MODESTO CITY COUNCIL
RESOLUTION NO. 2004-457

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS
CONSISTENT WITH THE SCOPE OF THE VILLAGE ONE
ENVIRONMENTAL IMPACT REPORT (SCH NO. 90020181), AS AMENDED BY
THE SUPPLEMENTAL EIR: ACQUISITION OF RIGHT OF WAY FOR THE
WIDENING OF FLOYD AVENUE

WHEREAS, the Modesto City Council has adopted Resolution No. 90-757
certifying that the Village One Final Environmental Impact Report ("EIR") (State
Clearinghouse No. 90020181) is complete and adequate pursuant to Section 15090 of the
California Environmental Quality Act ("CEQA") Guidelines, and

WHEREAS, on May 24, 1994, the Modesto City Council has adopted Resolution
No. 94-297 which certified the Final Supplemental EIR for Village One which amended
and supplemented the 1990 Village One Program EIR, and

WHEREAS, the City is proposing to acquire right-of-way on the north side of
Floyd Avenue for the purpose of widening Floyd Avenue in accordance with the adopted
Village One Specific Plan and Village One Facilities Master Plan ("Project"), and,

WHEREAS, City staff prepared a Written Checklist, Environmental Assessment
No. CM 2004-1, which concluded that the proposed Project is within the scope of the
Village One Program EIR (SCH No. 90020181), as amended by the Village One
Supplemental EIR, and

WHEREAS, on September 14, 2004, at 5:30 p.m. in the Tenth Street Place
Chambers, located at 1010 Tenth Street, Modesto, California, said matter was considered
by the City Council at a duly noticed public hearing,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the Council has reviewed and considered Environmental Assessment No. EA/CM
2004-1 entitled "City of Modesto Written Checklist – Acquisition of Right of Way for the
Widening of Floyd Avenue”, for the proposed Project, and the Council hereby makes the following findings:

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

B. There are no substantial changes proposed in the Project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Village One Program EIR, as amended by the 1994 Supplemental EIR are required.

C. No substantial changes have occurred with respect to the circumstances under which the Project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Village One Program EIR, as amended by the 1994 Supplemental EIR are required.

D. There is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence when the Village One Program EIR, as amended by the 1994 Supplemental EIR, was adopted which shows any of the following:

   a. one or more significant effects which is not discussed in the Village One Program EIR, as amended by the 1994 Supplemental EIR; or,

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

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

   d. mitigation measures or alternatives which are considerably different from those analyzed in the Village One Program EIR, as amended by the 1994 Supplemental EIR, would substantially reduce one or more significant effects on the environment, but the Project proponents decline to adopt the mitigation measure or alternative.

E. 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 Program EIR will be sufficient for this Project. All feasible mitigation measures set forth in the
Program EIR which are appropriate to the Project shall be incorporated into the Project.

F. The Written Checklist, Environmental Assessment No. EA/CM 2004-1, provides the substantial evidence to support findings A through E, above, and the City hereby determines that no further environmental documentation is required for the proposed project.

A copy of said Environmental Assessment No. EA/CM 2004-1, entitled “City of Modesto Written Checklist – Acquisition of Right of Way for the Widening of Floyd Avenue”, is attached hereto as Exhibit “A”, and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, by Councilmember Jackman, 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
JEAN ZAHR, City Clerk

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

By: ALISON A. BARRATT-GREEN
Senior Deputy City Attorney
Determination: Finding that the Floyd Avenue, Roselle Avenue and Oakdale Road Right of Way Acquisition Project is within the Scope of the Village One Specific Plan Program Environmental Impact Report

Prepared for:
City of Modesto
P.O. Box 642
Modesto, CA 95353
Contact: Victoria Dion
209/577-5211

Prepared by:
Vickey Dion, Senior Civil Engineer
City of Modesto
Office of the City Manager
209/577-5211

September 2004
I. PURPOSE

This written checklist, pursuant to CEQA Guidelines Section 15168 (C) (4), serves to make a determination where subsequent activities of a Program EIR involve site-specific operations, based on evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR. Based on a review of the project and Section 15162(a), this determination would permit the lead agency (City of Modesto) to approve the activity as being within the scope of the project covered by the Program EIR. This determination includes whether any new environmental document is required beyond the adopted Village One Specific Plan Program EIR (SCH# 90020181) for the proposed Floyd Avenue, Roselle Avenue and Oakdale Road Right of Way acquisition project.

The 1994 Supplemental EIR that amended and superseded the 1990 Program EIR is the document reviewed for projects within the Village One Specific Plan area. Where appropriate those feasible mitigation measures developed in the Supplement to the program EIR shall be incorporated into the proposed project.

II. PROJECT INFORMATION

1. Project Title: Floyd Avenue, Roselle Avenue and Oakdale Road Right of Way acquisition.

2. Lead Agency Name and Address: City of Modesto
   1010 Tenth Street
   Modesto, Ca 95353

3. Contact Person and Phone Number: Victoria Dion
   209/577-5211
4. **Project Location:**

Village One Specific Plan Area
Modesto, California
APNs: 077-008 parcels 30-36.

5. **Project Sponsor's Name and Address:**

City of Modesto
CFD 2004-1
P.O. Box 642
Modesto, CA 95353

6. **General Plan Designation:**

The General Plan land use designations include Village Residential (VR) which allows predominantly single-family residential uses; Multi-Family Residential; Senior Housing; School/Park/Basin site; Commercial; and Business Park (BP) which allows light industrial manufacturing, office, associated service retail (and, in Village One, regional commercial) uses.

7. **Zoning:**

Village Residential and multi family residential

8. **Description of Project:** Pursuant to the adopted Village One Specific Plan, the City of Modesto is acquiring right of way for the improvements of Roselle and Floyd Avenues and Oakdale Road.

9. **Surrounding Land Uses and Setting:** The Village One Specific Plan Area is over half built, as planned and approved by the 1990 Village One Specific Plan. The project area is surrounded by rural, agricultural, and open space land uses to the North, South and East, and by residential uses to the West.

10. **Other Public Agencies whose Approval Is Required:** None.

III. **DETERMINATION:**

Based on the analysis contained in this document, staff finds that pursuant to Guidelines Section 15162 the following is true for the proposed project:
(1) Major revisions to the Village One Program EIR as amended by the 1994 Supplement, are not required because the project will not involve new significant environmental effects or increase severity of effects previously identified, and

(2) Major revisions to the Village One Program EIR as amended by the 1994 Supplement, are not required because no substantial changes to circumstances have occurred that involve new significant environmental effects or increase severity of effects previously identified, and

(3) No new information of substantial importance that was not known has become available that shows:
   a. one or more significant effects is not discussed in the Village One Program EIR as amended by the 1994 Supplement,
   b. identified significant effects will be more severe,
   c. previously infeasible mitigation measures are now feasible,
   d. project proponents have declined to adopt mitigation measures that would substantially reduce significant effects.

(4) Because no new significant effects have been identified and no new mitigation is required for the project, the environmental effects of the operation of the proposed project were covered by the Village One Program EIR as updated by the 1994 Supplement. Therefore, pursuant to CEQA Section 15168 (C) (4) no new environmental document is required.

(5) Therefore, the Floyd Avenue, Roselle Avenue and Oakdale Road Right of Way acquisition project is within the scope of the Village One Program EIR.

[Signature]
Project Manager
9-9-04
Date
**IV. PROJECT EVALUATION:**

The following written Checklist based on Appendix G of the CEQA Guidelines serves to document the evaluation of the site and activity of the proposed project pursuant to CEQA Guidelines Section 15168 (c) (4) to determine whether the environmental effects of the operation were covered in the Program EIR.

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact</th>
<th>Less-than-Significant Impact with Mitigation</th>
<th>No Impact Incorporation</th>
</tr>
</thead>
</table>

**I. AESTHETICS.** Would the project:

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>Have a substantial adverse effect on a scenic vista?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td>Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td>Substantially degrade the existing visual character or quality of the site and its surroundings?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d.</td>
<td>Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Aesthetic and visual impacts are analyzed on pages III-100 through III-101 of the 1994 Supplement.
II. **AGRICULTURAL RESOURCES.** In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation. Would the project:

a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? □ □ □ ☑

b. Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract? □ □ □ ☑

c. Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use? □ □ □ ☑

Impacts on agricultural resources are analyzed on pages III-80 through III-94 of the 1994 Supplement.
### III. AIR QUALITY

When available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significantly</th>
<th>Less than Significant Impact</th>
<th>Less-than-Significant Impact with Mitigation</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Conflict with or obstruct implementation of the applicable air quality plan?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>√</td>
</tr>
<tr>
<td>b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>√</td>
</tr>
<tr>
<td>c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a nonattainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>√</td>
</tr>
<tr>
<td>d. Expose sensitive receptors to substantial pollutant concentrations?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>√</td>
</tr>
<tr>
<td>e. Create objectionable odors affecting a substantial number of people?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>√</td>
</tr>
</tbody>
</table>

Impacts on air quality are analyzed on pages III-45 through III-54 of the 1994 Supplement.
### IV. BIOLOGICAL RESOURCES. Would the project:

<table>
<thead>
<tr>
<th>Impact Level</th>
<th>Potentially Significant Impact</th>
<th>Less-than-Significant Impact with Mitigation</th>
<th>Incorporated</th>
<th>No Significant Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>b.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>c.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>d.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>e.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>f.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?
- Conflict with the provisions of an adopted...
Responses to Checklist Questions

V. **CULTURAL RESOURCES.** Would the project:

a. Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation Incorporated</th>
<th>Less-than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation Incorporated</th>
<th>Less-than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation Incorporated</th>
<th>Less-than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

d. Disturb any human remains, including those interred outside of formal cemeteries?

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation Incorporated</th>
<th>Less-than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Responses to Checklist Questions

a.–d. Impacts on cultural resources resulting from the Right-of-Way Acquisition (e.g., from construction of associated infrastructure) are addressed in the Opportunities/Constraints Report prepared for the Modesto Planning Commission (December 1, 1989). The report concluded that there are no known historic, archaeological, or paleontological resources in the Village One Specific Plan area.
VI. GEOLOGY AND SOILS. Would the project:

a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

   □ □ □ ☑

2. Strong seismic groundshaking?

   □ □ □ ☑

3. Seismic-related ground failure, including liquefaction?

   □ □ □ ☑

4. Landslides?

   □ □ □ ☑

b. Result in substantial soil erosion or the loss of topsoil?

   □ □ □ ☑

c. Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?

   □ □ □ ☑

d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

   □ □ □ ☑

e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?

   □ □ □ ☑

Impacts associated with geology and soils are analyzed on pages III-105 through III-108 of the 1994 Supplement.
Responses to Checklist Questions

<table>
<thead>
<tr>
<th>Potentially</th>
<th>Less than</th>
<th>Less-than-</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Significant</td>
<td>Significant</td>
<td>Impact</td>
<td>with Impact</td>
</tr>
<tr>
<td>Mitigation</td>
<td>Incorporated</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

VII. **HAZARDS AND HAZARDOUS MATERIALS.** Would the project:

a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

c. Emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

d. 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 it create a significant hazard to the public or the environment?

e. Be located within an airport land use plan area or, where such a plan has not been adopted, be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the project area?
f. Be located within the vicinity of a private airstrip and result in a safety hazard for people residing or working in the project area? □ □ □ ☑

g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? □ □ □ ☑

h. Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? □ □ □ ☑

Impacts associated with hazards and hazardous materials are analyzed on pages III-80 through III-94 and III-109 through III-119 of the 1994 Supplement.

VIII. HYDROLOGY AND WATER QUALITY.

Would the project:

a. Violate any water quality standards or waste discharge requirements? □ □ □ ☑

b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)? □ □ □ ☑
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or offsite? 

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact with Mitigation Incorporated</th>
<th>Less-than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td></td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite? 

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact with Mitigation Incorporated</th>
<th>Less-than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td></td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact with Mitigation Incorporated</th>
<th>Less-than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td></td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

f. Otherwise substantially degrade water quality? 

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact with Mitigation Incorporated</th>
<th>Less-than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td></td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

g. Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? 

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact with Mitigation Incorporated</th>
<th>Less-than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td></td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

h. Place within a 100-year flood hazard area structures that would impede or redirect floodflows? 

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact with Mitigation Incorporated</th>
<th>Less-than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td></td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

i. Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam? 

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact with Mitigation Incorporated</th>
<th>Less-than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td></td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

j. Contribute to inundation by seiche, tsunami, or mudflow? 

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact with Mitigation Incorporated</th>
<th>Less-than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td></td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Impacts associated with hydrology are analyzed on pages III-109 through III-119 of the 1994 Supplement.
Ix. LAND USE AND PLANNING. Would the project:

a. Physically divide an established community?  
   
   Potentially  Less than  Less-than-  No
   Significant  Significant  Significant  Impact
   with  Impact
   Mitigation
   Incorporated

b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

   Potentially  Less than  Less-than-  No
   Significant  Significant  Significant  Impact
   with  Impact
   Mitigation
   Incorporated

c. Conflict with any applicable habitat conservation plan or natural community conservation plan?

   Potentially  Less than  Less-than-  No
   Significant  Significant  Significant  Impact
   with  Impact
   Mitigation
   Incorporated

   Impacts associated with land use and planning are analyzed on pages III-80 through III-94 of the 1994 Supplement.

Responses to Checklist Questions

X. MINERAL RESOURCES. Would the project:

a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

   Potentially  Less than  Less-than-  No
   Significant  Significant  Significant  Impact
   with  Impact
   Mitigation
   Incorporated

b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

   Potentially  Less than  Less-than-  No
   Significant  Significant  Significant  Impact
   with  Impact
   Mitigation
   Incorporated
Responses to Checklist Questions

a., b. No known mineral resources or important recovery sites are located in the Village One Specific Plan Area. There would be no impact. No mitigation is required.

Potentially Less than Less-than- No
Significant Significant Significant Impact Impact
Mitigation
Incorporated

XI. NOISE. Would the project:

a. Expose persons to or generate noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies? □ □ □ ✔

b. Expose persons to or generate excessive groundborne vibration or groundborne noise levels? □ □ □ ✔

c. Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? □ □ □ ✔

d. Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? □ □ □ ✔

e. Be located within an airport land use plan area, or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels? □ □ □ ✔

f. Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels? □ □ □ ✔

Impacts associated with noise are analyzed on pages III-55 through III-67 of the 1994 Supplement.
XII. **POPULATION AND HOUSING.** Would the project:

a. Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?

b. Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?

c. Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?

Impacts on population and housing are analyzed on pages III-95 through III-99 of the 1994 Supplement.

---

XIII. **PUBLIC SERVICES.** Would the project:

a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or a need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:

---

<table>
<thead>
<tr>
<th>Potentially</th>
<th>Less than</th>
<th>Less-than-</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Significant</td>
<td>Significant</td>
<td>Significant</td>
<td>Impact</td>
</tr>
<tr>
<td>with</td>
<td>Impact</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mitigation</td>
<td>Incorporated</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Impact</td>
<td>with Mitigation</td>
<td>Impact</td>
</tr>
<tr>
<td>--------------------------</td>
<td>--------</td>
<td>-----------------</td>
<td>--------</td>
</tr>
<tr>
<td>Fire protection?</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>Police protection?</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>Schools?</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>Parks?</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>Other public facilities?</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
</tbody>
</table>

Impacts on public services are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Potentially Less than Less-than- Significant Significant Significant Impact Impact with Mitigation Incorporated

XIV. RECREATION. Would the project:

a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

b. Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?

