of APN 033-22-16 lies on the north bank of Dry Creek and is landlocked by the adjacent properties, and

WHEREAS, the adjacent property identified as APN 033-22-06 is owned by Joyce A. Fischer, Dale M. Clemens and Wanda Clemens, and

WHEREAS, the adjacent property identified as APN 033-22-07 is owned by Andrew B. Katakas, and

WHEREAS, the adjacent property owners have requested that they be allowed to acquire the property adjacent to their own and extend their lots to the creek, and

WHEREAS, if the City retains this property, it will need to be maintained by the City at City expense, and

WHEREAS, this item was approved by the Economic Development Committee on October 11, 2004, and

WHEREAS, upon Council approval staff will sell said property to the adjacent property owners and to return all proceeds from said parcel sale to the City's Parks, Recreation & Neighborhoods revenue account number 0100-310-3120-8101R,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to take all appropriate actions to complete the sale of the approximately 17,000 square feet of property located at Dry Creek and Scenic Avenue to the property owners of

APN 033-22-06 and APN 033-22-07.

BE IT FURTHER RESOLVED that the Acting City Manager, or his designee, is hereby authorized to execute all required documents related to said property sale.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

JEAN ZAHN, City Clerk

APPROVED AS TO FORM  

MICHAEL D. MILICH, City Attorney
WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2004-2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2004-2005 budget have been adjusted as shown in Schedule A.

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of November, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

(seal)

APPROVED AS TO FORM:

By: MIKE MILICH, City Attorney
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Lori Palacio
Telephone No.: 15598
Department: IT
Fund Title: DEPARTMENTAL REVENUES
Council Action Date: na
Resolution Number: _____________________

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

DEPARTMENTAL REVENUES

FROM

TO

APPROPRIATIONS

FROM

<table>
<thead>
<tr>
<th>Fund-Agency-Organ-Object</th>
<th>Appropriation Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Description of Object</th>
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<tbody>
<tr>
<td>0100-070-0703-0235</td>
<td>0701</td>
<td>$25,000</td>
<td>($12,800)</td>
<td>$12,000</td>
<td>Media Productions</td>
</tr>
<tr>
<td>0100-070-0704-0255</td>
<td>0701</td>
<td>$22,500</td>
<td>($20,000)</td>
<td>$2,500</td>
<td>Local Cable Committee (new obj)</td>
</tr>
<tr>
<td>0100-070-0704-5400</td>
<td>0701</td>
<td>$5,000</td>
<td>($4,000)</td>
<td>$1,000</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$36,800</strong></td>
<td><strong>($36,800)</strong></td>
<td><strong>$16,623</strong></td>
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TO

<table>
<thead>
<tr>
<th>Fund-Agency-Organ-Object</th>
<th>Appropriation Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Description of Object</th>
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<tbody>
<tr>
<td>0320-070-0703-0227</td>
<td>0701</td>
<td>$26,800</td>
<td>$26,800</td>
<td>$26,800</td>
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<tr>
<td>0100-070-0704-xxxx</td>
<td>0701</td>
<td>$10,000</td>
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TRANSFERS:

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<tr>
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<th>Increase/Decrease</th>
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</thead>
<tbody>
<tr>
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<td>$26,800</td>
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<tr>
<td>0100-700-7000-7032</td>
<td>0701</td>
<td>$26,800</td>
<td>$26,800</td>
<td>$26,800</td>
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</table>

COMMENTS/JUSTIFICATION

All appropriated City of Modesto Media productions such as parades, Mo-Band and International festivals will be moved from the Public Access budget 0100-070-0704 to the Education and Government 0320-070-0703.