Impacts on recreation are analyzed on pages III-120 through III-158 of the 1994 Supplement.
XV. TRANSPORTATION/TRAFFIC. Would the project:

a. Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?

b. Cause, either individually or cumulatively, exceedance of a level-of-service standard established by the county congestion management agency for designated roads or highways?

c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

d. Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

e. Result in inadequate emergency access?

f. Result in inadequate parking capacity?

g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

Impacts on transportation and traffic are analyzed on pages III-40 – III-44 of the 1994 Supplement.
XVI. UTILITIES AND SERVICE SYSTEMS.

Would the project:

- a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? □ □ □ ☑
- b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? □ □ □ ☑
- c. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? □ □ □ ☑
- d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed? □ □ □ ☑
- e. Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments? □ □ □ ☑
- f. Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs? □ □ □ ☑
- g. Comply with federal, state, and local statutes and regulations related to solid waste? □ □ □ ☑

Impacts on utilities and service systems are analyzed on pages III-120 through III-158 of the 1994 Supplement.
XVII. MANDATORY FINDINGS OF SIGNIFICANCE.

a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

b. Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)

c. Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?

Cumulative impacts are analyzed on page III-161 of the 1994 Supplement.

Responses to Checklist Questions

a. As described above, the proposed Floyd Avenue, Roselle Avenue and Oakdale Road Right of Way acquisition would not result in any significant impacts on the environment over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.

b. As described above, the proposed Floyd Avenue, Roselle Avenue and Oakdale Road Right of Way acquisition would not result in any significant impacts, either on a project or on cumulative level, over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.
c. As described above, the proposed Floyd Avenue, Roselle Avenue and Oakdale Road Right of Way acquisition would not result in any significant impacts affecting humans over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.

V. MITIGATION APPLIED TO PROJECT

Not applicable.
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-458

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO OF INTENTION TO ANNEX TERRITORY TO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES THEREIN (ANNEXATION No. 4)

WHEREAS, pursuant to Chapter 3.5 Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”), proceedings for the annexation of territory to an existing community facilities district may, pursuant to Chapter 3.5 of the Act, be instituted by the adoption by the legislative body of a resolution of intention to annex such territory; and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-199, adopted on April 6, 2004 (the “Resolution of Formation”), establish the City’s Community Facilities District No. 2004-1 (Village One #2) (“the District”); and

WHEREAS, this Council hereby determines that the public convenience and necessity require the annexation of certain territory to the District; and

WHEREAS, the territory to be annexed is within the City limits;

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

SECTION 1. The above recitals are true and correct.

SECTION 2. The boundaries of the District are shown on a map entitled “Proposed Boundaries of Community Facilities District No. 2004-1 (Village One #2) of the City of Modesto, County of Stanislaus, State of California” on file with the County
Recorder of the County of Stanislaus, at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 85; the map entitled “Proposed Boundaries of Annexation #1 to City of Modesto CFD No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at page 86 (as amended by the map entitled “Annexation Map No. 1 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at page 90); the map entitled “Annexation Map No. 2 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 91; and the map entitled “Annexation Map No. 3 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 96.”

SECTION 3. The territory proposed to be annexed to the District (the “Territory”) is described in Exhibit A.

SECTION 4. The boundaries of the Territory are also shown on the map thereof, entitled “Annexation Map No. 4 of Community Facilities District No. 2004-1 (Village One #2) of the City of Modesto, County of Stanislaus, State of California,” on file in the office of the City Clerk, hereby approved and adopted. Pursuant to Sections 3110.5 and 3113 of the California Streets and Highways Code, the City Clerk shall endorse her certificate on the original and one copy of the map evidencing the date and adoption of this Resolution, file the original in her office and, not later than 10 days after the adoption of this Resolution, file a copy of the map with the County Recorder of the County of Stanislaus.
Stanislaus. The map shall contain the legends provided in Sections 3110 and 3110.5 of the California Streets and Highways Code, including a reference to the title, book, page and recording date of the original boundary map of the District.

SECTION 5. The public facilities and services to be provided for the District are set forth in the Resolution of Formation. It is intended that these same facilities and services be provided to the Territory.

SECTION 6. The special taxes to be levied in the District are also set forth in the Resolution of Formation. It is intended that the same special taxes be levied in the Territory.

SECTION 7. A public hearing on this Resolution will be held at 5:30 p.m., or as soon thereafter as practicable, on Tuesday, October 26, 2004, at the regular meeting place of the City Council, City Council Chambers, Basement Level, 1010 Tenth Street, Modesto, California 95353, such time being not less than 30 or more than 60 days following the adoption hereof.

SECTION 8. At the hearing, any interested persons for or against the annexation of the Territory to the District, and the levy of the special taxes therein, may appear and will be heard and considered. Any protest may be made orally or in writing. However, any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and clearly set forth the irregularities and defects to which the objection is made. All written protests shall be filed with the City Clerk on or before the time fixed for the public hearing. Written protests may be withdrawn in writing at any time before the conclusion of the hearing.
SECTION 9. The City Clerk is directed to publish, not later than seven (7) days prior thereto, a notice of the hearing, in the form required by the Act, in a newspaper of general circulation published in the area of the District, being The Modesto Bee, and otherwise in accordance with Section 6061 of the California Government Code, stating (a) the text or a summary of this Resolution, (b) the time and place of the hearing, and (c) that all interested persons for or against the annexation of the Territory to the District or the levying of the special taxes in the Territory will be heard.

SECTION 10. (a) If a majority (but at least six) of the registered voters residing within the District or a majority (but at least six) of the registered voters residing within the Territory, or the owners of one-half or more of the area of the land in the District and not exempt from the special tax, or the owners of one-half or more of the Territory, file written protests against the proposed annexation, and the protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to annex the Territory to the District, or to levy in the Territory the special taxes to be levied in the District, shall be taken for a period of one year from the date of the decision of the Council on the issues discussed at the hearing.

SECTION 11. At the conclusion of the hearing, if the Council determines to annex the Territory to the District, it will submit the levy of the special taxes to the qualified electors of the Territory in a special election.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September 2004, by Councilmember Jackman, 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

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
EXHIBIT A

ANNEXATION NO. 4 TO
COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)
ANNEXATION MAP NO. 4 OF COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2), CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA


JEAN ZAHR, CITY CLERK

I HEREBY CERTIFY THAT THIS MAP SHOWING THE PROPOSED BOUNDARIES OF ANNEXATION NO. 3 TO CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2), CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MODESTO AT A REGULAR MEETING THEREOF, HELD ON THE ______ DAY OF ____________, 2004, BY ITS RESOLUTION NO. ______.

JEAN ZAHR, CITY CLERK


LEE LUNDRIGAN, COUNTY RECORDER OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA


JEAN ZAHR, CITY CLERK

GIULIANI & KULL, INC.
ARCHITECTS & ENGINEERS
180 S. Yosemite Avenue, Suite A, Modesto, CA 95355
(209) 847-8728 Fax (209) 847-7323
Auburn • Oakdale • San Jose

SHEET 1 OF 2
MODESTO CITY COUNCIL
RESOLUTION NO. 2004 - 459

WAS NOT USED
A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO FORMALLY SOLICIT REQUEST FOR BIDS (RFB) FOR ONE (1) WINDROW TURNER FOR A TOTAL ESTIMATED COST OF $260,000.00

WHEREAS, the Public Works Department-Water Quality Control (WQC) Division has requested the purchase of one (1) windrow turner, and

WHEREAS, a windrow turner is an important piece of equipment used to produce compost, and

WHEREAS, the materials to be composted is placed into windrows and the windrow turner passes over each windrow and mixes the composting material, and

WHEREAS, this helps stimulate the microorganisms in the material, which break down coarse organic matter into compost, and

WHEREAS, it is important that the windrows are turned frequently and efficiently in order to help the material mature into a high quality composting product, and is part of our permitted composting process, and

WHEREAS, staff currently operates a Scarab Manufacturing windrow turner at its composting site on Jennings Road which has become very costly to operate, and

WHEREAS, the windrow turner was purchased in 1996 and has been used heavily from that point forward, and

WHEREAS, at this time the turner is worn down and in need of constant repairs, and

WHEREAS, since 2002, over $180,000 has been expended for needed repairs just to keep the machine running, and
WHEREAS, recently staff was forced to spend $40,000 when the tracks became so dilapidated that the windrow turner could not be operated, and

WHEREAS, other major components have failed and others could fail at any time, and

WHEREAS, since this piece of equipment is a key component to the success of the composting operations, it is imperative that staff have access to a reliable windrow turner, and

WHEREAS, in addition to being very expensive, the breakdowns also impact staff productivity and efficiency, and

WHEREAS, on many occasions staff has been forced to cease producing compost to make the necessary repairs to the Scarab windrow turner, and

WHEREAS, this is inefficient use of time and adds greatly to the compost production costs, and

WHEREAS, the existing Scarab windrow turner will be sold by seal bid, with a minimum seal bid price, and

WHEREAS, windrow turner technology has changed greatly over the last eight (8) years, with the development of a trans-fluid-coupler system windrow turner, and

WHEREAS, there are two types of windrow turners available today, the hydraulic drive system and the trans-fluid-coupler system, and

WHEREAS, the trans-fluid-coupler system technology has an efficiency rating of 98% as compared to 89% for the hydraulic drive system windrow turner, and

WHEREAS, the hydraulic drive system has valves, hoses, fittings, filters and gauges, which can decrease the hydraulic system efficiency by more than 10%, and
WHEREAS, the trans-fluid-coupler system has no fitting or complicated drums and motors to replace, which means less maintenance, and

WHEREAS, the trans-fluid-coupler system can be engaged or disengaged at high idle without damage, where the hydraulic drive system has to be engaged at low idle only, and

WHEREAS, if the trans-fluid-coupler quits for some reason while turning the windrow, the fluid coupler will automatically disengage, where the hydraulic drum system windrow turner would stay connected until the engine stalled from overload, and

WHEREAS, shock absorption is very critical to the life span of a windrow turner, and

WHEREAS, the trans-fluid-coupler windrow turner will absorb shock from rocks or other debris in the windrow without damage to the drive system, and

WHEREAS, the belt will also take a beating without slipping and allow the fluid coupler to do its job and take the load, where the hydraulic drive system has very little shock absorption, and

WHEREAS, a windrow turner must operate in a very dusty and dirty environment, and

WHEREAS, the hydraulic system is prone to contamination from dust, which is abundant at the compost facility, and

WHEREAS, some agencies have had to replace the drum drive motors on their hydraulic drive system every two or three months, and
WHEREAS, the drive components on the trans-fluid-coupler windrow turner are suitably isolated from the dust and dirt and the system is designed to handle contaminates of this nature, and

WHEREAS, the synchronous belt drive on the trans-fluid-coupler technology has a 5000-hour service interval, where the hydraulic drum system has a 500-hour service interval, and

WHEREAS, the trans-fluid-coupler technology has a stronger drum than the hydraulic drive system windrow turner, and

WHEREAS, the trans-fluid-coupler has a ¼ inch thick wall on the drum pipe and is twice as thick as what has been available in the past, and

WHEREAS, drum replacement can cost over $10,000; and if the drum is bent, it cannot be used, and a new drum costs approximately $16,000, and

WHEREAS, the trans-fluid-coupler system has a six (6) inch shaft on the turning drum, the largest shaft in the industry, and

WHEREAS, the hydraulic drive system windrow turner has a three (3) inch shaft, and

WHEREAS, the trans-fluid-coupler technology has the largest drum flail diameter, and

WHEREAS, the larger the cross section of the windrow the drum contacts with, the more production the compost will have, and

WHEREAS, the trans-fluid-coupler windrow turner has the largest tip-to-tip flail dimension on the market, working 75% of the window, and

WHEREAS, this provides the best aeration and production available, and
WHEREAS, the trans-fluid-coupler system windrow turner is the most refined compost turner on the market, and

WHEREAS, the combination fluid coupler, poly chain drive, large diameter drum, large diameter drum shafts and heavy duty drum wall makes this technology unique to the market, and is more efficient than the hydraulic drum system windrow turner, and

WHEREAS, with the purchase of new windrow turner, required maintenance costs should decrease and compost productivity should increase, and

WHEREAS, by soliciting formal bids for the purchase of one (1) windrow turner 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 the Purchasing Supervisor is hereby authorized to solicit formal Request for Bids for one (1) windrow turner with a trans-fluid-coupler system as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the purchase of one (1) windrow turner 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 14th day of October, 2004, by Councilmember Jackman, 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

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION AUTHORIZING THE FINANCE DEPARTMENT TO TRANSFER $33,030 FROM 7210-800-8000-8003, $150,000 FROM 6210-480-5227-0360, AND $76,970 FROM 6290-480-5222-0223 INTO 6290-480-5222-5900 AND AMEND THE BUDGET TO APPROPRIATE THESE FUNDS FOR THE PURCHASE OF ONE (1) WINDROW TURNER FOR A TOTAL ESTIMATED COST OF $260,000.00

WHEREAS, the Public Works Department-Water Quality Control (WQC) Division has requested the purchase of one (1) windrow turner, and

WHEREAS, a windrow turner is an important piece of equipment used to produce compost, and

WHEREAS, the materials to be composted are placed into windrows and the windrow turner passes over each windrow and mixes the composting materials, and

WHEREAS, the windrow turner presently in use is expensive to repair, impacts staff productivity and efficiency and adds greatly to the compost production cost, and

WHEREAS, with the purchase of a new windrow turner required maintenance costs should decrease and compost productivity should increase, and

WHEREAS, Council desires to amend the budget for said purchase,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorized the Finance Department to transfer $33,030 from 7210-800-8000-8003, $150,000 from 6210-480-5227-0360, and $76,970 from 6290-480-5222-0223 into 6290-480-5222-5900 and amend the budget to appropriate these funds for the purchase of one (1) windrow turner.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2004, by Councilmember Jackman, 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

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-462


WHEREAS, the addition of one position to the Public Works Department’s position allocation table was proposed during the budget development process and submitted as a Decision Package for Fiscal Year 2004-2005, and

WHEREAS, the addition of this position was initially approved by the City Manager, the Deputy City Manager, and the Finance Committee, but was omitted from the final published budget document, and

WHEREAS, during the final budget process, this enhancement package was set aside for consideration outside the budget development process, and

WHEREAS, the need for this position allocation change still exists, and

WHEREAS, the resignation of one part-time employee and the pending retirement of yet another part-time employee creates an opportunity to provide a more appropriate level of staffing in the Transit Division to complement the additional workload that has evolved due to the implementation of several new programs in recent years, and

WHEREAS, as the Transit System continues to grow more effort will be needed to keep pace with the growth in the number of bus stops and bus pass sales that will ultimately occur, and

WHEREAS, by combining the two part-time positions together into one full-time position the duties that would be handled by this combined position would fit perfectly into a forty-hour workweek, and
WHEREAS, a major portion of this person’s time will be dedicated to gathering of data, designing, printing and posting of bus stop schedules at each of the 800 bus stops in the Modesto Area Express (MAX) bus system, and

WHEREAS, these tasks stem from a project, which was assigned by the City Council to the Transit Division, and has proven very popular with MAX customers, and

WHEREAS, making this position full-time is important to the continued success of the program by helping to ensure that it will be staffed by a qualified, competent individual, and

WHEREAS, funding for this position will be provided by combining $26,892 currently allocated to fund two part-time positions, with an additional appropriation of $24,755 in Local Transportation Funds (LTF) for the purpose of funding a full-time Transit Planning Technician I, and

WHEREAS, at its meeting of August 11, 2004, the Finance Committee approved this position allocation change and recommended approval to Council,

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

Add one (1) permanent full-time Transit Planning Technician I (working title) position in range 115, in Organization 1672 (Transit Division).

BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary position 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 14th day of October, 2004, by Councilmember Jackman, 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

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-463

A RESOLUTION AMENDING THE FY04-05 OPERATING BUDGET TO APPROPRIATE $24,755 FROM LOCAL TRANSPORTATION FUND 6540-165-1672-3158 TO 6540-165-1672-0182 FOR THE ACCOUNT TITLED "BUS FIXED ROUTE MAX OPERATIONS"

WHEREAS, on September 14, 2004, the City Council approved the following position change in the Public Works Department:

Add one (1) permanent full-time Transit Planning Technician I (working title) position in range 115, in Organization 1672 (Transit Division), and

WHEREAS funding for this position will be provided by combining $26,892 currently allocated to fund two part-time positions, with an additional appropriation of $24,755 in Local Transportation Funds (LTF) for the purpose of funding a full-time Transit Planning Technician I (working title), and

WHEREAS the City Council authorized City staff to make the necessary position changes in coordination with the Personnel Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Operating Budget for fiscal year 2004-05 to appropriate an additional $24,755 from Local Transportation Fund 6540-165-1672-3158 to operating account 6540-165-1672-0182 in the Bus Fixed Route MAX Operations operating budget to fully fund this position.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the steps necessary to amend the Operating Budget.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2004, by Councilmember Jackman, 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

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-464

A RESOLUTION IN SUPPORT OF THE RENEWAL OF THE STANISLAUS COUNTY RECYCLING MARKET DEVELOPMENT ZONE AND RESOLUTION NO. 93-515

WHEREAS, the California Public Resources Code Section 42010 provides for the establishment of the Recycling Market Development Zone (RMDZ) program throughout the State to provide incentives to stimulate development of post-consumer and secondary materials markets for recyclables, and

WHEREAS, cities and counties must meet a 50 percent reduction in landfill waste disposal as mandated in the California Integrated Waste Management Act, and

WHEREAS, the Stanislaus County RMDZ is dedicated to establishing, sustaining and expanding recycling-based manufacturing businesses, which is essential for market development and to assist local jurisdictions to meet the established landfill reduction goals, and

WHEREAS, the Stanislaus County RMDZ designation will expire in November 2004 unless re-designation by the California Integrated Waste Management Board, and

WHEREAS, the City of Modesto still desires existing and new recycling-based manufacturing businesses locating within the region to be eligible for the technical and financial incentives associated with the RMDZ program, and

WHEREAS, the renewal of the Stanislaus County RMDZ is still necessary to facilitate local and regional planning, coordination, support of existing recycling-based manufacturing businesses, as well as attract private sector recycling business investments to the region, and
WHEREAS, the current and proposed waste management practices and conditions are favorable to the development of post-consumer and secondary waste materials markets, and

WHEREAS, the California Integrated Waste Management Board, in its Strategic Plan, has adopted a goal to continuously integrate environmental justice concerns into all of the Board’s programs and activities, and

WHEREAS, the California Legislature has defined environmental justice as “the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of the environmental laws, regulations, and policies” [Government Code section 65040.12(e)], and has directed the California Environmental Protection Agency to conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the state [Public Resources Code section 71110(a)], and

WHEREAS, Stanislaus County as Lead Agency under the California Environmental Quality Act, has prepared, or caused to be prepared, and adopted a Negative Declaration for this zone renewal project that finds that the project will not have a significant impact on the environment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of a Recycling Market Development Zone renewal application to include the City of Modesto.
BE IT FURTHER RESOLVED that Resolution No. 93-515 is hereby rescinded, effective September 14, 2004.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September 2004, by Councilmember Jackman, 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
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION ACCEPTING IMPROVEMENTS IN PAPATONE WEST SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION AND AUTHORIZING RELEASE OF BONDS

WHEREAS, MODESTO ANNEX DEVELOPERS, L.P., a California Limited Partnership, by Modesto Annex Investors, LLC, a California limited liability company, is the subdivider of the PAPATONE WEST SUDIVISION ("SUBDIVISION"), in the Village One Specific Plan Area, and

WHEREAS, MODESTO ANNEX DEVELOPERS, L.P., a California Limited Partnership, by Modesto Annex Investors, LLC, a California limited liability company has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $2,150,936.82 and $1,075,468.41, respectively, and

WHEREAS, MODESTO ANNEX DEVELOPERS, L.P., a California Limited Partnership, by Modesto Annex Investors, LLC, a California limited liability company has filed a warranty bond in the amount of $215,093.68 to guarantee improvements in the Papatone West Subdivision, and

WHEREAS, the Public Works Director, 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 Public Works Director 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 Papatone West 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 $2,150,936.82 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 $1,075,468.41 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 bond to guarantee improvements in the amount of $215,093.68 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 14th day of September, 2004, by Councilmember Jackman, 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

APPROVED AS TO FORM:

By ALISON BARRATT-GREEN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-466

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO CALLING AN ELECTION FOR THE PURPOSE OF SUBMITTING THE LEVY OF THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) SPECIAL TAXES TO THE QUALIFIED ELECTORS OF THE TERRITORY PROPOSED TO BE ANNEXED TO THE DISTRICT (ANNEXATION NO. 3)

WHEREAS, this Council did, on August 10, 2004, adopt its Resolution No. 2004-409 (the “Resolution of Intention to Annex”) to indicate its intention to annex certain territory to the City’s Community Facilities District No. 2004-1 (Village One #2) (the “District”) and authorize the levy of the District special taxes within the territory proposed to be annexed (the “Annexed Territory”), pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”), and set a hearing thereon; and

WHEREAS, notice of the hearing was duly published as required by law, as evidenced by the proof of publication on file with the City Clerk; and

WHEREAS, a map of the Annexed Territory, entitled “Annexation Map No. 3 of Community Facilities District No. 2004-1 (“Village One #2) of the City of Modesto, County of Stanislaus, State of California,” was recorded on August 11, 2004, in the Office of the County Recorder of the County of Stanislaus, in Book 3 of Maps of Assessment and Community Facilities Districts, at page 96; and

WHEREAS, at the time and date set for the hearing (September 14, 2004) pursuant to the Resolution of Intention to Annex, this Council held the public hearing, as required by the Act, related to the proposed annexation and the levy of the District special...
taxes within the Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex; and

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

WHEREAS, at the hearing evidence was presented to this Council on the matters before it, and this Council, at the conclusion of the hearing, was fully advised as to all matters related to the proposed annexation and the levy of the District special taxes within the Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex; and

WHEREAS, written protests against the proposed annexation and the levy of the District special taxes within the Annexed Territory have not been filed with the City Clerk by 50 percent or more of the registered voters or six registered voters, whichever is more, residing within the District or residing within the District or residing within the Annexed Territory, or the owners of one-half or more of the land in the District, or in the Annexed Territory; and

WHEREAS, the Stanislaus County Registrar of Voters has certified there are less than 12 registered voters residing in the Annexed Territory; accordingly, the qualified electors are the landowners; and
WHEREAS, the City Clerk, being the Council's designated election official for purposes of the election herein called, has concurred in the election date herein set forth for the election;

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

SECTION 1. The foregoing recitals are true and correct.

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

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

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

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

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

Since the City Clerk has received appropriate waivers of time limits and other requirements pertaining to the conduct of the election by each of the owners of land in the Annexed Territory (collectively, the "Landowners"), the election shall be held on the 14th day of September 2004. The election shall be conducted by the City Clerk in the manner required by this resolution, the Act and applicable laws.

The hour on such date when the ballots are required to be received in the office of the City Clerk is noon, Pacific Time. If all qualified electors have voted prior to such time, the election shall be closed.

SECTION 7. In accordance with Section 53327(b) of the Act, analysis and arguments, as required by Section 53327(a) of the Act are hereby waived, as the City Clerk has received the unanimous consent to such waivers from the Landowners.

SECTION 8. The publication of this Resolution as notice of the special election is hereby waived as the City Clerk has received the unanimous consent to such waiver from the landowners.
SECTION 9. The Annexed Territory shall constitute a single election precinct for the purpose of holding the election.

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

SECTION 11. The City Clerk shall canvass the returns and certify the results of the election to this Council. If two-thirds or more of the votes cast are in favor of levying the District special taxes in the Annexed Territory, this Council may thereafter, order the annexation of the Annexed Territory to the District and levy the District special taxes in the Annexed Territory in the amount and for the purposes specified in Resolution No. 2004-199 adopted by this Council on April 6, 2004 (the “Resolution of Formation”). The Special Tax will be levied only at the rate and apportioned only in the manner specified in the Resolution of Formation.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, 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: MICHAEL D. MILICH, City Attorney
EXHIBIT A

SAMPLE

OFFICIAL BALLOT

BALLOT NO. ___

CITY OF MODESTO
COMMUNITIES FACILITIES DISTRICT NO. 2004-1
(VILLAGE ONE #2)
ANNEXATION NO. 3
SPECIAL TAX ELECTION
September 14, 2004

___% OF LAND IN TERRITORY PROPOSED TO BE ANNEXED TO DISTRICT
NUMBER OF VOTES ENTITLED TO BE CAST ___
(VOTER MAY REMOVE AND RETAIN THIS STUB)

INSTRUCTIONS TO VOTERS

To vote, make a mark (x) in the voting area to the right of the word “YES” or “NO.” All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly mark, tear or deface this ballot, telephone the Office of the City Clerk of the City of Modesto for instructions as soon as possible at (209) 577-5398, Monday through Friday, between the hours of 9:00 a.m. and noon.

MARK YOUR CHOICE IN THIS MANNER ONLY:

MEASURE SUBMITTED TO VOTE OF VOTERS

Proposition A. Shall special taxes, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City’s Resolution No. 2004-199, entitled “A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 2004-1 (Village One #2), Authorizing the Levy of Special Taxes within the District, Preliminarily Establishing an Appropriations Limit for the District, and Calling an Election for the Purpose of Submitting the Levy of the Special Taxes and the Establishment of the Appropriations Limit to the Qualified Electors of the District” (the “Resolution of Formation”), adopted by the City Council of the City of Modesto on April 6, 2004, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to City of Modesto Community Facilities District No. 2004-1 (Village One #2) pursuant to the City’s Resolution No. 2004-409, entitled “A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special Taxes therein (Annexation No. 3)” (the “Resolution of Intention to Annex”) adopted by the City Council of the City of Modesto on August 10, 2004, for the purposes set forth in the Resolution of Formation?

BALLOT NO. ___

___% of land in territory proposed to be annexed to District
THIS BALLOT HAS A VALUE OF ___ VOTES
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-467


WHEREAS, this Council is conducting proceedings pertaining to the annexation of certain territory to the City’s Community Facilities District No. 2004-1 (Village One #2) (the “District”) and the levy of the District special taxes (the “District Special Taxes”) within such territory, as described in its Resolution No. 2004-409, entitled “A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special Taxes therein (Annexation No. 3)” adopted on August 10, 2004, pursuant to Chapter 2.5 of Part I of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”); and

WHEREAS, the owners of all the property within the territory proposed to be annexed to the District waived those provisions related to the timing and conduct of the election referenced in Sections 5, 6, 7 and 8 of this Council’s Resolution No. 2004-466, adopted on September 14, 2004, and, as a result, this Council called an election within the territory proposed to be annexed to the District (the “Election”) for September 14, 2004, relative to the foregoing; and

WHEREAS, on September 14, 2004, the Election was held; and
WHEREAS, the City Clerk has certified that at the Election the proposition of levying the District Special Taxes within the territory proposed to be annexed to the District was approved by more than two-thirds (2/3) of the votes cast at the Election;

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

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

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

SECTION 3. Pursuant to Section 53339.8 of the Act, it is hereby ordered that the territory proposed to be annexed to the District pursuant to Resolution No. 2004-409 be annexed to and be a part of the District with full legal effect, and that the District Special Taxes be levied within the territory so annexed.

SECTION 4. The City Clerk is hereby directed to enter this resolution on the minutes of this City Council, which shall constitute the official declaration of the result of the Election.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, 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: MICHAEL D. MILICH, City Attorney

09/14/2004/CFD/T Rocha/Item11 3 2004-467
CERTIFICATE OF CITY CLERK

I, JEAN ZAHR, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2004-199, A Resolution of the City Council of the City of Modesto Calling an Election for the Purpose of Submitting the Levy of the City of Modesto Community Facilities District No. 2004-1 (Village One #2) Special Taxes to the Qualified Electors of the Territory Proposed to be Annexed to the District (Annexation No. 3) adopted on September 14, 2004, by the City Council of the City of Modesto, I did conduct the Special Tax Election on September 14, 2004, and that the election was conducted by mail or in person at the City Hall of the City of Modesto.

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

Proposition A. Shall special taxes, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City’s Resolution No. 2004-199, entitled “A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 2004-1 (Village One #2), Authorizing the Levy of Special Taxes within the District, Preliminarily Establishing an Appropriations Limit for the District, and Calling an Election for the Purpose of Submitting the Levy of the Special Taxes and the Establishment of the Appropriations Limit to the Qualified Electors of the District” (the “Resolution of Formation”), adopted by the City Council of the City of Modesto on April 6, 2004, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to City of Modesto Community Facilities District No. 2004-1 (Village One #2) pursuant to the City’s Resolution No. 2004-409, entitled “A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special Taxes therein (Annexation No. 3)” (the “Resolution of Intention to Annex”) adopted by the City Council of the City of Modesto on August 10, 2004, for the purposes set forth in the Resolution of Formation?

TOTAL VOTES CAST:

YES 2

NO 0

[Signature]

Jean Zahr
City Clerk of the City of Modesto

Dated: Sept 17, 2004

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

WHEREAS, the Consolidated Annual Performance and Evaluation Report (CAPER) reflects the activities of the City and its sub-recipients for the period of July 1, 2003, through June 30, 2004, and

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

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

WHEREAS, the CAPER was made available for public review and comment from August 27, 2004 through September 14, 2004, and

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

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on August 27, 2004, and reviewed and recommended the CAPER, and
WHEREAS, a duly noticed public hearing was held by the Council on September 14, 2004, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider approval of the CAPER,

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

1. That the Consolidated Annual Performance and Evaluation Report for Fiscal Year 2003-2004 is hereby approved subject to any correction for accuracy being made by the City Manager, and a copy of said report is on file in the office of the City Clerk.

2. That the City Manager, or his authorized designee, is hereby authorized, after having made any necessary correction, to submit said report to the U.S. Department of Housing and Urban Development (HUD).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, 2004, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Jahr,
JEAN JAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney

09/14/04/FR&N/J. Hannon/Item 12 2004-468
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-469

A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION (SCH NO. 2004062131) FOR THE FOLLOWING PROJECT COVERED BY A MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): MARY E. GROGAN COMMUNITY PARK.