AUTHORIZATION (check if required)

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

Signature: _____________________
Date: 11/20/04
# REQUEST FOR BUDGET ADJUSTMENT

**Contact Person:** Carolyn Eubank  
**Telephone No.:** 577-5349  
**Department:** Parks, Recreation and Neighborhoods

<table>
<thead>
<tr>
<th>Fund Title:</th>
<th>Tuolumne River Regional Park</th>
</tr>
</thead>
</table>

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<thead>
<tr>
<th>Fund-Agency-Object</th>
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<th>Description of Object</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>DEPARTMENTAL REVENUES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>FROM</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8900-390-3912-4095</td>
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<td>-$1,200</td>
<td>$300</td>
<td>Misc Special Services</td>
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<td>$9,000</td>
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<td>$3,400</td>
<td>Ballfield Rental</td>
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<td>8900-390-3912-6220</td>
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<td>$15,000</td>
<td>-$6,700</td>
<td>$8,300</td>
<td>Picnic Area</td>
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<tr>
<td><strong>TO</strong></td>
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<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>8900-390-3912-6101</td>
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<td>$5,000</td>
<td>$13,000</td>
<td>Interest</td>
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<td>$6,000</td>
<td>$70,000</td>
<td>City Building</td>
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<td>8900-390-3912-3701</td>
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<td>$305,746</td>
<td>$1,095</td>
<td>$306,841</td>
<td>TRRP Apportionment</td>
</tr>
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</table>

| **APPROPRIATIONS** | | | | | |
| **FROM** | | | | | |
| 8900-800-8000-8003 | | $2,040 | -$40 | $2,000 | Printing & Binding |
| 8900-390-3912-0205 | | $2,040 | -$40 | $2,000 | Business Expenses |
| 8900-390-3912-0208 | | $40,800 | -$800 | $40,000 | Utilities |
| 8900-390-3912-0216 | | $6,630 | -$1,630 | $5,000 | Equipment Rental |
| 8900-390-3912-0223 | | $1,020 | -$20 | $1,000 | Repair & Maintenance |
| 8900-390-3912-0240 | | $39,590 | -$20 | $39,570 | Intergovernmental |
| 8900-390-3912-0301 | | $510 | -$10 | $500 | Office Supplies |
| 8900-390-3912-0304 | | $2,040 | -$40 | $2,000 | Custodial & Institutional |
| 8900-390-3912-0308 | | $7,931 | -$931 | $7,000 | Tools, shop & field |
| 8900-390-3912-0310 | | $8,976 | -$148 | $8,828 | Gardening/Horticultural |
| 8900-390-3912-0360 | | $21,445 | -$6,445 | $15,000 | Maintenance & repair Supplies |
| **TO** | | | | | |
| 8900-390-3912-0235 | | $33,574 | $15,333 | $48,907 | Services, Professional & Other |
| 8900-390-3912-0240 | | $99,596 | $2,086 | $101,582 | Intergovernmental |
| 8900-390-3912-0255 | | $133,722 | $1,550 | $135,272 | Services City Forces |
| 8900-390-3912-0412 | | $5,000 | $5,000 | $5,000 | Other Insurance |
| 8900-390-3912-5000 | | $40,000 | $40,000 | $63,969 | Capital, Non-CIP |

**COMMENTS/JUSTIFICATION**

Due to the uncertainty about contributions to the TRRP Fund by the TRRP agencies, staff was unable to enter correct data into the BRASS system in time for Council approval; therefore the numbers are also incorrect in the AFIN system. Final funding for the Tuolumne River Regional Park operating budget was approved by the JPA in April, which was after data entry into the BRASS system was closed. Adjustments were made to the budget to reflect decreases in revenues, primarily from apportionment contributions. This budget action will align the budget adopted by the JPA with the City's accounting system.