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

WHEREAS, the Parks, Recreation and Neighborhoods Department, by Initial Study / Environmental Assessment EA/PR&N No. 2003-09, dated June 16, 2004, reviewed the proposed Project pursuant to Section 21157.1 of the Public Resources Code to analyze whether the proposed project is within the scope of the Master Environmental Impact Report, and

WHEREAS, Section 21080(c)(2) allows the adoption of a Mitigated Negative Declaration (MND) if the lead agency, after reviewing and considering the entire record before the agency, identifies potentially significant effects on the environment, but (a) revisions in the Project plans or proposals made by, or agreed to by, the applicant before the Initial Study (IS) is released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur; and (b) there is no substantial evidence in light of the whole record before the public agency that the Project, as revised, may have a significant effect on the environment, and

WHEREAS, the City of Modesto, the lead agency, after reviewing and considering the Master EIR, the Initial Study and the entire record before it identified potentially significant effects on the environment, but (a) revisions in the Project plans agreed to by the City before the proposed Mitigated Negative Declaration and the Initial
Study were released for public review would avoid or mitigate the effects to a point where clearly no significant effect on the environment would occur; and (b) there was no substantial evidence in light of the whole record before the public agency that the Project, as revised, may have a significant effect on the environment and determined that it would be appropriate to prepare a Mitigated Negative Declaration for the Project, and

WHEREAS, the City of Modesto prepared, circulated and posted, pursuant to Sections 15070 and 15105 of the CEQA Guidelines, an Initial Study / Environmental Assessment EA/PR&N 2003-09 and a Draft Mitigated Negative Declaration (SCH No. 2004062131), dated June 2004, ("IS/MND") and

WHEREAS, the IS/MND was released for public review and comment for the required 30-day period beginning on June 25, 2004, and ending on July 26, 2004, and

WHEREAS, no comments were submitted in response to the Draft Mitigated Negative Declaration which would require a significant revision of the proposed IS/MND, and

WHEREAS, in a public hearing on September 14, 2004, the City Council reviewed and considered the IS/MND for the proposed development and construction of Mary E. Grogan Neighborhood Park Project, together with all comments received during the public review and circulation period and responses thereto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study / Environmental Assessment EA/PR&N 2003-09 and the Draft Mitigated Negative Declaration ("IS/MND") (SCH No. 2004062131) for the proposed Project, a copy of which are on file in the Parks, Recreation and Neighborhoods Department, together with all comments
received during the public review and circulation period, and based on the substantial
evidence included in said IS/MND makes the following findings:

1. The Mitigated Negative Declaration prepared for the proposed Project pursuant
to CEQA Section 21157.1, have identified additional significant environmental
effects that were not analyzed in the Master Environmental Impact Report
(“EIR”). These additional significant effects are potential impacts to Aesthetics,
Air Quality, Biological Resources, Cultural Resources, Geology and Soils,
Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use,
Noise and Traffic and Circulation.

2. Feasible mitigation measures were incorporated to revise the subsequent Project
before the proposed Mitigated Negative Declaration was released for public
review, in order to avoid or mitigate the effects to a point where clearly no
significant effect on the environment will occur.

3. There is no substantial evidence in light of the whole record before the public
agency that the Project, as revised and mitigated, may have a significant effect
on the environment (CEQA Section 21064.5(2)).

4. As part of the adoption of the Mitigated Negative Declaration, the City Council
finds that the report or declaration reflects the independent judgment of the lead
agency for the project.

5. As required by CEQA Section 21081.6 et. Seq., a Mitigation Monitoring
Program will be adopted by incorporating the Mitigation Measures into the
project plan (CEQA Section 21081.6(b)).

BE IT FURTHER RESOLVED by the Council of the City of Modesto that, based
on the above findings, the City of Modesto hereby adopts the Initial Study /
Environmental Assessment EA/PR&N 2003-09 and Mitigated Negative Declaration
(SCH No. 2004062131) for the proposed development and construction of the Mary E.
Grogan Community Park Project by the City of Modesto and hereby designates the Parks
Planning and Development Services Division of the Parks, Recreation and
Neighborhoods Department as the custodian of the documents or other material which
constitute the record of proceedings upon which this decision is based, and specifies the
BE IT FURTHER RESOLVED by the Council of the City of Modesto that pursuant to Section 21081.6 of the Public Resources Code, a Mitigation Monitoring Program is hereby adopted by incorporating the mitigation measures into the Project plan as set forth in Appendix “D” of the Final Initial Study/Mitigated Negative Declaration.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Parks, Recreation and Neighborhoods Director is hereby authorized and directed to file a Notice of Determination with the County Clerk’s Office within five (5) working days of the date of this determination, 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 14th day of September, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, 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

2004-469
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-470

A RESOLUTION APPROVING THE DESIGN DEVELOPMENT REPORT AND MASTER PLAN INCLUDED THEREIN FOR MARY E. GROGAN COMMUNITY PARK.

WHEREAS, in July 2004, Purkiss Rose RSI completed a Design Development Report, which includes the Master Plan, for Mary E. Grogan Community Park, and

WHEREAS, prior to adopting the Design Development Report, the California Environmental Quality Act (CEQA) requires that the City of Modesto consider the environmental consequences of the proposed project, and

WHEREAS, on July 5, 2004, the Safety and Communities Committee recommended approval of the Mary E. Grogan Community Park, and

WHEREAS, by an agenda report dated August 18, 2004 from the Parks, Recreation and Neighborhoods Director, staff recommended to the Council approving the Mary E. Grogan Community Park Design Development Report, a copy of said report is on file in the office of the City Clerk, and

WHEREAS, the Mary E. Grogan Community Park Design Development Report dated July 2004, is within the scope of and contemplated by the City of Modesto Urban Area General Plan, and

WHEREAS, on September 14, 2004, concurrent with this resolution, the Modesto City Council adopted Resolution No. 2004-469, finding that development and construction of the Mary E. Grogan Community Park is in conformance with the City Of Modesto General Plan MEIR (SCH No. 1999082041),
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds that the Mary E. Grogan Community Park Design Development Report is complete and adequate, and it hereby approves the Mary E. Grogan Community Park Design Development Report, and Master Plan included therein, a copy of which is on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-471

A RESOLUTION INITIATING A PROPOSITION 218 PROTEST PROCESS TO ADJUST WATER RATES, AS RECOMMENDED IN THE “WATER UTILITY COST OF SERVICE RATE STUDY” PREPARED BY FORESIGHT CONSULTING, TO CONSTRUCT NECESSARY WATER SYSTEM IMPROVEMENTS, AS IDENTIFIED BY WEST YOST ASSOCIATES IN “JUSTIFICATION AND COST ALLOCATION FOR PROPOSED WATER SYSTEM IMPROVEMENTS”

WHEREAS, on March 23, 2004, Council directed staff to undertake the necessary steps to initiate implementation of water rate increases for the water utility, and

WHEREAS, Council took this action based upon a review of water system needs and financial obligations, and

WHEREAS, Council provided further direction to establish a single water zone with a uniform rate structure, and

WHEREAS, following Council’s action, the City established a Water Rate Task Force, led by Councilmember Brad Hawn and including members from various City departments, to oversee an engineering needs assessment and cost of service rate study for the water utility, and

WHEREAS, Council approved a contract with Foresight Consulting to prepare the cost of service rate study analysis for the water utility, and

WHEREAS, Council also approved a contract with West Yost Associates to prepare a hydraulic model, and

WHEREAS West Yost also completed an engineering needs assessment of the water utility, and
WHEREAS, West Yost's report, *Justification and Cost Allocation for Proposed Water System Improvements*, identifies water system needs totaling $152.8 Million over the course of the next five (5) fiscal years, and

WHEREAS, the West Yost report allocates the bulk of these needs (seventy-four and two-tenths percent (74.2%) / $113.4 million) to existing customers and the remaining system needs (twenty-five and eight-tenths percent (25.8%) / $39.4 million) to future system customers, and

WHEREAS, the *Water Utility Cost of Service Rate Study* prepared by Foresight Consulting concludes rate increases are needed in order to fund the necessary system improvements, as well as to continue to offer high quality service to water utility customers, and

WHEREAS, Foresight's proposed rate adjustments would increase rates by varying amounts for the initial adjustment, effective January 1, 2005, dependent on lot size, customer type and zone, and averaging thirty-five percent (35%) for most residential flat-rate customers, and

WHEREAS, Foresight also proposes subsequent across-the-board rate increases for all customer types and classes effective July 1, 2005, in the amount of twenty percent (20%), effective July 1, 2006, in the amount of fifteen percent (15%), effective July 1, 2007, in the amount of five percent (5%), and effective July 1, 2008, in the amount of five percent (5%), and,

WHEREAS, the Foresight Study further recommends adopting annual automatic rate adjustments beginning July 1, 2009, which would be linked to changes in the
Consumer Price Index, Urban Wage Earners and Clerical Workers Series for the San Francisco CMSA, as prepared by the California Department of Finance, and

WHEREAS, the actual rates levied each year would not exceed the adjusted maximum rates in any given fiscal year without further notification of the property owners, and

WHEREAS, in order to enact the proposed rate increases needed to fund system improvements identified by West Yost the City must conduct a Proposition 218 protest process affording property owners the opportunity to protest the proposed rates, and

WHEREAS, the protest process provides for notices to be mailed to each property owner explaining the new rate structure and proposed rate adjustments, and

WHEREAS, the protest process also requires a public hearing be set for a date not less than forty-five (45) days from the date when protest notices are mailed to property owners, and

WHEREAS, the Finance Committee received the findings and recommendations from West Yost and Foresight Consulting during its meeting on September 2, 2004 and forwarded said findings, recommendations and reports to the full Council for review,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto, that a Proposition 218 Protest process be initiated to adjust rates according to the Foresight report’s proposed Financial Plan with varying rate adjustments for Fiscal Year 2004-2005 (dependent upon customer class, lot size, current zone and current rate) and twenty percent (20%), fifteen percent (15%), five percent (5%) and five percent (5%) across-the-board rate adjustments in subsequent years (2005-2006 through 2008-2009) to support the Financial Plan.
BE IT FURTHER RESOLVED that the protest process include automatic rate adjustments, subject to annual review, beginning July 1, 2009, which would provide for annual rate adjustments linked to changes in the Consumer Price Index, Urban Wage Earners and Clerical Workers Series for the San Francisco CMSA, as prepared by the California Department of Finance.

BE IT FURTHER RESOLVED that actual rates levied each year will not exceed the adjusted maximum rates in any given fiscal year without further notification of the property owners.

BE IT FURTHER RESOLVED that protest notices be mailed to property owners explaining the new rate structure and proposed rate adjustments and allowing for a protest response.

BE IT FURTHER RESOLVED that a public hearing be set for November 23, 2004 to consider the results of the protest response and to act on the proposed rate adjustments.

BE IT FURTHER RESOLVED that Council will review water rates every three years to determine if further adjustments are warranted

BE IT FURTHER RESOLVED that the additional utility user’s tax received as a result of the increased water rates will be used to assist low income seniors.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: \underline{Jean Zahr}, City Clerk

APPROVED AS TO FORM:

By: \underline{Michael D. Milich}, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-472

A RESOLUTION APPROVING THE RENAMING OF THE CITY PARK CURRENTLY REFERRED TO AS "ORVILLE WRIGHT NEIGHBORHOOD PARK", LOCATED AT 1601 HILLSIDE DRIVE, TO "GEORGE A. ROGERS NEIGHBORHOOD PARK".

WHEREAS, at its April 26, 2004, meeting, the Culture Commission met with Tom Myers, a teacher at Rose Avenue Elementary School and a group of citizens, who gave a brief presentation asking the members to consider a proposal to rename Orville Wright Neighborhood Park (located at 1601 Hillside Drive) as George A. Rogers Neighborhood Park, and

WHEREAS, George A. Rogers was a respected and dynamic individual who was a dedicated teacher and mentor at Orville Wright Elementary School for 30 years, and

WHEREAS, the group presented 105 letters requesting this name change and a petition containing 535 signatures of support to the Commission, and

WHEREAS, per City Council Policy No. 6.005 (1) parks located adjacent to schools shall be given the same name as the school, unless the request meets the following exception stated in (3) of the above policy:

"An exception to the above procedure would be made when the park has been made possible by a public-spirited citizen and the Council determines it appropriate to name the park after the citizen or a name suggested by the citizen."

and

WHEREAS, Mr. Rogers was involved from the beginning when meetings were held with the Modesto Airport Neighbors United to discuss the possibility of a park with a baseball field that would benefit the Airport neighborhood, Mr. Rogers presented this "park idea" to the Orville Wright staff and gained their support for the neighborhood park, and Mr. Rogers' involvement in numerous school and community organizations supports his qualification as a public-spirited citizen, and

WHEREAS, the Culture Commission believed this request met the exception listed in City Council Policy No. 6.005 (3) and directed staff to follow the proper procedures, and
WHEREAS, a duly noticed public hearing of the Culture Commission was held on June 28, 2004, at which time several citizens voiced their support for this name change including: Scott Genzmer, former Principal of Orville Wright Elementary School; Jim Enochs, Superintendent of Modesto City Schools; Craig Orona, Mr. Roger’s nephew; and Mary Lynn Lebow, Airport Neighbors United Coordinator, and all expressed their admiration for George A. Rogers, stating that he was a man of enormous integrity who has inspired three generations of pupils at Orville Wright Elementary School, and

WHEREAS, at the September 8, 2004, Safety and Communities meeting, the above individuals, and others, reiterated their admiration and respect for George Rogers and his many acts of dedication, most notably to the youth of Modesto and the Airport neighborhood, and

WHEREAS, the Safety and Communities Committee met on September 8, 2004, and supported the recommendation to rename the Orville Wright Neighborhood Park to George A. Rogers Neighborhood Park,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves renaming the city park currently referred to as “Orville Wright Neighborhood Park”, located at 1601 Hillside Drive, to “George A. Rogers Neighborhood Park”.

09/28/04/PR&N/C Eubank/item 02  2  2004-472
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 2004, by Councilmember Jackman, 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: Hawn, Jackman, Keating, Marsh, O'Bryan, Mayor Ridenour

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: Dunbar

Attest: _______________________
JEAN ZAHR, City Clerk

APPROVED AS TO FORM: ________________________
By: ________________________
MICHAEL D. MILICH, City Attorney
A RESOLUTION APPOINTING ELEVEN MODESTO AREA HIGH SCHOOL STUDENTS TO THE CITY OF MODESTO YOUTH 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, as authorized by Resolution No. 89-443, principals from the High Schools within the City Limits of the City of Modesto have recommended students to serve as Modesto Youth Commissioners,

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

SECTION 1. Two Modesto area high school students are hereby appointed to the City of Modesto Youth Commission, with a one-year term limit, as follows:

Beyer High School
Chance Kenney

Valley Business High School
Joshua DeLeon

SECTION 2. Nine Modesto area high school students are hereby appointed to the City of Modesto Youth Commission, with a two-year term limit, as follows:

Beyer High School
Meghan Killian

Big Valley Grace High School
Katie Collins

Central Catholic High School
Suzann Galas

Davis High School
John Abate

Downey High School
Amy Sutherland

Johansen High School
Cami Gonella

Modesto High School
Christina Ramos

Modesto Christian School
Kyle Silberbauer

Valley Business
Jennifer McGaffee
SECTION 3. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the City of Modesto Youth 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 28th day of September 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: Dunbar

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

Attest: JEAN ZAHN, City Clerk
A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO
ADOPTING AN AMENDED CONFLICT OF INTEREST CODE FOR THE
OFFICE OF THE CITY MANAGER OF THE CITY OF MODESTO AND
RESCINDING RESOLUTION NO. 2002-450

WHEREAS, pursuant to Government Code Section 87300, every local agency
must adopt a conflict of interest code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City
agencies/departments which have adopted conflict of interest codes, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the
code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of September 28, 2004 considered the
adoption of amended conflict of interest codes for various City departments, including
the Office of the City Manager.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of
Modesto hereby adopts an amended Conflict of Interest Code for the Office of the City
Manager of the City of Modesto as submitted, a copy of which Code is attached hereto.

BE IT FURTHER RESOLVED that Resolution No. 2002-450 adopted by the
Council is hereby rescinded.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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, 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
CONFLICT OF INTEREST CODE
OF THE
OFFICE OF THE CITY MANAGER
OF THE CITY OF MODESTO

The Political Reform Act (Government Code Section 8100, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Office of the City Manager.