**AUTHORIZATION**

<table>
<thead>
<tr>
<th>DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT</th>
<th>SIGNATURE</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Allocation of Dept Appr to Line-Item Level)</td>
<td>[Signature]</td>
<td>10/19/04</td>
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**FINANCE DIRECTOR**

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

**CITY MANAGER**

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

**SIGNATURE**

<table>
<thead>
<tr>
<th>CITY MANAGER</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Signature]</td>
<td>12-01-04</td>
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</table>
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Lori Palacio
Telephone No.: 15598
Department: IT
Fund Title: DEPARTMENTAL REVENUES FROM 1 TO APPROPRIATIONS FROM $25,920 $22,500 $5,000 TO $36,800 $16,623

<table>
<thead>
<tr>
<th>Fund-Agency-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>FROM 0100-070-0704-0235</td>
<td>$25,920</td>
<td>($12,800)</td>
<td>$13,123</td>
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<tr>
<td>0100-070-0704-0255</td>
<td>$22,500</td>
<td>($20,000)</td>
<td>$2,500</td>
<td></td>
</tr>
<tr>
<td>0100-070-0704-5400</td>
<td>$5,000</td>
<td>($4,000)</td>
<td>$1,000</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>($36,800)</td>
<td></td>
<td>$16,623</td>
<td></td>
</tr>
</tbody>
</table>

| TO 0320-070-0703-0227 | $26,800 | | $26,800 |
| 0100-070-0703-xxxx | $10,000 | | $10,000 |
| Total | $36,800 | | $36,800 |

TRANSFERS:

| 0320-700-7000-9010 | $26,800 | | $26,800 |
| 0100-700-7000-7032 | $26,800 | | $26,800 |

COMMENTS/JUSTIFICATION:

All appropriated City of Modesto Media productions such as parades, Mo-Band and International festivals will be moved from the Public Access budget 0100-070-0704 to the Education and Government 0320-070-0703.

AUTHORIZATION (check if required) SIGNATURE DATE

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

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

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

Contact Person: Grace Hsu
Telephone No.: 571-5506
Department: Parks, Recreation & Neighborhoods
Fund Title: CDBG Fund 1130
Council Action Date: 
Resolution Number: 
FY: 2004 - 2005
Transfer No. 

<table>
<thead>
<tr>
<th>Fund-Agcy-Org-Obj</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
<th>Description of Object</th>
</tr>
</thead>
<tbody>
<tr>
<td>1130-320-3213- 3513</td>
<td>na</td>
<td>101,912</td>
<td>-100,000</td>
<td>1,912</td>
<td>CDBG Entitlement</td>
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<tr>
<td>1130-320-3213- 6310</td>
<td>na</td>
<td>0</td>
<td>100,000</td>
<td>100,000</td>
<td>Direct Loan Principal - Prog Income</td>
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<td></td>
<td></td>
<td>101,912</td>
<td>0</td>
<td>101,912</td>
<td>Grand Total</td>
</tr>
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DEPARTMENTAL REVENUES

APPROPRIATIONS

<table>
<thead>
<tr>
<th>Fund-Obj-Activity</th>
<th>Appr Unit</th>
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<th>Increase/ (Decrease)</th>
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<th>Description of Object</th>
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<tbody>
<tr>
<td>1130-320-3213- 6010</td>
<td>3250C</td>
<td>16,912</td>
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<td>16,912</td>
<td>Engineering/Design/Admin</td>
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<td>1130-320-3213- 6040</td>
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<td>101,912</td>
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<td>101,912</td>
<td>Grand Total</td>
</tr>
</tbody>
</table>

COMMENTS/JUSTIFICATION

Adjustments required to align amounts in AFIN to match the amounts in the HUD Annual Action Plan, as approved by HUD.

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<td>(All items requiring City Manager's Approval)</td>
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<tr>
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<tr>
<td>(Transfers between Budgeted Activities of Departments within Funds)</td>
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<td>(Transfers into Personnel Services)</td>
<td></td>
<td></td>
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</table>

12-01-04

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

Contact Person: Grace Hsu  Council Action Date:  
Telephone No.: 571-5506  Resolution Number:  
Department: Parks, Recreation & Neighborhoods  FY: 2004 - 2005  
Fund Title: CDBG Fund 1130

<table>
<thead>
<tr>
<th>Fund-Agcy-Obj-ject</th>
<th>Appr Unit</th>
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<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Description of Object</th>
</tr>
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<tbody>
<tr>
<td>1130-320-3222-3513</td>
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<td>130,000</td>
<td>-100,000</td>
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<td></td>
<td>na</td>
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<td>100,000</td>
<td>100,000</td>
<td>Direct Loan Principal - Prog Income</td>
</tr>
<tr>
<td></td>
<td></td>
<td>130,000</td>
<td></td>
<td>130,000</td>
<td>Grand Total</td>
</tr>
</tbody>
</table>

**DEPARTMENTAL REVENUES**

| Appropriations | 1130-320-3222-6010 | 3250C | 19,500 | 0 | 19,500 | Engineering/Design/Admin |
|                | 1130-320-3222-6040 | 3250C | 84,500 | 0 | 84,500 | Construction            |
|                | 1130-320-3222-6050 | 3250C | 13,000 | 0 | 13,000 | Contingency             |
|                | 1130-320-3222-6060 | 3250C | 13,000 | 0 | 13,000 | Construction Admin      |
|                |                     |      | 130,000 | 0 | 130,000 | Grand Total             |

**APPROPRIATIONS**

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<td>-100,000</td>
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<td>na</td>
<td>0</td>
<td>100,000</td>
<td>100,000</td>
<td>Direct Loan Principal - Prog Income</td>
</tr>
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<td></td>
<td></td>
<td>130,000</td>
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<td>130,000</td>
<td>Grand Total</td>
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**COMMENTS/JUSTIFICATION**

Adjustments required to align amounts in AFIN to match the amounts in the HUD Annual Action Plan, as approved by HUD.

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<td>(Transfers into Personnel Services)</td>
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</table>

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

Contact Person: Grace Hsu
Telephone No.: 571-5506
Department: Parks, Recreation & Neighborhoods

Fund Title: CDBG Fund 1130

<table>
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<tr>
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<th>Increase/Decrease</th>
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<th>Description of Object</th>
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<tbody>
<tr>
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<td>464</td>
<td>-464</td>
<td>0</td>
<td>Miscellaneous Revenue</td>
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DEPARTMENTAL REVENUES

<table>
<thead>
<tr>
<th>FY: 2004 - 2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>1130-320-3252-3513</td>
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<td>1130-320-3252-4909</td>
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<tr>
<td>1130-320-3252-8155</td>
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<tr>
<td>Grand Total</td>
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APPROPRIATIONS

<table>
<thead>
<tr>
<th>FY: 2004 - 2005</th>
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<tbody>
<tr>
<td>1130-320-3252-0110</td>
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<tr>
<td>1130-320-3252-9991</td>
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<tr>
<th>FY: 2004 - 2005</th>
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<tr>
<td>1130-320-3252-0228</td>
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Budget Office Form (Oct 2001) gh
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<th>Increase/Decrease</th>
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**Total** | **267,645** | **37,892** | **305,537** |

**Grand Total** | **677,856** | **11,535** | **689,391** |

**COMMENTS/JUSTIFICATION**

Adjustments required to align amounts in AFIN to match the amounts in the HUD Annual Action Plan, as approved by HUD.

**AUTHORIZATION (check if required)**

DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT

(Assignment of Dept Appr to Line-Item Level)

FINANCE DIRECTOR

(Transfers to/from Internal Service Charges)

(AT items requiring City Manager's Approval)

CITY MANAGER

(Transfers between Budgeted Activities of Departments within Funds)

(Appropriation of Unbudgeted Dept Revenues)

(Transfers into Personnel Services)
# REQUEST FOR BUDGET ADJUSTMENT

**Contact Person:** Grace Hsu  
**Telephone No.:** 571-5506  
**Department:** Parks, Recreation & Neighborhoods  
**Council Action Date:**  
**Resolution Number:**  
**FY:** 2004 - 2005  
**Transfer No.:**

## DEPARTMENTAL REVENUES

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<th>Increase/ (Decrease)</th>
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## APPROPRIATIONS

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## COMMENTS/JUSTIFICATION

Adjustments required to align amounts in AFIN to match the amounts in the HUD Annual Action Plan, as approved by HUD.