Designated employees shall file their statements with the Office of the City Clerk and Auditor which will make the statements available for public inspection and reproduction. (Gov. Code Section 81008). Statements for all designated employees will be retained by the Office of the City Clerk & Auditor.
**OFFICE OF THE CITY MANAGER**

**CONFLICT OF INTEREST CODE**

**EXHIBIT "A"**

<table>
<thead>
<tr>
<th>Designated Positions</th>
<th>Disclosure Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Manager</td>
<td>1 &amp; 2</td>
</tr>
<tr>
<td>Consultant(s)</td>
<td>3</td>
</tr>
<tr>
<td>Deputy City Manager</td>
<td>2</td>
</tr>
<tr>
<td>Administrative Analyst II</td>
<td>2</td>
</tr>
</tbody>
</table>
Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: The City Manager is required, pursuant to Government Code Section 87200, to disclose investments, interests in real property and income. No other or additional disclosure requirements are imposed by this Conflict of Interest Code.

Group 2: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 3: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.
A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO
ADOPTING AN AMENDED CONFLICT OF INTEREST CODE FOR THE
COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT OF THE CITY
OF MODESTO AND RESCINDING RESOLUTION NO. 2002-452

WHEREAS, pursuant to Government Code Section 87300, every local agency
must adopt a conflict of interest code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City
agencies/departments which have adopted conflict of interest codes, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the
code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of September 28, 2004 considered the
adoption of amended conflict of interest codes for various City departments, including
the Community & Economic Development Department.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of
Modesto hereby adopts an amended Conflict of Interest Code for the Community &
Economic Development Department of the City of Modesto as submitted, a copy of
which Code is attached hereto.

BE IT FURTHER RESOLVED that Resolution No. 2002-452 adopted by the
Council is hereby rescinded.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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, 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
CONFLICT OF INTEREST CODE
OF THE
COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT
OF THE CITY OF MODESTO

The Political Reform Act (Government Code Section 8100, et seq.) requires state
and local government agencies to adopt and promulgate conflict of interest codes. The
18730) that contains the terms of a standard conflict of interest code. After public notice
and hearing it may be amended by the Fair Political Practices Commission to conform to
amendments in the Political Reform Act. Therefore, the terms of 2 California Code of
Regulations Section 18730 and any amendments to it duly adopted by the Fair Political
Practices Commission are hereby incorporated by reference. This regulation and the
attached Appendix designating officials and employees and establishing disclosure
categories, shall constitute the conflict of interest code of the Community Development
Department.

Designated employees shall file their statements with the Office of the City Clerk
and Auditor who will make the statements available for public inspection and
reproduction. (Gov. Code Section 81008). Statements for all designated employees will
be retained by the Office of the City Clerk & Auditor.
**COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT**

**CONFLICT OF INTEREST CODE**

**EXHIBIT "A"**

<table>
<thead>
<tr>
<th>Designated Positions</th>
<th>Disclosure Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Analyst II</td>
<td>1</td>
</tr>
<tr>
<td>Administrative Services Officer</td>
<td>1</td>
</tr>
<tr>
<td>Assistant Planner</td>
<td>1</td>
</tr>
<tr>
<td>Associate Civil Engineer</td>
<td>1</td>
</tr>
<tr>
<td>Associate Planner</td>
<td>1</td>
</tr>
<tr>
<td>Building Inspector I, II</td>
<td>1</td>
</tr>
<tr>
<td>Business Analyst</td>
<td>1</td>
</tr>
<tr>
<td>Business Development Division Manager</td>
<td>1</td>
</tr>
<tr>
<td>Chief Building Official</td>
<td>1</td>
</tr>
<tr>
<td>Community &amp; Economic Development Director</td>
<td>1</td>
</tr>
<tr>
<td>Consultant</td>
<td>2</td>
</tr>
<tr>
<td>Deputy Chief Building Official</td>
<td>1</td>
</tr>
<tr>
<td>Junior Civil Engineer</td>
<td>1</td>
</tr>
<tr>
<td>Plan Review Engineer</td>
<td>1</td>
</tr>
<tr>
<td>Planning Assistant</td>
<td>1</td>
</tr>
<tr>
<td>Planning Division Manager</td>
<td>1</td>
</tr>
<tr>
<td>Planning Technician II</td>
<td>1</td>
</tr>
<tr>
<td>Principal Planner</td>
<td>1</td>
</tr>
<tr>
<td>Senior Building Inspector</td>
<td>1</td>
</tr>
<tr>
<td>Senior Civil Engineer</td>
<td>1</td>
</tr>
<tr>
<td>Senior Planner</td>
<td>1</td>
</tr>
<tr>
<td>Strategic Planning Manager</td>
<td>1</td>
</tr>
<tr>
<td>Supervising Building Inspector</td>
<td>1</td>
</tr>
</tbody>
</table>
Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the Modesto Urban Area General Plan.)

Group 2: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department that hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest the consultant is required to file with the City Clerk on beginning and ending the job.
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-476

A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO
ADOPTING AN AMENDED CONFLICT OF INTEREST CODE FOR THE
FINANCE DEPARTMENT OF THE CITY OF MODESTO AND RESCINING
RESOLUTION NO. 2002-451

WHEREAS, pursuant to Government Code Section 87300, every local agency
must adopt a conflict of interest code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City
agencies/departments which have adopted conflict of interest codes, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the
code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of September 28, 2004 considered the
adoption of amended conflict of interest codes for various City departments, including
the Finance Department.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of
Modesto hereby adopts an amended Conflict of Interest Code for the Finance Department
of the City of Modesto as submitted, a copy of which Code is attached hereto.

BE IT FURTHER RESOLVED that Resolution No. 2002-451 adopted by the
Council is hereby rescinded.

RESCIND

THIS RESOLUTION WAS
RESCINDED BY MODESTO
CITY COUNCIL RESOLUTION
NO. 2004-476

09/28/04/CC/R Bartholomew/Item 05 1 2004-572 2004-476
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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, 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
CONFLICT OF INTEREST CODE
OF THE
FINANCE DEPARTMENT
OF THE CITY OF MODESTO

The Political Reform Act (Government Code Section 8100, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Finance Department.

Designated employees shall file their statements with the Office of the City Clerk and Auditor which will make the statements available for public inspection and reproduction. (Gov. Code Section 81008). Statements for all designated employees will be retained by the Office of the City Clerk & Auditor.
FINANCE DEPARTMENT

CONFLICT OF INTEREST CODE

EXHIBIT "A"

<table>
<thead>
<tr>
<th>Designated Positions</th>
<th>Disclosure Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accounting Division Manager</td>
<td>2</td>
</tr>
<tr>
<td>Administrative Technician (Purchasing Division)</td>
<td>3</td>
</tr>
<tr>
<td>Buyer</td>
<td>3</td>
</tr>
<tr>
<td>Consultant</td>
<td>5</td>
</tr>
<tr>
<td>Deputy Finance Director (2)</td>
<td>2</td>
</tr>
<tr>
<td>Purchasing Officer</td>
<td>2</td>
</tr>
<tr>
<td>Stores Manager</td>
<td>3</td>
</tr>
</tbody>
</table>
Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

**Group 1:** The Director is required, pursuant to Government Code Section 87200, to disclose investments, interests in real property and income. No other or additional disclosure requirements are imposed by this Conflict of Interest Code.

**Group 2:** Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

**Group 3:** Designated employees in this group shall report all business positions, all investments, income, loans or gifts from individuals or businesses - Schedules A, C, D, E and F - from business entities located in or doing business within the jurisdiction.

**Group 4:** Designated employees in this group shall report all business positions, all investments, income, loans or gifts from individuals or businesses - Schedules A, C, D, E and F - from business entities located in or doing business within the jurisdiction which manufacture, sell or design data processing equipment or related services.

**Group 5:** A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.
A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO
ADOPTING AN AMENDED CONFLICT OF INTEREST CODE FOR THE
INFORMATION & TECHNOLOGY DEPARTMENT OF THE CITY OF
MODESTO AND RESCINDING RESOLUTION NO. 2002-455

WHEREAS, pursuant to Government Code Section 87300, every local agency
must adopt a conflict of interest code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City
agencies/departments which have adopted conflict of interest codes, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the
code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of September 28, 2004 considered the
adoption of amended conflict of interest codes for various City departments, including
the Information & Technology Department.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of
Modesto hereby adopts an amended Conflict of Interest Code for the Information &
Technology Department of the City of Modesto as submitted, a copy of which Code is
attached hereto.

BE IT FURTHER RESOLVED that Resolution No. 2002-455 adopted by the
Council is hereby rescinded.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 28th day of September 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, Keating, Marsh, O’Bryant,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahra

Michael D. Milich, City Attorney
CONFLICT OF INTEREST CODE
OF THE
INFORMATION TECHNOLOGY DEPARTMENT
OF THE CITY OF MODESTO

The Political Reform Act (Government Code Section 8100, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Finance Department.

Designated employees shall file their statements with the Office of the City Clerk and Auditor which will make the statements available for public inspection and reproduction. (Gov. Code Section 81008). Statements for all designated employees will be retained by the Office of the City Clerk & Auditor.
INFORMATION TECHNOLOGY DEPARTMENT

CONFLICT OF INTEREST CODE

EXHIBIT "A"

<table>
<thead>
<tr>
<th>Designated Positions</th>
<th>Disclosure Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultant</td>
<td>5</td>
</tr>
<tr>
<td>Chief Information Officer</td>
<td>1</td>
</tr>
<tr>
<td>Deputy Chief Information Officer</td>
<td>2</td>
</tr>
<tr>
<td>Information Technology Unit Manager</td>
<td>2</td>
</tr>
<tr>
<td>Software Analyst IV</td>
<td>2</td>
</tr>
<tr>
<td>Software Analyst III</td>
<td>2</td>
</tr>
<tr>
<td>System Engineer III</td>
<td>2</td>
</tr>
<tr>
<td>System Engineer II</td>
<td>2</td>
</tr>
</tbody>
</table>
INFORMATION TECHNOLOGY DEPARTMENT

CONFLICT OF INTEREST CODE

EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: The Director is required, pursuant to Government Code Section 87200, to disclose investments, interests in real property and income. No other or additional disclosure requirements are imposed by this Conflict of Interest Code.

Group 2: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 3: Designated employees in this group shall report all business positions, all investments, income, loans or gifts from individuals or businesses - Schedules A, C, D, E and F - from business entities located in or doing business within the jurisdiction.

Group 4: Designated employees in this group shall report all business positions, all investments, income, loans or gifts from individuals or businesses - Schedules A, C, D, E and F - from business entities located in or doing business within the jurisdiction which manufacture, sell or design data processing equipment or related services.

Group 5: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.
A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN
AMENDED CONFLICT OF INTEREST CODE FOR THE PARKS, RECREATION &
NEIGHBORHOODS DEPARTMENT OF THE CITY OF MODESTO AND
RESCINDING RESOLUTION NO. 2002-453

WHEREAS, pursuant to Government Code Section 87300, every local agency must
adopt a conflict of interest code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City
agencies/departments which have adopted conflict of interest codes, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the code
reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of September 28, 2004 considered the adoption
of amended conflict of interest codes for various City departments, including the Parks,
Recreation & Neighborhoods Department.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto
hereby adopts an amended Conflict of Interest Code for the Parks, Recreation & Neighborhoods
Department of the City of Modesto as submitted, a copy of which Code is attached hereto.

BE IT FURTHER RESOLVED that Resolution No. 2002-453 adopted by the Council is
hereby rescinded.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: [Signature]
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

BY: [Signature]
MICHAEL D. MILICH, City Attorney
CONFLICT OF INTEREST CODE
OF THE
PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT
OF THE CITY OF MODESTO

The Political Reform Act (Government Code Section 8100, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Parks, Recreation and Neighborhoods Department.

Designated employees shall file their statements with the Office of the City Clerk and Auditor which will make the statements available for public inspection and reproduction. (Gov. Code Section 81008). Statements for all designated employees will be retained by the Office of the City Clerk & Auditor.
<table>
<thead>
<tr>
<th>Designated Positions</th>
<th>Disclosure Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Analyst II</td>
<td>2</td>
</tr>
<tr>
<td>Administrative Analyst I</td>
<td>2</td>
</tr>
<tr>
<td>Administrative Services Officer</td>
<td>1</td>
</tr>
<tr>
<td>Building Maintenance Supervisor</td>
<td>1</td>
</tr>
<tr>
<td>Code Enforcement Officer I, II</td>
<td>2</td>
</tr>
<tr>
<td>Community Development Program Specialist II</td>
<td>2</td>
</tr>
<tr>
<td>Consultant</td>
<td>3</td>
</tr>
<tr>
<td>Cultural Services Manager</td>
<td>2</td>
</tr>
<tr>
<td>Customer Services Supervisor</td>
<td>2</td>
</tr>
<tr>
<td>Deputy Director – Cultural &amp; Enterprise Services</td>
<td>1</td>
</tr>
<tr>
<td>Deputy Director – Recreation &amp; Neighborhoods</td>
<td>1</td>
</tr>
<tr>
<td>Events Supervisor I</td>
<td>2</td>
</tr>
<tr>
<td>Events Supervisor II</td>
<td>2</td>
</tr>
<tr>
<td>Housing Financial Specialist</td>
<td>2</td>
</tr>
<tr>
<td>Housing Program Supervisor</td>
<td>2</td>
</tr>
<tr>
<td>Housing Rehabilitation Specialist II</td>
<td>2</td>
</tr>
<tr>
<td>Neighborhood Preservation Supervisor</td>
<td>2</td>
</tr>
<tr>
<td>Operations &amp; Maintenance Supervisor</td>
<td>2</td>
</tr>
<tr>
<td>Operations Supervisor</td>
<td>2</td>
</tr>
<tr>
<td>Parks Operations Superintendent</td>
<td>1</td>
</tr>
<tr>
<td>Parks Planning &amp; Development Manager</td>
<td>1</td>
</tr>
<tr>
<td>Project Coordinator</td>
<td>2</td>
</tr>
<tr>
<td>Parks, Recreation &amp; Neighborhoods Director</td>
<td>1</td>
</tr>
<tr>
<td>Recreation Superintendent</td>
<td>1</td>
</tr>
<tr>
<td>Recreation Supervisor II</td>
<td>2</td>
</tr>
<tr>
<td>Senior Building Inspector</td>
<td>2</td>
</tr>
<tr>
<td>Senior Community Development Program Specialist</td>
<td>2</td>
</tr>
<tr>
<td>Senior Housing Rehabilitation Specialist</td>
<td>2</td>
</tr>
</tbody>
</table>
Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

**Group 1:** Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

**Group 2:** Designated employees in this group shall report all business positions, all investments, income, loans or gifts from individuals or businesses - Schedules A, C, D, E and F - from business entities located in or doing business within the jurisdiction which manufacture, sell or supply equipment, including but not limited to horticulture, construction, craft, office and safety supplies and/or equipment.

**Group 3:** A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a conflict of interest code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted conflict of interest codes, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the code reviewing body for agencies of the City of Modesto, and

WHEREAS, the City Council, at its meeting of July 6, 2004, considered and approved the reorganization of various departments resulting in the elimination of the Engineering & Transportation and Operations & Maintenance Departments, and the creation of the Public Works Department, and

WHEREAS, the Council, at its meeting of September 28, 2004 considered the deletion of the conflict of interest code for various City departments, including the Engineering & Transportation Department.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby deletes the Conflict of Interest Code for the Engineering & Transportation Department of the City of Modesto.

BE IT FURTHER RESOLVED that Resolution No. 2001-264 adopted by the Council is hereby rescinded.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST:  

JEAN ZAHR, City Clerk

APPROVED AS TO FORM  

MICHAEL D. MILICH, City Attorney
A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO DELETING
THE CONFLICT OF INTEREST CODE FOR THE OPERATIONS &
MAINTENANCE DEPARTMENT OF THE CITY OF MODESTO AND
RESCINDING RESOLUTION NO. 2002-454

WHEREAS, pursuant to Government Code Section 87300, every local agency
must adopt a conflict of interest code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City
agencies/departments which have adopted conflict of interest codes, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the
code reviewing body for agencies of the City of Modesto, and

WHEREAS, the City Council, at its meeting of July 6, 2004, considered and
approved the reorganization of various departments resulting in the elimination of the
Engineering & Transportation and Operations & Maintenance Departments, and the
creation of the Public Works Department, and

WHEREAS, the Council, at its meeting of September 28, 2004 considered the
deletion of the conflict of interest code for various City departments, including the
Operations & Maintenance Department.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of
Modesto hereby deletes the Conflict of Interest Code for the Operation & Maintenance
Department of the City of Modesto.

BE IT FURTHER RESOLVED that Resolution No. 2002-454 adopted by the
Council is hereby rescinded.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 28th day of September 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, 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
A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO
ADOPTING THE CONFLICT OF INTEREST CODE FOR THE PUBLIC
WORKS DEPARTMENT OF THE CITY OF MODESTO.

WHEREAS, pursuant to Government Code Section 87300, every local agency
must adopt a conflict of interest code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City
agencies/departments which have adopted conflict of interest codes, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the
code reviewing body for agencies of the City of Modesto, and

WHEREAS, the City Council, at its meeting of July 6, 2004, considered and
approved the reorganization of various departments resulting in the elimination of the
Engineering & Transportation and Operations & Maintenance Departments, and the
creation of the Public Works Department, and

WHEREAS, the Council, at its meeting of September 28, 2004 considered the
amendment, deletion and adoption of the conflict of interest codes for various City
departments, including the Public Works Department.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of
Modesto hereby adopts the Conflict of Interest Code for the Operation & Maintenance
Department of the City of Modesto.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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, 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
CONFLICT OF INTEREST CODE
OF THE
PUBLIC WORKS DEPARTMENT
OF THE CITY OF MODESTO

The Political Reform Act (Government Code Section 8100, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Public Works Department.

Designated employees shall file their statements with the Office of the City Clerk and Auditor which will make the statements available for public inspection and reproduction. (Gov. Code Section 81008). Statements for all designated employees will be retained by the Office of the City Clerk & Auditor.
### Designated Positions

<table>
<thead>
<tr>
<th>Position</th>
<th>Disclosure Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Analyst II</td>
<td>1</td>
</tr>
<tr>
<td>Administrative Services Officer</td>
<td>1</td>
</tr>
<tr>
<td>Airport Maintenance Crewleader</td>
<td>1</td>
</tr>
<tr>
<td>Airport Manager</td>
<td>1</td>
</tr>
<tr>
<td>Associate Civil Engineer</td>
<td>1</td>
</tr>
<tr>
<td>Associate Traffic Engineer</td>
<td>1</td>
</tr>
<tr>
<td>Building Maintenance Superintendent</td>
<td>1</td>
</tr>
<tr>
<td>Code Enforcement Officer</td>
<td>1</td>
</tr>
<tr>
<td>Construction Inspector</td>
<td>1</td>
</tr>
<tr>
<td>Consultant</td>
<td>3</td>
</tr>
<tr>
<td>Deputy Director of Operations &amp; Maintenance</td>
<td>1</td>
</tr>
<tr>
<td>Deputy Director of Engineering &amp; Transportation</td>
<td>1</td>
</tr>
<tr>
<td>Electrical Supervisor</td>
<td>2</td>
</tr>
<tr>
<td>Environmental Compliance Inspector</td>
<td>2</td>
</tr>
<tr>
<td>Fleet Manager</td>
<td>1</td>
</tr>
<tr>
<td>Integrated Waste Specialist</td>
<td>1</td>
</tr>
<tr>
<td>Land Surveyor</td>
<td>1</td>
</tr>
<tr>
<td>Public Works Director</td>
<td>1</td>
</tr>
<tr>
<td>Operations &amp; Maintenance Supervisor (Org #s 5012-5016, 5212, 5312 only)</td>
<td>2</td>
</tr>
<tr>
<td>Recycling Coordinator</td>
<td>1</td>
</tr>
<tr>
<td>Regulatory Compliance Supervisor</td>
<td>1</td>
</tr>
<tr>
<td>SCADA Supervisor</td>
<td>2</td>
</tr>
<tr>
<td>Senior Civil Engineer</td>
<td>1</td>
</tr>
<tr>
<td>Senior Construction Inspector</td>
<td>1</td>
</tr>
<tr>
<td>Senior Environmental Compliance Inspector</td>
<td>2</td>
</tr>
<tr>
<td>Solid Waste Program Manager</td>
<td>1</td>
</tr>
<tr>
<td>Supervising Construction Inspector</td>
<td>1</td>
</tr>
<tr>
<td>Streets Maintenance Superintendent</td>
<td>1</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>1</td>
</tr>
<tr>
<td>Transit Manager</td>
<td>1</td>
</tr>
</tbody>
</table>
Transportation Planner 1
Urban Forestry Superintendent 1
Wastewater Collection Superintendent 1
Water Quality Control Operations Supervisor 2
Water Quality Control Maintenance Supervisor 2
Water Superintendent 1
PUBLIC WORKS DEPARTMENT
CONFLICT OF INTEREST CODE
EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which
the investment is held, the interest in real property, or the income, or source of income may
foreseeably be affected materially by any decision made or participated in by the designated
employee by virtue of the employee's position.

**Group 1:** Designated employees in this group shall report all business positions, all investments,
interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B,
C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real
property shall be deemed to be "within the jurisdiction" if the property or any part of it is located
within or not more than two miles outside the boundaries of the city or within two miles of any
land owned or used by the City.)

**Group 2:** Designated employees in this group shall report all business positions, all investments,
income, loans or gifts from individuals or businesses - Schedules A, C, D, E and F - from
business entities located in or doing business within the jurisdiction which manufacture, sell or
supply equipment, including but not limited to horticulture, construction, craft, office and safety
supplies and/or equipment.

**Group 3:** A consultant is any person who under contract provides information, advice,
recommendation or counsel to any agency. The head of the department which hires a consultant
shall determine on a case-by-case basis the appropriate disclosure of economic interest which the
consultant is required to file with the City Clerk on beginning and ending the job.
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-482

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF MICHAEL VANDEN BOSCH FROM THE COMMUNITY QUALITIES FORUM, EFFECTIVE SEPTEMBER 28, 2004

WHEREAS, MICHAEL VANDEN BOSCH was appointed a member of the Community Qualities Forum on November 25, 2003; and

WHEREAS, MICHAEL VANDEN BOSCH has tendered his resignation from the Community Qualities Forum, effective September 28, 2004; and

WHEREAS, MICHAEL VANDEN BOSCH has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of MICHAEL VANDEN BOSCH from the Community Qualities Forum be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to MICHAEL VANDEN BOSCH for his outstanding service to the community.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: [Signature]

JEAN ZAHN City Clerk

APPROVED AS TO FORM:

[Signature]

Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-483

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF JEROME BEAMISH FROM THE LANDMARK PRESERVATION COMMISSION

WHEREAS, JEROME BEAMISH was appointed a member of the Landmark Preservation Commission on April 8, 1997, and

WHEREAS, JEROME BEAMISH has tendered his resignation from the aforementioned committee, and

WHEREAS, JEROME BEAMISH has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of JEROME BEAMISH from the Landmark Preservation Commission hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to JEROME BEAMISH for his outstanding service to the community.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers:  None

ABSENT: Councilmembers:  Dunbar

ATTEST:  

JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-484

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF
STEPHEN KELLOGG FROM THE BOARD OF BUILDING APPEALS

WHEREAS, STEPHEN KELLOGG was appointed a member of the Board of
Building Appeals on March 6, 2001, and

WHEREAS, STEPHEN KELLOGG has tendered his resignation from the
aforementioned committee, and

WHEREAS, STEPHEN KELLOGG has been a devoted and sincere public
servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of STEPHEN
KELLOGG from the Board of Building Appeals hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its
own behalf, and on behalf of the citizens of this City, hereby expresses its sincere
appreciation to STEPHEN KELLOGG for his outstanding service to the community.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 28th day of September 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, Keating, Marsh, O’Bryant,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: ________________________

JEAN ZAHR, City Clerk

APPROVED AS TO FORM: ________________________

Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-485

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND HELEN M. GLEASON FOR THE ACQUISITION OF PROPERTY, BEING ASSESSORS PARCEL NO. 066-025-069, FOR THE RECONSTRUCTION AND EXPANSION OF THE ROSE/CELESTE SANITARY SEWER LIFT STATION AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO SAID ACQUISITION.

WHEREAS, as part of the City Council policy to ensure redundancy and reliability in Modesto’s sanitary sewer system, the sanitary sewer lift station at Rose/Celeste has been evaluated and it has been determined to be undersized and located in a street right of way requiring street closures for maintenance or repair, and

WHEREAS, it has been determined that the current sanitary sewer lift station should be abandoned and that a replacement sanitary sewer lift station should be placed on an adjacent parcel of land located at 1924/1926 Rose Avenue which is also described as Assessors Parcel Number 066-025-069, and

WHEREAS, a property acquisition needs to be completed for this lift station project, and

WHEREAS, at the direction of the City Council, City staff has contracted with Mr. Steve Castellano of Associated Right of Way Services (ARWS) to complete the negotiations with the property owner, Helen M. Gleason, to purchase said parcel located at 1924/1926 Rose Avenue for a purchase price of Two Hundred, Eight-five Thousand and No Dollars ($285,000), and

WHEREAS, an agreement is needed for the acquisition of the needed property acquisition, and
WHEREAS, the Economic Development Committee reviewed the proposed acquisition on February 9, 2004 and recommended proceeding with the acquisition and subsequent lift station replacement, and

WHEREAS, said lift station project is categorically exempt from CEQA pursuant to Section 15303 (d): New construction – Water main, sanitary sewer utility extension and street improvements of reasonable length, and

WHEREAS, this project has been found to be in conformance with the General Plan as part of the FY 2004 approval of the Capital Improvement Program project list – “Sewer Lift Station Upgrade – Rose Avenue”, and

WHEREAS, a Phase I Environmental review was completed on September 7, 2004 and the conclusion was that there was no evidence of known Recognized Environmental Conditions of Concern for the property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement between the City of Modesto and Helen M. Gleason for the acquisition of property, being Assessors Parcel No. 066-025-069, for the replacement of the Rose/Celeste sanitary sewer lift station is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, on behalf of the City of Modesto 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 28th day of September, 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, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: 

JEAN ZAHR, City Clerk

Approved as to Form:

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2004-486

A RESOLUTION AUTHORIZING THE ACTING CITY MANAGER TO SIGN AN ACCEPTANCE FORM FOR A GRANT DEED FOR THE ACQUISITION OF PROPERTY OWNED BY HELEN M. GLEASON, BEING ASSESSORS PARCEL NO. 066-025-069, FOR THE REPLACEMENT OF THE ROSE/CELESTE SANITARY SEWER LIFT STATION

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

WHEREAS, the City of Modesto desires to acquire the parcel from Helen M. Gleason, being Assessors Parcel No. 066-025-069, for the replacement of the Rose/Celeste sanitary sewer lift station,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager is hereby authorized to sign an acceptance form on behalf of the City of Modesto for a Grant Deed for the acquisition of property owned by Helen M. Gleason, being Assessors Parcel No. 066-025-069, for the replacement of the Rose/Celeste sanitary sewer lift station.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September, 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, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: [Signature]

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

MICHAEL D. MILICH, City Attorney

09/28/04/CED/L Boston/Item 09 1 2004-486
RESOLUTION TRANSFERRING $325,000.00 FROM 6210-430-5225 (SEWER OPERATING ACCOUNT) TO 6210-410-B400-6030 (SEWER LIFT STATION UPGRADE – ROSE AVENUE) FOR THE PURCHASE OF PROPERTY FOR THE NEW ROSE-CELESTE SANITARY SEWER LIFT STATION

WHEREAS, on October 24, 2003, the City adopted the 2003–2004 Capital Improvement Program including the construction of the Rose-Celeste Sanitary Sewer Lift Station, and

WHEREAS, the provisions budget included the acquisition of property located at 1924-1926 Rose Avenue, and

WHEREAS, the acquisition costs are estimated to be $325,000, including all related property acquisition costs.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that $325,000 shall be transferred from Account Number 6210-430-5225 (Sewer Operating Account) to the Capital Improvement Project Account Number 6210-430-B400 (Sewer Lift Station Upgrade – Rose Avenue) for the purchase of property at 1924-1926 Rose Avenue for the Rose-Celeste Sanitary Sewer Lift Station.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September, 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, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Ridenour, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF WATER STORAGE TANK DIVING INSPECTION SERVICE AND REPAIR, TO ADVANCED DIVING SERVICES, INC., MESQUITE, NV, FOR A THREE (3) YEAR AGREEMENT, WITH TWO (2) ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL COST OF $21,376

WHEREAS, the City of Modesto operates and maintains seven (7) above ground non-elevated potable water storage tanks, and

WHEREAS, each tank varies in size, holding from .22 million gallons to 2.0 million gallons of potable water, and

WHEREAS, the Public Works Department, Water Division has requested water storage tank diving inspection service and repair for the following potable water storage tanks Nos. 3, 4, 5, 6, 7, 8 and 9, and

WHEREAS, tank diving services shall be performed on an annual basis, scheduled by the Public Works Department, Water Division, and

WHEREAS, services consist of providing all of the labor, parts, materials and equipment necessary to furnish underwater closed circuit video inspection of the tank floor and interior coating, and visual inspection of the exterior coating, and

WHEREAS, services also included the removal of underwater sediments that collect on the tank floor, touch-up and repair of corrosive areas found in the interior of the tank, and underwater cutting and welding, as required, and

WHEREAS, on May 25, 2004, Council approved Resolution No. 2004-272, authorizing the Purchasing Supervisor to formally solicit bids for the furnishing of water
storage tank diving inspection service and repair, for a three (3) year agreement, with two (2) one-year extension options, and

WHEREAS, the Purchasing Supervisor solicited Request for Bid No. 0304-24, for the furnishing of water storage tank diving inspection service and repair to seventeen (17) companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, of the seventeen (17) companies solicited, two (2) companies chose to respond, and

WHEREAS, based on being the lowest responsive bid, City staff recommends the award of Bid No. 0304-24 and contract for the furnishing of water storage tank diving inspection service and repair, to Advanced Diving Services, Inc., Mesquite, NV, for a three (3) year agreement, with two (2) one-year extension options, for an estimated annual cost of $21,376.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Bid No. 0304-24 and contract for the furnishing of water storage tank diving inspection service and repair, to Advanced Diving Services, Inc., Mesquite, NV, for a three (3) year agreement, with two (2) one-year extension options, for an estimated annual cost of $21,376.

BE IT FURTHER RESOLVED that the City Manager or his designee, is hereby authorized to execute said contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milch, City Attorney
A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF DISCING AND FLAIL MOWING SERVICES, TO JOE SCOTO FARMING, MODESTO, CA, FOR A THREE (3) YEAR AGREEMENT, WITH TWO (2) ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL COST OF $67,324

WHEREAS, the Parks, Recreation and Neighborhoods Department, Park Operations Division has requested discing and flail mowing services for twenty-two (22) City locations, consisting of approximately 632 acres, and

WHEREAS, discing and flail mowing are performed on open fields as part of a weed abatement program to control the over-growth of weeds and grasses, and

WHEREAS, a complete discing or flail mowing consists of one (1) complete pass through the field, and

WHEREAS, it is anticipated that services shall be performed four (4) times per year at each City location, and

WHEREAS, the Parks, Recreation and Neighborhoods Department, Park Operations Division shall determine the service schedule, and

WHEREAS, on May 25, 2004, Council approved Resolution No. 2004-271, authorizing the Purchasing Supervisor to formally solicit bids for the furnishing of discing and flail mowing services, for a three (3) year agreement, with two (2) one-year extension options, and

WHEREAS, the Purchasing Supervisor solicited Request for Bid No. 0405-01, for the furnishing of discing and flail mowing services to sixteen (16) companies, posted the bid on the City’s web site, and formally advertised as required by law, and
WHEREAS, of the sixteen (16) companies solicited, two (2) companies chose to respond, and

WHEREAS, based on being the lowest responsive bid, City staff recommends the award of Bid No. 0405-01 and contract for the furnishing of discing and flail mowing services, to Joe Scoto Farming, Modesto, CA, for a three (3) year agreement, with two (2) one-year extension options, for an estimated annual cost of $67,324.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Bid No. 0405-01 and contract for the furnishing of discing and flail mowing services, to Joe Scoto Farming, Modesto, CA, for a three (3) year agreement, with two (2) one-year extension options, for an estimated annual cost of $67,324.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28\th\ day of September 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, 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. 2004-490

A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR UNIFORMS AND LAUNDRY SERVICES TO PRUDENTIAL OVERALL SUPPLY OF FRESNO, CA. FOR AN INITIAL ONE-YEAR PERIOD WITH FOUR (4), ADDITIONAL ONE-YEAR, CONTRACT EXTENSIONS FOR AN APPROXIMATE ANNUAL AMOUNT OF $97,605.14

WHEREAS, the Public Works Department has requested the purchase of uniforms and laundry services, and

WHEREAS, Article 23 of the Memorandum of Understanding (MOU) between the City of Modesto and the Modesto City Employees Association (MCEA) details Dress and Grooming criteria for Non-Sworn City employees, and

WHEREAS, subsection (c) of the article requires employees in the following classifications to wear uniform cap and shirts provided by the City: Storekeeper, Senior Storekeeper, Maintenance Worker I/II, Parks Crew Leader, Maintenance Mechanic-Parks, Equipment Operator, Tree Trimmer, Tree Trimmer Crew Leader, Maintenance Mechanic-Pumps, Equipment Crew Leader, Water Distribution System Operator, WWC System Operator, Electrical Technician I/II, Assistant Electrician, Electrician, Custodian I/II, Civil Engineering Technical I/II/II, and

WHEREAS, the City is also required to provide coveralls, pants, and rain gear for certain employees, dependent upon classification, and

WHEREAS, the City also provides uniforms for certain classifications of Management and Confidential Employees, including Operations and Maintenance Supervisor, Custodial Supervisor, Land Surveyor, Plant Maintenance Supervisor,
Secondary Treatment Facilities Supervisor, Electrical Supervisor, and WQC Operations Supervisor, and

WHEREAS, at its March 22, 2004, meeting the Finance Committee gave unanimous approval to move this request for authorization to issue Request for Proposal (RFP) to full Council for review, and

WHEREAS, Resolution 2004-257 authorized the Purchasing Supervisor to solicit a Request for Proposals for (RFP) for uniforms and laundry services for an initial one-year period with four (4) additional one-year contract extensions for an approximate annual amount of $97,605.14, and

WHEREAS, staff estimates it will cost approximately $128,970 in FY 04/05 for uniforms and laundry services, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases exceeding $50,000 for materials and equipment to be formally bid, and

WHEREAS, the code also states that a purchase whose total maximum cost to the City exceeds $50,000 shall receive preliminary approval of Council to bid (Modesto Municipal Code (8-3.203 (a)), and

WHEREAS, the Purchasing Division solicited formal proposals for uniforms and laundry services on RFP 0304-07, and

WHEREAS, all five (5) vendors solicited responded to the RFP, and

WHEREAS, proposals received for uniforms and laundry services were evaluated per evaluation criteria as defined in Specification 0304-07, by a committee consisting of City staff from the Public Works Department and the Purchasing Division, and

09/28/04/Finance/T Reddie/Item 12

2

2004-490
WHEREAS, based on a total RFP evaluation score, Prudential Overall Supply of Fresno, CA. is the best proposer for uniforms and laundry services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for uniforms and laundry services to Prudential Overall Supply of Fresno, CA. for an initial one-year period, with four (4) additional one-year contract extensions options for an approximate annual cost of $97,605.14.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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, 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. 2004-491

A RESOLUTION DECLARING ONE (1) VAN PELT FIRE ENGINE AS SURPLUS, AND APPROVING ITS SALE TO THE YOSEMITE COMMUNITY COLLEGE DISTRICT FOR USE AT THE REGIONAL FIRE TRAINING CENTER (RFTC).

WHEREAS, in 1994, the City of Modesto partnered with the Yosemite Community College District and Stanislaus County in the construction and operation of the Regional Fire Training Center (RFTC), and

WHEREAS, the RFTC is equipped through the Fire Science Program at Modesto Junior College, the RFTC partnership funds, and donations, and

WHEREAS, the RFTC maintains two (2) very old fire engines utilized by the Regional Fire Academy, Modesto Fire Explorers and others who rent the facility, and

WHEREAS, the Modesto Fire Department has a 1997 Van Pelt engine that is due to be surplused and sold at auction, and

WHEREAS, the estimated auction value of the engine is approximately $3,000-$5,000, minus the associated fees, and

WHEREAS, the Modesto Fire Department would like to sell the 1997 Van Pelt engine to the Yosemite Community College District for $1.00, and

WHEREAS, by selling the engine to the Yosemite Community College District, the City would benefit by having the engine available for use by the Modesto Fire Department and Fire Explorers, the revenue derived from renting the engine to non-member agencies would offset the City’s annual partnership costs, and the engine would be available in case of an emergency, and
WHEREAS, the Safety and Communities Committee reviewed and approved this item at its September 8, 2004, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto it hereby declares one 1997 Van Pelt engine as surplus.

BE IT FURTHER RESOLVED that the Council hereby approves the sale of the 1997 Van Pelt engine to the Yosemite Community College District for the sum of $1.00 for use at the Regional Fire Training Center.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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, 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. 2004-492

A RESOLUTION AUTHORIZING THE ACTING CITY MANAGER TO SUBMIT THE APPLICATION FOR THE DEPARTMENT OF HOMELAND SECURITY, 2004 FIRE PREVENTION AND SAFETY GRANT IN THE AMOUNT OF $85,200.00.

WHEREAS, the Congress appropriated a total of $745,125,000 to carry out the activities of the Assistance to Firefighters Grant Program as authorized by the establishment of the Federal Fire Protection and Control Act of 1974. As such, $27,500,000 of the total appropriated funds support fire prevention and safety grants, and

WHEREAS, the Fire Prevention Bureau is responsible for administration of the fire and life safety programs in the City of Modesto, and

WHEREAS, the funds will be used to purchase a fire safety trailer, provide $6,000 towards the cost of a tow vehicle, and hire a part-time public education employee to coordinate and help staff the trailer at schools and community events, and

WHEREAS, said adopted procedures established by the City of Modesto require the applicant to certify by resolution the approval of applications and the availability of local matching funds prior to submission of said application to the state,

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

1. Approves the submission and filing of an application for the Federal Fire Protection and Control Act, Grant Fund for assistance; and
2. Certifies that said agency has matching funds from the following source: Fire Prevention Bureau (1822), and can finance 100 percent of the project, 70% of which will be reimbursed; and

3. Authorizes and appoints the Acting City Manager or his designee, as agent of the City to execute all necessary grant documents, including, but not limited to, the applications, which may be necessary for submission of said grant application.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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, 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
A RESOLUTION APPROVING THE APPLICATION FOR $1,000,000 IN FUNDING FROM THE STATE URBAN PARKS AND HEALTHY COMMUNITIES PROGRAM UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002, FOR THE DEVELOPMENT OF A SOCCER COMPLEX AT MARY E. GROGAN PARK AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT APPLICATION AND CONTRACT DOCUMENTS.

WHEREAS, the people of the State of California have enacted the CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002, which provides funds to the State of California for grants to eligible Applicants, and

WHEREAS, the California Department of Parks and Recreation has been delegated the responsibility for the administration of State Urban Parks and Healthy Communities Program and the grant Project shown above within the State, setting up necessary procedures, and

WHEREAS, development of the Soccer Complex at Grogan Community Park is consistent with the State Urban Parks and Healthy Communities Program grant project criteria, and

WHEREAS, said procedures established by the California Department of Parks and Recreation require the Applicant’s Governing Body to certify by resolution the approval of the Application 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 $1,000,000 in local assistance funds from the State Urban Parks and Healthy Communities Program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002;

2. Certifies that the Applicant has or will have sufficient funds to operate and maintain the Project;

3. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide;

4. Certifies that the Grantee has or will have available, prior to commencement of any work on the project, the required match;

5. Certifies that the Project conforms to the recreation element of any applicable city or county general plan; and

6. Appoints the City Manager, or his designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, payment requests and so on, which may be necessary for the completion of the Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: [Signature]
JEAN FAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-494

A RESOLUTION APPROVING A FIVE-YEAR LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND METRO PCS CALIFORNIA/FLORIDA, INC., A DELAWARE CORPORATION, D/B/A METRO PCS, FOR A CELLULAR TOWER SITE LOCATED ON A PORTION OF BEYER COMMUNITY PARK, WITH THREE FIVE-YEAR OPTIONS TO EXTEND THE LEASE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LEASE AGREEMENT.

WHEREAS, Metro PCS California/Florida, Inc., a Delaware corporation, d/b/a Metro PCS, desires to lease a cellular tower site located on a portion of Beyer Community Park for a period of five years, with three five-year options to extend the lease, for the installation of phone equipment, and

WHEREAS, the City of Modesto is willing to lease a portion of Beyer Community Park to Metro PCS for said use for the sum of $1,800.00 per month with a rental increase equal to the Consumer Price Index for the San Francisco/Oakland/San Jose Metropolitan Statistical Area (MSA) at the beginning of each renewal period, and

WHEREAS, Metro PCS will replace an existing ball field light pole that will meet its structural requirements, and

WHEREAS, the new light pole installed by Metro PCS will become the property of the City of Modesto, and

WHEREAS, at its August 26, 2004, meeting, by Resolution No. 2004-19, the Board of Zoning Adjustment approved a conditional use permit, subject to the following conditions:

1. All development shall conform to the plot plan and elevation plans titled “Metro PCS – Beyer,” as amended in red, stamped approved by the Board of Zoning Adjustment on August 26, 2004.

2. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash and other debris.
3. The Applicant shall record a “Notice of Conditions” in the Stanislaus County Recorder’s Office on a form available in the Community and Economic Development Department.

4. The developer shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions or proceedings against the City of Modesto, its agents, officers, and employees to arbitrate, attack, review, set aside, void, or annul, any approval by the City of Modesto of a development approval. The City of Modesto shall promptly notify the developer of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the developer shall not thereafter be responsible to defend, indemnify or hold City harmless.

and,

WHEREAS, also by Resolution 2004-19, the Board of Zoning Adjustment adopted the findings of Initial Study, Environmental Assessment No. EA/C&ED 2004-42, “Wireless Antenna on Replacement Ball Field Light Pole in Beyer Park”, which find and determine:

1. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the Modesto Urban Area General Plan Master Environmental Impact Report (SCH No. 1999082041).

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Five-Year Lease Agreement between the City of Modesto and Metro PCS California/Florida, Inc., a Delaware Corporation, d/b/a/ Metro PCS, for a cellular site located on a portion of Beyer Community Park, with three, five-year options to extend the lease.

BE IT FURTHER RESOLVED that the 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 28th day of September 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, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

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

ATTEST:
By ____________________________
JEAN ZAHN
City Clerk

09/28/04/PR&N/C Eubank/Item 16

2004-494
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-495

A RESOLUTION APPROVING A FIVE-YEAR LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND METROPCS CALIFORNIA/FLORIDA, INC., A DELAWARE CORPORATION, D/B/A METRO PCS, FOR A CELLULAR TOWER SITE LOCATED ON A PORTION OF DAVIS COMMUNITY PARK, WITH THREE FIVE-YEAR OPTIONS TO EXTEND THE LEASE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LEASE AGREEMENT.

WHEREAS, Metro PCS California/Florida, Inc., a Delaware corporation, d/b/a Metro PCS, desires to lease a cellular tower site located on a portion of Davis Community Park for a period of five years, with three five-year options to extend the lease, for the installation of phone equipment, and

WHEREAS, the City of Modesto is willing to lease a portion of Davis Community Park to Metro PCS for said use for the sum of $1,800.00 per month with a rental increase equal to the Consumer Price Index for the San Francisco/Oakland/San Jose Metropolitan Statistical Area (MSA) at the beginning of each renewal period, and

WHEREAS, Metro PCS will replace an existing ball field light pole that will meet its structural requirements, and

WHEREAS, the new light pole installed by Metro PCS will become the property of the City of Modesto, and

WHEREAS, at its August 26, 2004, meeting, by Resolution No. 2004-19, the Board of Zoning Adjustment approved a conditional use permit, subject to the following conditions:

1. All development shall conform to the plot plan and elevation plans titled “Metro PCS – Davis,” as amended in red, stamped approved by the Board of Zoning Adjustment on August 26, 2004.

2. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash and other debris.
3. The Applicant shall record a "Notice of Conditions" in the Stanislaus County Recorder's Office on a form available in the Community and Economic Development Department.

4. The developer shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions or proceedings against the City of Modesto, its agents, officers, and employees to arbitrate, attack, review, set aside, void, or annul, any approval by the City of Modesto of a development approval. The City of Modesto shall promptly notify the developer of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the developer shall not thereafter be responsible to defend, indemnify or hold City harmless.

and,

WHEREAS, also by Resolution 2004-19, the Board of Zoning Adjustment adopted the findings of Initial Study, Environmental Assessment No. EA/C&ED 2004-43, 

"Wireless Antenna on Replacement Ball Field Light Pole in Davis Park"; which find and determine:

1. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the Modesto Urban Area General Plan Master Environmental Impact Report (SCH No. 1999082041).

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Five-Year Lease Agreement between the City of Modesto and Metro PCS California/Florida, Inc., a Delaware Corporation, d/b/a/ Metro PCS, for a cellular site located on a portion of Davis Community Park, with three, five-year options to extend the lease.

BE IT FURTHER RESOLVED that the 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 28th day of September 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, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

APPROVED AS TO FORM:  
By\nMICHAEL D. MILICH  
City Attorney

ATTEST:  
By\nJEAN ZAHN  
City Clerk
A RESOLUTION AUTHORIZING STAFF TO SOLICIT FORMAL PROPOSALS FOR ASSISTANCE IN UPDATING THE CITY’S FIVE-YEAR CONSOLIDATED PLAN (2005-2010) AND ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING UPDATE.

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) requires entitlement grantees to adopt a comprehensive, long-term plan for the use of HUD funds; the Five-Year Consolidated Plan analyzes the City’s housing and community development needs, with a priority focus on low- and moderate-income individuals, households and neighborhoods, and describes long-term strategies for meeting those needs, and

WHEREAS, in addition to the development of a broad policy framework, the Consolidated Plan also addresses how the City will utilize funding from three different entitlement grants to meet those needs: the Community Development Block Grant (CDBG), the HOME Investment Partnership Grant (HOME), and the Emergency Shelter Grant (ESG), and

WHEREAS, HUD requires grantees to conduct an “Analysis of Impediments to Fair Housing” every 5 years; HUD is committed to eliminating racial and ethnic segregation, illegal physical and other barriers to persons with disabilities and other discriminatory practices in housing, through the implementation of fair housing actions., and

WHEREAS, the City’s current Consolidated Plan was adopted in 2000 and the last Analysis of Impediments to Fair Housing was completed in 1996; both documents are currently due and should be completed before the end of Fiscal Year 2004-2005, and
WHEREAS, due to several staff vacancies, staff is recommending that a portion of the Five-Year Consolidated Plan and the Analysis of Impediments to Fair Housing Update be performed by an outside service provider, and

WHEREAS, the Citizens Housing and Community Development Committee met on August 27, 2004, and supported the recommendation to authorize staff to solicit formal proposals for assistance in updating the City’s Five-Year Consolidated Plan (2005-2010) and Analysis of Impediments to Fair Housing Update,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to solicit formal proposals for assistance in updating the City’s Five-Year Consolidated Plan (2005-2010) and Analysis of Impediments to Fair Housing Update.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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: 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

09/28/04/FR&N/C Eubank/Item 17 2 2004-496
<table>
<thead>
<tr>
<th>Consultants/Services</th>
<th>Address Details</th>
<th>Contact/Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Michael Brandman Associates</td>
<td>220 Commerce, Suite 200, Irvine, CA 92602-1326</td>
<td></td>
</tr>
<tr>
<td>(714) 508-4100</td>
<td>Contact: Erika Bennett</td>
<td></td>
</tr>
<tr>
<td>Civic Solutions</td>
<td>31726 Rancho Viejo Rd., Suite 223, San Juan Capistrano, CA 92675</td>
<td></td>
</tr>
<tr>
<td>(949) 489-1442</td>
<td>Contact: John Douglas, AICP</td>
<td></td>
</tr>
<tr>
<td>Cotton/Bridges/Associates</td>
<td>800 E. Colorado Blvd., Suite 270, Pasadena, CA 91101-2103</td>
<td></td>
</tr>
<tr>
<td>(626) 304-0102</td>
<td>Contact: Eileen Donovan</td>
<td></td>
</tr>
<tr>
<td>Culbertson, Adams &amp; Associates, Inc.</td>
<td>85 Argonaut, Suite 220, Aliso Viejo, CA 92656-4105</td>
<td></td>
</tr>
<tr>
<td>(949) 581-2888</td>
<td>Contact: Kevin Culbertson</td>
<td></td>
</tr>
<tr>
<td>EIP Associates</td>
<td>12301 Wilshire, Suite 430, Los Angeles, CA 90025</td>
<td></td>
</tr>
<tr>
<td>(310) 268-8132</td>
<td>Contact: Terri Vitar</td>
<td></td>
</tr>
<tr>
<td>Godbe Research</td>
<td>60 Stone Pine Road, Half Moon Bay, CA 94019</td>
<td></td>
</tr>
<tr>
<td>(650) 712-3137, Ext. 11</td>
<td>Contact: Elizabeth Dias</td>
<td></td>
</tr>
<tr>
<td>Hogle-Ireland, Inc.</td>
<td>42 Corporate Park, Suite 250, Irvine, CA 92606</td>
<td></td>
</tr>
<tr>
<td>(949) 553-1427</td>
<td>Contact: Larry Hogle</td>
<td></td>
</tr>
<tr>
<td>Inst. for Urban Research &amp; Development</td>
<td>840 Echo Park Ave, Los Angeles, CA 90026</td>
<td></td>
</tr>
<tr>
<td>(213) 482-9300</td>
<td>Contact: Joseph Colletti, Exec. Director</td>
<td></td>
</tr>
<tr>
<td>Jones &amp; Stokes</td>
<td>17310 Redhill Ave., Suite 320, Irvine, CA 92614</td>
<td></td>
</tr>
<tr>
<td>(949) 260-1080</td>
<td>Contact: Gary Rowland</td>
<td></td>
</tr>
<tr>
<td>Laurin Associates</td>
<td>8084 Old Auburn Rd., Suite E, Citrus Heights, CA 95670</td>
<td></td>
</tr>
<tr>
<td>(916) 725-1181</td>
<td>Contact: Barry Polster</td>
<td></td>
</tr>
<tr>
<td>Pacific Municipal Consultants</td>
<td>10461 Placerville, Suite 110, Sacramento, CA 95827</td>
<td></td>
</tr>
<tr>
<td>(916) 361-8384</td>
<td>Contact: Beth Thompson</td>
<td></td>
</tr>
<tr>
<td>The Planning Center</td>
<td>1580 Metro Drive, Costa Mesa, CA 92626</td>
<td></td>
</tr>
<tr>
<td>(714) 966-9220</td>
<td>Contact: Pam Fahy</td>
<td></td>
</tr>
<tr>
<td>RBF Consulting</td>
<td>14725 Alton Parkway, Irvine, CA 92618-2027</td>
<td></td>
</tr>
<tr>
<td>(949) 472-3505</td>
<td>Contact: Glen Lajoie</td>
<td></td>
</tr>
<tr>
<td>Wilbur Smith Associates</td>
<td>2300 E. Katella, Suite 450, Anaheim, CA 92806</td>
<td></td>
</tr>
<tr>
<td>(714) 978-8110</td>
<td>Contact: Arno Hart</td>
<td></td>
</tr>
<tr>
<td>Templeton Planning Group</td>
<td>1470 Jamboree, Suite 200, Newport Beach, CA 92660</td>
<td></td>
</tr>
<tr>
<td>(949) 718-0640</td>
<td>Contact: Peter Templeton</td>
<td></td>
</tr>
<tr>
<td>Tri-Source</td>
<td>P.O. Box 5681, Huntington Beach, CA 92615</td>
<td></td>
</tr>
<tr>
<td>(714) 964-6744</td>
<td>Contact: Barbara Van Dine, President</td>
<td></td>
</tr>
<tr>
<td>Ultra Systems Environmental</td>
<td>100 Pacifica, Suite 250, Irvine, CA 92618-7443</td>
<td></td>
</tr>
<tr>
<td>(949) 788-4900</td>
<td>Contact: Betsy Lindsay</td>
<td></td>
</tr>
<tr>
<td>URS</td>
<td>2020 E. First St., Suite 400, Santa Ana, CA 92707</td>
<td></td>
</tr>
<tr>
<td>(714) 835-6888</td>
<td>Contact: Charles Smith, AICP</td>
<td></td>
</tr>
<tr>
<td>Zucker Systems</td>
<td>1545 Hotel Circle South, Suite 300, San Diego, CA 92108</td>
<td></td>
</tr>
<tr>
<td>(1-800-870-6306)</td>
<td>Contact: Paul Zucker, President</td>
<td></td>
</tr>
</tbody>
</table>
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-497

A RESOLUTION AUTHORIZING STAFF TO PROCEED WITH A REQUEST FOR QUALIFICATIONS FOR ON-CALL LANDSCAPE ARCHITECTURAL SERVICES AND APPROVE THE PROPOSED EVALUATION CRITERIA.

WHEREAS, due to a significant amount of design work related to parks in the coming years and the current operating budget challenges that the City of Modesto is facing, Parks Planning and Development staff wishes to streamline the design process for landscape architectural projects, and

WHEREAS, currently, the process involves sending a Request for Qualifications (RFQ) and Request for Proposals (RFP) out and holding interviews for each project that we need to design; this process involves significant staff time and takes about six (6) months to complete, and

WHEREAS, there are many small projects that come up from time-to-time that staff has to design in-house, because the timeline doesn’t allow for 6 months to hire a consultant; these small design projects significantly impact the workload of the division and delay other important projects or require staff overtime to complete, and

WHEREAS, City staff wishes to pursue the option of preparing a short-list of landscape architectural consultants to prepare master plans, design development reports, construction documents and other related work, and

WHEREAS, the landscape architectural consultants will be used on an on-call basis as the need arises and the list will be in place for three years, and

WHEREAS, this On-Call list will then be updated every three years, and
WHEREAS, if approved, staff will send out the RFQ to a list of qualified
landscape architectural firms, and

WHEREAS, a review team, made up of staff from the Public Works Department
and the Parks, Recreation and Neighborhoods Department will review the RFQ’s
submitted based on their qualifications and demonstrated ability to perform the type of
work required as outlined in the RFQ; the review team will then select eight (8) to twelve
(12) firms to be interviewed, and

WHEREAS, following the interviews, the review team will recommend to the
City Council three (3) to six (6) firms to be placed on the City’s “On-Call” list for
Landscape Architectural Services, and

WHEREAS, the Safety and Communities Committee met on September 8, 2004,
and supported the recommendation to develop an On-Call Short-List for landscape
architectural services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the Council hereby authorizes staff to proceed with a Request for Qualifications for
On-Call Landscape Architectural Services.

BE IT FURTHER RESOLVED that the proposed evaluation criteria are hereby
approved.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-498

A RESOLUTION AWARDING A CONTRACT TO CALLANDER ASSOCIATES LANDSCAPE ARCHITECTURE, INC. FOR PROFESSIONAL LANDSCAPE ARCHITECTURAL SERVICES TO PREPARE A CONCEPTUAL DESIGN AND CONSTRUCTION DOCUMENTS FOR LANDSCAPE ENHANCEMENTS ON STATE ROUTE 99 WITHIN AND NEAR THE BRIGGSMORE EXPRESSWAY INTERCHANGE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, at the March 13, 2001, City Council Meeting, the Council authorized the City Manager to submit an application and negotiate an agreement for the use of Transportation Enhancement Activities (TEA) funds for a landscape beautification project within and near the Briggsmore / State Route 99 Interchange; also at that time, the City Council committed matching funds of up to $75,000 for this project from the General Fund, and

WHEREAS, in late March of 2001, the City Manager submitted an application for $1,000,000 in State TEA funds for this project, and

WHEREAS, the City was notified in fall of 2002 that funding had been identified for this project and Amendment #34 to the Federal Transportation Improvement Program (FTIP) was approved; Amendment #34 identified $1,000,000 of State TEA funds, $200,000 of Regional TEA funds and $100,000 of Caltrans Minor Program funds for the Highway 99 Briggsmore Expressway Landscape Improvements Project, and

WHEREAS, in Fall of 2002, City staff began working with Caltrans District 10 to prepare a cooperative agreement for the funding of the construction of landscape enhancements within and near the Briggsmore / State Route 99 Interchange, and
WHEREAS, the project area included landscape enhancements to the Briggsmore Interchange and along State Route 99 for 0.5 miles to the south and 0.8 miles to the north of the Briggsmore Expressway along the northbound and southbound lanes, and

WHEREAS, the Cooperative Agreement also required the maintenance of the improvements to be paid for by the City of Modesto for three years from the time of completion of construction, and after the initial three years of maintenance, the State of California will take responsibility for maintenance of the improvements indefinitely, and

WHEREAS, on May 3, 2004, the Safety and Communities Committee endorsed approval of the Cooperative Agreement and on May 25, 2004, the Modesto City Council approved it and authorized the City Manager to execute said agreement, and

WHEREAS, Caltrans returned an executed copy of the Cooperative Agreement in June 2004, and

WHEREAS, on May 25, 2004, the City Council also approved the RFP that City staff subsequently sent to Royston Hanamoto Alley and Abey, Callander Associates, and Stantec Consulting, landscape architectural firms which were deemed the most qualified based on their qualification package submitted, and

WHEREAS, Callander Associates Landscape Architecture, Inc. was deemed the most qualified, due to their project experience in local projects of a very similar nature; they have agreed to provide the Master Plan and Construction Documents at a cost not to exceed $133,500.00, and

WHEREAS, the Safety and Communities Committee met on September 8, 2004, and supported the recommendation to award a contract to Callander Associates Landscape Architecture, Inc. for professional landscape architectural services to prepare a
conceptual design and construction documents for Landscape Enhancements on State Route 99 within and near the Briggsmore Expressway Interchange,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the award of a contract to Callander Associates Landscape Architecture, Inc. for professional landscape architectural services to prepare a conceptual design and construction documents for Landscape Enhancements on State Route 99 within and near the Briggsmore Expressway Interchange at a cost not to exceed $133,500.00.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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, 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 STAFF TO WORK COOPERATIVELY WITH THE MODESTO A’S TO PURSUE NAMING RIGHTS FOR JOHN THURMAN FIELD, DESIGNATING MR. PETER JOHANSEN AS THE PERSON AUTHORIZED TO PURSUE NAMING RIGHTS ON BEHALF OF THE CITY AND THE MODESTO A’S, AND AUTHORIZING CITY STAFF TO NEGOTIATE AN AGREEMENT WITH MR. JOHANSEN.

WHEREAS, on December 11, 2003, by Resolution No. 2003-648, the City of Modesto entered into a two-year license agreement with the Modesto A’s (A’s) for use of John Thurman Field, and

WHEREAS, this agreement spells out the responsibilities and privileges of each party, and

WHEREAS, one of the provisions of the agreement is that any efforts to secure naming rights for John Thurman Field will be approved by both parties, and

WHEREAS, both the City and the A’s are interested in pursuing securing a company or organization to provide funding in exchange for re-naming the ball field, and

WHEREAS, the Modesto A’s have identified Peter Johansen as a party who can secure naming rights for the field, and

WHEREAS, the Economic Development Committee met on September 13, 2004, and supported the recommendation to enter into a cooperative agreement with the Modesto A’s to pursue naming rights for John Thurman Field,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to work cooperatively with the Modesto A’s to pursue naming rights for John Thurman Field.
BE IT FURTHER RESOLVED that the Council hereby designates Mr. Peter Johansen as the person authorized to pursue naming rights on behalf of the City and the Modesto A’s.

BE IT FURTHER RESOLVED that the Council hereby authorizes City staff to negotiate an agreement with Mr. Johansen, and return to Council for approval of said agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: Jean Zahr

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION INCREASING THE .75 PRODUCTION TECHNICIAN POSITION AT THE MODESTO CENTRE PLAZA TO FULL-TIME.

WHEREAS, the responsibility of maintaining the audio visual equipment and lighting systems at the Modesto Centre Plaza, as well as working with clients to meet each of their unique needs, requires the fulltime expertise of the Production Technician (Production Tech), and

WHEREAS, with an increase in hours of the Production Tech, the quality of service at the Centre Plaza will not only be enhanced, but the revenue gain from professional services will increase, and

WHEREAS, the Centre Plaza will be replacing its lighting system this fiscal year with a state of the art system, which will require the expertise of the Production Tech on a fulltime basis, and

WHEREAS, the Centre Plaza has recently introduced a theatrical lighting package marketing campaign to sell enhanced lighting at events held at the Centre Plaza, and an increase in hours by the Production Tech will allow more time for him to market sound and light ideas with clients, and thus increase revenues, and

WHEREAS, the position is currently budgeted in Organization 3414, and

WHEREAS, funding for the increase will be off-set by additional revenue from additional professional services and through a reduction in part-time Sound and Lighting Technician hours, and

WHEREAS, the position is currently filled, and
WHEREAS, the Safety and Communities Committee met on September 8, 2004, and supported the recommendation to increase the Production Technician position to full-time,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves increasing the .75 Production Technician position at the Modesto Centre Plaza to full-time.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September 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, 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