## AUTHORIZATION

- **DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT:** (Allocation of Dept Appr to Line-Item Level)  
- **FINANCE DIRECTOR:** (Transfers to/from Internal Service Charges)  
- **CITY MANAGER:** (Transfers between Budgeted Activities of Departments within Funds)  

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

Contact Person: Grace Hsu
Telephone No.: 571-5506
Department: Parks, Recreation & Neighborhoods
Fund Title: CDBG Fund 1130

<table>
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DEPARTMENTAL REVENUES

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APPROPRIATIONS

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Council Action Date: 
Resolution Number: 
FY: 2004 - 2005
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COMMENTS/JUSTIFICATION

Adjustments required to align amounts in AFIN to match the amounts in the HUD Annual Action Plan, as approved by HUD.

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<th>AUTHORIZATION (check if required)</th>
<th>SIGNATURE</th>
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<td>DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT</td>
<td>[Signature]</td>
<td>11/4/04</td>
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<tr>
<td>FINANCE DIRECTOR</td>
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<td>CITY MANAGER</td>
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Budget Office Form (Oct 2001)
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Grace Hsu
Telephone No.: 571-5506
Department: Parks, Recreation & Neighborhoods
Fund Title: CDBG Fund 1150

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

**APPROPRIATIONS**

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<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Description of Object</th>
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**COMMENTS/JUSTIFICATION**

Adjustments required to align amounts in AFIN to match the amounts in the HUD Annual Action Plan, as approved by HUD.

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

Contact Person: Grace Hsu  
Telephone No.: 571-5506  
Department: Parks, Recreation & Neighborhoods

Fund Title: Fund 2300

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<th>Revised Budget</th>
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DEPARTMENTAL REVENUES

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APPROPRIATIONS

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TRANSFERS

Comments/Justification:
Adjustments required to align amounts in AFIN to match the amounts in the HUD Annual Action Plan, as approved by HUD.

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

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

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

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

Contact Person: Grace Hsu  
Telephone No.: 571-5506  
Department: Parks, Recreation & Neighborhoods  
Fund Title: HOME Fund 1170

<table>
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**APPROPRIATIONS**

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<td>1170-320-3258- 0259</td>
<td>3258C</td>
<td>29,992</td>
<td>0</td>
<td>29,992</td>
<td>Services City Forces - Intrafund</td>
</tr>
<tr>
<td>1170-320-3258- 0260</td>
<td>3258C</td>
<td>8,991</td>
<td>-1,649</td>
<td>7,342</td>
<td>Miscellaneous Services</td>
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<td>1170-320-3258- 0301</td>
<td>3258C</td>
<td>306</td>
<td>194</td>
<td>500</td>
<td>Office Supplies</td>
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Total

<p>| | | | | | |</p>
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<tr>
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<tbody>
<tr>
<td>69,919</td>
<td>-2,807</td>
<td>67,112</td>
<td>Total</td>
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<tbody>
<tr>
<td>139,255</td>
<td>13,252</td>
<td>152,507</td>
<td>Grand Total</td>
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COMMENTS/JUSTIFICATION

Adjustments required to align amounts in AFIN to match the amounts in the HUD Annual Action Plan, as approved by HUD.

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

SIGNATURE: [Signature]  DATE: 11/4/04

NOV - 4 2004
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Grace Hsu
Telephone No.: 571-5506
Department: Parks, Recreation & Neighborhoods
Fund Title: HOME Fund 1170

<table>
<thead>
<tr>
<th>Fund-Agency-Organ-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
<th>Description of Object</th>
</tr>
</thead>
<tbody>
<tr>
<td>1170-320-3259-3512</td>
<td>na</td>
<td>1,030,791</td>
<td>0</td>
<td>1,030,791</td>
<td>HOME Carryover</td>
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<tr>
<td>1170-320-3259-3517</td>
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<td>1,234,800</td>
<td>3,435</td>
<td>1,238,235</td>
<td>HOME Entitlement</td>
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<tr>
<td>1170-320-3259-6310</td>
<td>na</td>
<td>100,000</td>
<td>0</td>
<td>100,000</td>
<td>Direct Loan Principal - Prog Income</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2,365,591</td>
<td>3,435</td>
<td>2,369,026</td>
<td>Grand Total</td>
</tr>
</tbody>
</table>

APPROPRIATIONS

<table>
<thead>
<tr>
<th>Fund-Agency-Organ-Object</th>
<th>Appr Unit</th>
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<th>Increase/ (Decrease)</th>
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<th>Description of Object</th>
</tr>
</thead>
<tbody>
<tr>
<td>1170-320-3259-0235</td>
<td>3259C</td>
<td>1,020</td>
<td>0</td>
<td>1,000</td>
<td>Services, Professional and Others</td>
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<tr>
<td>1170-320-3259-0255</td>
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<tr>
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<td>2,692</td>
<td>2,061,582</td>
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<tr>
<td>1170-320-3259-0508</td>
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<td>205,800</td>
<td>573</td>
<td>206,373</td>
<td>CHDO (15% of Entitlement)</td>
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<tr>
<td>1170-320-3259-0509</td>
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<td>191</td>
<td>68,791</td>
<td>CHDO Operating (5% of Entitlement)</td>
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<tr>
<td>1170-320-3259-0510</td>
<td>3259C</td>
<td>25,000</td>
<td>0</td>
<td>25,000</td>
<td>Tenant Based Rental Assistance (TBR)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2,365,591</td>
<td>3,435</td>
<td>2,369,026</td>
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Budget Office Form (Oct 2001) gh
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Grace Hsu
Telephone No.: 571-5506
Department: Parks, Recreation & Neighborhoods
Fund Title: HOME Fund 1170

Council Action Date: __________________________
Resolution Number: ___________________________
FY: 2004 - 2005
Transfer No. ___________________________

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<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Description of Object</th>
</tr>
</thead>
<tbody>
<tr>
<td>1170-320-3260-3517</td>
<td>na</td>
<td>0</td>
<td>116,089</td>
<td>116,089</td>
<td>HOME Entitlement (ADDI)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>0</td>
<td>116,089</td>
<td>116,089</td>
<td>Grand Total</td>
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</thead>
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<tr>
<td>1170-320-3260-0497</td>
<td>3260C</td>
<td>0</td>
<td>116,089</td>
<td>116,089</td>
<td>Direct Loans (DPAP)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>0</td>
<td>116,089</td>
<td>116,089</td>
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Budget Office Form (Oct 2001) gh
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-610

A RESOLUTION APPROVING THE HIRING OF ENTRY-LEVEL
FIREFIGHTERS UTILIZING THE AB 1929 DISPLACED FIREFIGHTER LIST
ESTABLISHED BY THE STATE OF CALIFORNIA

WHEREAS, the Modesto Fire Department last established a hiring list in July 2003, and

WHEREAS, the Modesto Fire Department’s list is nearly 18 months old and the top 86 candidates have been evaluated for hire, and

WHEREAS, the Modesto Fire Department has approximately 12 vacancies to fill due to retirements and the opening of Station 11, and

WHEREAS, in the last round of interviews, 27 candidates on the current list were interviewed and of those, six have completed the process and were deemed suitable for hire, and,

WHEREAS, in February 2004, the California State Legislature passed Assembly Bill (AB) 1929 allowing local government agencies to hire firefighters who have been laid off by other fire departments due to reduction in service from a list established by the State of California, and

WHEREAS, the Modesto Fire Department would like to fill the remaining vacancies, prior to establishing a new list, using the AB 1929 list,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the hiring of entry-level firefighters utilizing the AB 1929 Displaced Firefighter List established by the State of California.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of November 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney