MODESTO CITY COUNCIL
RESOLUTION NO. 2004-424

A RESOLUTION APPROVING SPECIFIC PLAN AMENDMENT NO. 3 TO THE KIERNAN BUSINESS PARK SPECIFIC PLAN TO MODIFY THE LAND USE AND CIRCULATION DIAGRAMS AND DEVELOPMENT STANDARDS FOR THE KAISER MEDICAL CENTER SITE, TO REVISE THE PLANNED STREET SYSTEM IN THE FUTURE BUSINESS PARK, AND TO INCORPORATE DESIGN STANDARDS INTO THE SPECIFIC PLAN (KAISER FOUNDATION HOSPITALS)

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

WHEREAS, on April 1, 1997, the City Council by Resolution No. 97-159 adopted the Kiernan Business Park Specific Plan, and

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

WHEREAS, on November 4, 1997, the City Council by Resolution No. 97-631 adopted Amendment No. 1 to the Kiernan Business Park Specific Plan to add language to allow for changes in utility service providers; and

WHEREAS, on April 7, 1998, the City Council by Resolution No. 98-170 adopted Amendment No. 2 to the Kiernan Business Park Specific Plan to add language to permit indoor theaters in the Regional Commercial Designation within a Planned Development Zone, and

WHEREAS, Kaiser Foundation Hospitals has filed an application to amend the Kiernan Business Park Specific Plan to add a “Medical Campus Subarea”; to
modify development regulations regarding building height and hours of operation in the Medical Campus Subarea; and to realign the planned extension of Technology Drive to the north adjacent to the proposed medical center, and

WHEREAS, City staff is also proposing to amend the Kiernan Business Park Specific Plan to: modify the Specific Plan Circulation Diagram to accommodate the expected traffic from the proposed Medical Center, to accommodate other planning efforts in the area, and to bring the Specific Plan circulation system into conformance with the Modesto Urban Area General Plan; to modify the Bike Paths and Public Facilities Diagrams to match the modified Circulation Diagram; to modify the cross-section of the Class I bike trail on the north side of M.I.D. Lateral No. 6; to incorporate design guidelines into the Specific Plan; and to require administrative approval of site plans and building elevations by the Community and Economic Development Director for otherwise permitted uses in the Specific Plan, and

WHEREAS, in connection with public circulation and review of the Draft Environmental Impact Report for the Kaiser Modesto Medical Center/Cornerstone Business Park Project (SCH No. 2003072085), the proposed amendments to the Kiernan Business Park Specific Plan were released for public review and comment for a 45-day period from March 26, 2004 to May 10, 2004, and

WHEREAS, on July 19, 2004, the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, relating to this proposed amendment to the Kiernan Business Park Specific Plan, and
WHEREAS, after said public hearing, the Modesto City Planning Commission adopted Resolution No. 2004-37, recommending to the City Council an amendment to the Kiernan Business Park Specific Plan to modify the land use and circulation diagrams and development standards for the Kaiser Medical Center site, to revise the planned street system in the future business park, and to incorporate design standards into the Specific Plan, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on August 10, 2004, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed amendment to the Kiernan Business Park Specific Plan, and

WHEREAS, the proposed specific plan amendment was analyzed by the Final EIR for the Kaiser Modesto Medical Center/Cornerstone Business Park Project (SCH No. 2003072085), and the City Council by Resolution No. 2004-423 has certified the Final EIR.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that the proposed amendment to modify the land use and circulation diagrams and development standards for the Kaiser Medical Center site, to revise the planned street system in the future business park, and to incorporate design standards into the Specific Plan is consistent with the Modesto Urban Area General Plan, and the Kiernan Business Park Specific Plan is hereby amended to read as shown on Exhibit "A" attached hereto and incorporated herein by reference.
BE IT FURTHER RESOLVED by the Council that the City Clerk is hereby authorized and directed to send certified copies of this resolution and said amendment to the Kiernan Business Park Specific Plan to the Board of Supervisors of the County of Stanislaus.

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

(SEAL)

APPROVED AS TO FORM:

By:  
MICHAEL D. MILICH, City Attorney
EXHIBIT "A"

SPECIFIC PLAN AMENDMENT NO. 3 TO THE KIERNAN BUSINESS PARK
Proposed Changes to the
Kiernan Business Park Specific Plan
Proposed Changes to Chapter I
Chapter I
INTRODUCTION

A. Purpose

The Kiernan Avenue area represents an important economic resource to the City of Modesto. The Specific Plan area consists of approximately 614 acres located adjacent to the City of Modesto's northern border, east of Highway 99, and south of Kiernan Avenue in a portion of unincorporated Stanislaus County.

The intent of the Specific Plan is to provide for the development of new Business Park and industrial uses and a medical campus in the vicinity of Kiernan Avenue, because of its location adjacent to Highway 99 and North Modesto, a prime job-creating industrial location. The Kiernan Business Park Specific Plan will assist in implementing Modesto's long-range objectives to enhance its local economy, generate jobs for residents, and create a better jobs/housing balance.

The Kiernan Business Park Specific Plan serves as a tool to guide the orderly development of land within the Plan area. The purpose of the Specific Plan is to implement the City of Modesto's General Plan as authorized by Section 65450 of the State Government Code.

A. Background and Planning Process

The City of Modesto first began considering the Kiernan Avenue area as an opportunity for industrial development in the late 1980s when the City Council identified a need for additional industrial land within Modesto's corporate limits. In 1992, as the City began to update its General Plan, the economic consulting firm of Kreines & Kreines was hired to prepare an Economic Development Strategy for the City. This study also identified the need for more industrial land and identified the area south of Kiernan Avenue as a prime location.

In 1995, the city of Modesto completed and adopted a revised General Plan, which designates the Plan area for Business Park development. This Specific Plan was initiated early in the General Plan update process to support the City's efforts in attracting employment-intensive businesses to Modesto and in anticipation of implementing a portion of the updated General Plan.

As first steps in the planning process, an Industrial Development Strategy was prepared to estimate future market demand for development at Kiernan Business Park, and the existing conditions of the area were documented. An initial public meeting regarding the planning process was held on March 16, 1995, at which the public was invited to share their concern and ideas regarding the Specific Plan.
Proposed Changes to Chapter III.
B. Land Use Policies

Early in the Specific Plan process an Industrial Development Strategy was prepared to estimate future market demand for development at Kiernan Business Park. Based on forecasted demand and locational opportunities and constraints associated with the Kiernan Avenue area, the Industrial Development Strategy identifies a group of target industries for the Kiernan Business Park. Industries in the target group include office-based users interested in the high-end business image provided by north Modesto and more industrial-oriented sectors such as distributing, warehousing, and light manufacturing which favor locations with good access to regional transportation networks.

For these uses, the following issues must be addressed:

- The Business Park will need to accommodate a variety of users including enterprises wishing to combine their office and production activities.
- New uses will require sensitive siting and design to ensure compatibility with adjacent residential development.
- The Business Park could attract large corporate offices at the expense of downtown's central business district.

The following land use policies respond to these opportunities, constraints and issues and will guide development in the Plan area. The policies were developed on the basis of the Industrial Development Strategy, the Recommended Modesto Economic Development Strategy, and concerns voiced by citizens during the community meetings.

*Policy LU-1: Lands adjacent to existing Landmark Business Center shall be designated for Business Park uses.*

*Policy LU-2: Development of large corporate offices shall be discouraged in the Kiernan Business Park. These uses should be encouraged to locate downtown.*

*Policy LU-3: Adequate buffers shall be provided between business park uses and neighboring residential uses.*

Additional land use policies are provided throughout the remainder of this chapter as applicable.

C. Land Use Plan Summary

Figure III-1, the Land Use Plan Diagram, identifies three areas, A, B, and C, which are designated for Business Park, Office, and Regional commercial development, respectively. A summary of these areas is presented in Table III-2.
D. Land Use Designations

Policy LU-4: Development shall be required to be consistent with Figure III-1, the Land Use Plan Diagram, which is hereby adopted into this Specific Plan. All subsequent development shall conform to these designated land uses.

The Specific Plan defines three land use designations for the Plan area: Business Park, Office, and Regional Commercial. Figure III-1, Land Use Plan Diagram, delineates the location and extent of the land use designations in the Plan area. The intent of this Plan is to provide adequate land for both office-oriented, employment-intensive uses and light-industrial uses, and to provide a buffer of non-nuisance uses adjacent to residential areas.

This Plan establishes land use designations for the Plan area that modify existing zones defined in the City of Modesto Zoning Ordinance. The purpose of each land use designation and its allowable uses are described below. Development standards, which establish minimum requirements for development activities, are contained in Section E, Development Criteria, of this chapter.

1. Area A – Business Park

Policy LU-5: All development in Area A, as shown in Figure III-1 and designated Business Park, shall be required to conform with the uses and regulations of the Business Park (B-P) Zone (Sec. 10-2.1601 et seq. of the Modesto Municipal Code), except where otherwise noted below or in Section E, Development Criteria.

a. Purpose. The Business Park designation is intended to accommodate the development of modern, employment-intensive office and non-nuisance light industrial space. The principal development and employment generating uses allowed within this designation are characterized by research, product development, professional office, limited manufacturing and distribution, and commercial business services intended to support the immediate area. Development within this district should support the creation of a campus-like environment for office, light production, or warehouse uses in high quality single- or multiple-occupant buildings. Medical-related uses shall be allowed and
encouraged in the Medical Campus Subarea of Area A. The Medical Campus Subarea is indicated "MC" in Figure III-1.

b. Allowable Uses. The land uses allowed in Area A shall be those allowed in the B-P Zone, except where noted below. Examples include:

- Light industrial uses such as the manufacture of electronic machinery, photographic and optical goods, furniture, apparel, fabricated plastic and rubber products.
- Research and development uses such as laboratories, printing and publishing, and records processing centers.
- Offices.
- Wholesale and retail sale of goods produced on the premises.
- Business services, personal services, retail trade, and restaurants incidental to and serving the needs of industries.
- In the Medical Campus Subarea, businesses related to medical and health services shall be allowed, such as a hospital, medical office buildings, service buildings, parking structures, and ancillary uses.

c. Modifications to Allowable Uses.

(1) All offices, regardless of the number of employees, will be allowed without the need for a Conditional Use Permit. However, large corporate offices should be encouraged to locate downtown, rather than in the Kiernan Business Park.

(2) Permitted uses shall include any other uses which the Community Development Director may determine to be compatible with and of the same general character as the uses mentioned above. In exercising discretion under this part, the Community and Economic Development Director shall be guided by the principle that the Kiernan Business Park is intended to facilitate the development of office/industrial park complexes distinguishable in appearance and purpose from typical office/industrial areas, that the uses will not adversely impact the permitted uses and adjacent residential areas, or generate traffic in excess of the amount predicted in the Kiernan Business Park EIR.

2. Area B – Office

Policy LU-6: Require all development in Area B, as shown in Figure III-1 and designated Office, to conform with the uses and regulations of the Professional Office (P-O) Zone (Sec. 10-2.901 et seq. of the Modesto Municipal Code), except where otherwise noted below or in Section E, Development Criteria.

a. Purpose. The office designation provides for business and professional offices, institutions and related services, in areas adjacent to related activity centers. The designation is intended to support nonresidential uses of a less intensive nature than allowed in commercial zones adjacent to residential areas. Compatibility is ensured through development standards, which are noncommercial in nature.
b. **Allowable Uses.** The land uses allowed in Area B shall be those allowed in the P-O Zone, with the exception that no residential uses shall be allowed. Examples of allowed uses include:

- Business offices, such as real estate, insurance, and stock broker
- Medical and dental offices.
- Professional offices such as accountants, attorneys, architects and engineers.

3. **Area C – Regional Commercial**

*Policy LU-7: All development in Area C, as shown in figure III-1, designated Regional Commercial, shall be required to conform with the uses and regulations of the Highway Commercial (C-3) Zone (Sec. 10-2.1201 et seq. of the Modesto Municipal Code), except where otherwise noted below or in Section E, Development Criteria.*

a. **Purpose.** The Regional commercial designation is intended to accommodate limited retail uses that are generally dependent on a regional rather than a local population for their support.

b. **Allowable Uses.** The land uses allowed in Area C shall be those allowed in the C-3 Zone, except where noted below. Examples include:

- Department stores
- Volume discount department stores
- Home Improvement, hardware stores (not stores devoted exclusively to lumber or any other building material)
- Automobile dealers

c. **Modifications to Allowable Uses**

(1) No residential uses are allowed in Area C.

(2) No radio/TV transmitters are allowed in Area C

(3) Indoor theatres are allowed with a Planned Development Zone, as specified in Section 10-2.1703 of the Municipal Code.

E. **Development Criteria**

This section provides the standards and criteria by which development in the Kiernan Business Park will proceed including performance, development and supplemental development standards in compliance with Section 65451 (a) (3) of the California Government Code. These development standards are intended to create an integrated development pattern and encourage complementary development while allowing flexibility.
Policy LU-9: All Development in this Specific Plan shall conform to all applicable City zoning and other regulations except where otherwise noted.

1. Development Standards

Policy LU-9: Development shall be required to meet the following development standards, which are hereby adopted into the Specific Plan. All subsequent development shall conform to these standards.

a. **Area A.** All development in Area A will be subject to the development standards of the B-P Zone, with the following exceptions:

   1. All development shall be subject to Plot Plan Review by the Community and Economic Development Director.

   2. There is no minimum lot size.

   3. Maximum building height is limited to three stories or 45', whichever is less, for those parcels adjacent to that portion of M.I.D. Lateral No. 6 and the bike trail adjacent to the Fleur de Ville subdivision, except for the Medical Campus Subarea, which shall have a height limit of 95 feet. All other parcels are not subject to this height limitation.

   4. All development on parcels adjacent to the planned bike path along the north side of M.I.D. Lateral No. 6 shall have an eight-foot-high decorative wrought-iron fence on the property line adjacent to the bike path right-of-way and the MID lateral. This requirement may be adjusted in the Medical Campus Subarea in the site review process to achieve the purpose of this requirement while encouraging an aesthetically desirable result.

   5. All developments in Area A adjacent to that portion of MID Lateral No. 6 and the planned bike path right-of-way abutting the Fleur de Ville subdivision shall be subject to Plot Plan Review by the Community and Economic Development Director. All staff determinations are appealable to the Board of Zoning Adjustment. This development shall be subject to the following additional development standards:

      - A 10-foot wide screen landscaping buffer on the north side of the fence. The landscaping installed should be fast-growing, evergreen shrubs or trees, designed to achieve a height of 15 feet within five years, with an automatic irrigation system. The landscaping shall be as approved by the Director of Parks and Recreation, Recreation and Neighborhoods.

      - Loading docks shall be oriented away from the residential uses to the south.

      - Hours of operation shall be limited to 7 AM to 10 PM, including loading dock operations. This requirement does not apply to the Medical Campus Subarea. Limited exception to these hours' limitations may be allowed subject to a Conditional Use Permit approved by the Board of Zoning Adjustments.

b. **Area B.** All development in Area B shall be subject to the development standards of the P-O Zone, with the following exceptions:
1. All development in Area B shall be subject to Plot Plan Review by the Community Development Director. All staff determinations are appealable to the Board of Zoning Adjustment.

2. All development adjacent to the Fleur de Ville subdivision shall include a 10-foot wide screen-landscaping buffer adjacent to the Fleur de Ville subdivision. The landscaping installed should be fast-growing, evergreen shrubs or trees, designed to achieve a height of 15 feet within five years, with an automatic irrigation system. The landscaping shall be as approved by the Director of Parks and Recreation.

3. There is no minimum lot size.

c. Area C. All development in Area C will be subject to the development standards of the C-3 Zone, with the following exception:

1. There is no minimum lot size.

d. Plan Area. The following development standards shall apply to all subsequent development within the Specific Plan area including Areas A, B and C. Under these standards, the Community and Economic Development Director shall have the discretion to approve alternative design features which accomplish the design goals of the Specific Plan, unless otherwise prohibited by the General Plan or Municipal Code.

(1) Required Parking and Loading Areas. All uses in the Plan area shall provide adequate space for parking, loading, outdoor storage and refuse areas on site. These areas shall be screened from view as described below in the Landscaping and Screening subsection. Requirements for off-street parking in the Kiernan Business Park shall be as set forth by Article 20 of the City of Modesto Zoning Ordinance.

(2) Limited Access. Vehicular access to individual parcels shall be prohibited along the following street frontages, unless it meets the requirements of General Plan Policy V-4.c.(4).

- Kiernan Avenue east of Chapman Road
- Pelandale Avenue east of Dale Road

(3) Landscaping and Screening. When landscaping is required by this Specific Plan or the Principle Underlying Zoning, it shall be consistent with Section 10-2.2309 Landscape Plans and Maintenance of Modesto Zoning Ordinance. The landscape standards and guidelines recognize that landscape is of great importance to the establishment of the design and character of the Kiernan Business Park. The standards and guidelines are intended to provide for a neat and well-maintained appearance in areas not covered by buildings or parking, to enhance the existing site character, to minimize the adverse visual and environmental impacts of large, paved areas and to promote the conservation of water.

The landscape standards and guidelines for general landscaping within the Kiernan Business Park define a strong overall landscape planting framework that creates an aesthetically pleasing environment. The concept includes establishing an overall image and visual order to the business park; provides an urban forest to create shade in summer; allow solar gain in the wintertime; buffer particular uses; provide tree-shaded corridors.
for pedestrians; create a pedestrian-scale at active areas; and encourage water conservation techniques.

(a) Front Side and Street Side Yards. All front yards, required side yards, and rear yards abutting a street shall be landscaped and maintained. Street trees will be planted and maintained along street frontage within the street right-of-way and encouraged within front and street side yards. When right-of-way area between the sidewalk and the front or street side property line exists, it shall be incorporated into the adjacent landscaped area and treated and maintained as a unit. The owner, lessee or occupant shall be responsible for maintaining this area.

(b) Screening and Landscaping of Parking Areas. Landscaping and screening of parking areas shall be in accordance with the provisions of Sections 10-2.2006 and 10-2.2007 of the City's Zoning Ordinance. Additionally, street level views of all automobile and truck parking areas shall be screened within the required setback. Such screening shall include, but not be limited to, low hedges, berms, shrub or tree masses, and/or fences with a minimum height of three feet.

(c) Screening and Landscaping of Outdoor Storage or Loading Areas. For all uses in the Plan area, outdoor storage of materials and equipment incidental to the primary activity is permitted provided the outside storage area is screened by a view-obscuring wall or fence. Such screening may should include landscaping and/or architectural features such as walls compatible with the surrounding buildings and environment. The use of free-standing storage facilities, cargo containers, trailers, etc. is prohibited unless completely screened from view.

(d) Screening of Refuse Areas. Dumpsters and other refuse receptacles shall be located out of view or screened from the public rights-of-way and adjacent properties. Such screening shall be compatible with the surrounding buildings and environment. Trash enclosures should be designed with the same materials, finishes, and colors as the adjacent building. Solid metal gates shall be provided. Trash enclosures shall have a minimum three-foot (3') wide landscape planter on all non-accessible sides, with climbing vines to prevent graffiti and soften the look (see also Section (8)).

(e) Street Trees. Street tree planting and maintenance throughout the Plan area will be in accordance with the provisions and standards set forth by the City of Modesto Street Tree Master Plan and Title 12, Chapter 5 of the Modesto Municipal Code establishing the City's Street Tree Program. The city will determine tree selection and will be responsible for placement, planting and maintenance for all street trees placed within public rights-of-way or planting easements established between private property owners and the City. Fees shall only be assessed for new street tree plantings.

(f) Screening of utility services. All utility service including meters, vaults, sprinklers, etc. and all service areas shall be screened by a combination of walls and/or landscape materials including trees, shrubs, vines, and groundcovers. Other considerations should include existing walls and fences which may be softened to minimize height and mass with the use of vines and shrubs. Proposed utility vaults should be shown on site plans so that proper landscaping can be determined. Transformers, where required, shall be screened as described for
trash enclosures, or by using landscape screening devices such as five-gallon shrubs at three-foot (3') on center, minimum.

(g) General Landscaping Standards.

i. A single species of tree should not be used for large discreet areas to insure biological diversity.

ii. Trees and shrubs should be used to create a natural setting and shall not be pruned or clipped into balled or boxed forms.

iii. Landscape design and plant material selection should encourage drought tolerant species. Use of turf should be limited to accent areas, activity areas, or in parkways, between sidewalk and street or in open space corridors or detention basins.

iv. All required landscaping shall be continually preserved and maintained, including watering, weeding, fertilizing, spraying, pruning, root aeration, and irrigation repair.

v. Plant materials should be used in front of buildings to break up long walls, including the use of trellis-type structures to encourage vertical growth on long walls.

vi. Prior to planting, tree wells shall be prepared to insure adequate relief from soil compaction incurred in the establishment of the parking lot.

(4) Architecture. The purpose of the architectural design guidelines is to provide an orderly and aesthetically pleasing development of high-quality architecture. The buildings in the Kiernan Business Park should incorporate the concepts of conservation and regional vernacular through the design of unique architectural character that defines a symbiotic relationship between the users, the architecture and the natural environment. All buildings, therefore, should conform to the following sets of guidelines.

(a) All elevations of a building facing public streets should contain elements drawn from those in the primary frontages.

(b) Buildings in the Kiernan Business Park should be designed to create a harmonious image through the use of design, including materials, color, texture, proportions, and rooflines.

(c) Building should be visually broken up by changing volumes, articulating walls, varying heights and using ornamentation.

(d) The acceptable primary building materials are site cast concrete, architectural precast concrete, brick, concrete masonry units (CMU), or an Exterior Insulation and Finish System (EIFS). Concrete masonry unit walls should be either integrally colored, or textured and integrally colored. All other concrete masonry units should be finished with a plaster base coat then a plaster finish coat. No painted block walls should be permitted. Site cast concrete should be finished with a textured elastomeric. Metal finishes should be limited to colorized aluminum or steel. Metal should not be allowed as the primary building material and will be limited to a maximum of twenty-five percent (25%) of the total finish. Blank walls should be prohibited.
(e) A variety of facades, finishes, and patterns should be encouraged. Site-cast concrete, for example, should include areas defined by reveals, textures (sandblast finish, architectural formwork), and varying wall planes to provide visual interest and character.

(f) The two main components of the Kiernan Business Park building types are the office/administrative and warehouse:

- Office/administrative buildings should have pedestrian scale, including but not limited to windows, awnings, trellises, planters, and material changes. The building should maintain a minimum ratio of fifty-percent (50%) glass. The building should provide an overhead plane located at the building main entry to emphasize pedestrian scale. It should project from the wall a minimum distance of one-quarter (1/4) of the building height, and extend a minimum of six-feet (6') past either side of the main entry doors(s).

- Warehouses should provide a combination of colors and pattern within the wall panels. The primary building color should be comprised of a maximum of seventy-five percent (75%) of the building finish and no primary area should exceed twenty-two hundred square feet (2,200 SF) before being differentiated. The secondary color should comprise a maximum of twenty-percent (20%) of the building finish. The remaining five-percent (5%) should be comprised of a tertiary color.

(g) Parcels located in the high-visibility business park areas along Kiernan Avenue (State Route 219), Dale Road and Pelandale Avenue should include all of the above-mentioned plus at least one of the following:

- Office – Should include an increase in the proportion of glass to a minimum of sixty-percent (60%). Fifty-percent (50%) of the wall panels or glass should be articulated a minimum of three-feet (3').

- Warehouse – Should incorporate articulated wall panels at a minimum of one per ninety lineal feet (90 LF) of building with a minimum offset of one-foot (1'), or the use of pilasters at a minimum of one per sixty lineal feet (60 LF) of building and a minimum offset of one-foot (1'). Rooflines should be broken up at a minimum of once every ninety lineal feet (90 LF). The use of landscaping utilizing trellises or climbing vines to break up long walls is encouraged.

(h) The use of metal finishes should be limited to architectural detailing and ornamentation, such as breaking up wall massing with metal banding; highlighting recessed wall panels, columns, or other components; emphasizing main entries or office portions of buildings.

(i) Roof-mounted equipment, including but not limited to air conditioners, fans, vents, antennas, and dishes should be set back from the roof edge, placed behind a parapet wall, or in a wall, so they are not visible to motorists or pedestrians on the adjacent roads or streets.
(j) Screening for equipment should be integrated into the building and roof design by the use of compatible materials, colors, and forms. Wood lattice and fence-like coverings should not be used as screening materials.

(k) Retaining walls should not be constructed of wood but of permanent materials, (i.e., concrete, brick, masonry). Block walls should use integrally colored masonry units. No painted block walls should be permitted.

(l) Building trim should be painted.

(5) Site Furnishings. Site furnishings such as benches, bollards and trash receptacles should be consistent with the design character of Kiernan Business Park.

(6) Hardscape Elements. The use of enhanced paving treatment is encouraged at building entry areas. Examples of enhanced materials include stamped concrete, stained or integral colors, scored patterns, and special finishes such as exposed aggregate and pavers. Paving materials should serve as a primary means of unifying the appearance of the project while at the same time providing interest and character to key areas.

(7) Walls and Fences.

(a) Walls and fences for the Kiernan Business Park should complement the building design and the prevailing materials and design elements in the project.

(b) Walls shall be concrete masonry unit or brick. Block walls shall be integrally colored masonry units. No painted block walls shall be permitted.

(c) Climbing vines should be utilized on walls to soften the look of the wall and reduce graffiti.

(8) Trash Enclosures. In addition to the screening requirements listed above (see Section 3 (d), all trash enclosures shall conform to the following requirements.

(a) Trash enclosures shall be designed and located so as to be convenient for deposit of refuse generated on-site.

(b) Trash enclosures shall not be permitted within the landscape setback area.

(c) Refuse collection vehicles are to have clear and convenient access to these areas.

(9) Site Lighting.

(a) Site lighting of the Kiernan Business Park shall provide a safe, pedestrian-friendly environment for the employees, visitors and general public.

(b) Lights shall be placed to direct and control glare, obtrusive light, light trespass, and upward directed wasted light.

(c) All light fixtures visible from public streets should be concealed source / full cut-off fixtures except for pedestrian oriented lights.

(d) Light standards for parking areas shall not exceed thirty-feet (30') in height.
(e) Lighting shall provide illumination that meets foot-candle requirements established by the City of Modesto Municipal Code and adopted standards.

(f) Parking lot lights shall be or similar to Gardco fixture Gullwing G13 or Gardco Circa CR-20 or CR-25, 250W or 400W, high pressure sodium (HPS) lights, with straight round poles painted to match that of the luminaries, or other light fixtures as approved by the Community and Economic Development Director.

(g) Lights in parking lots shall be on three-foot (3’) high concrete bases.

(h) Lights in parking lots shall not be co-located with trees in the planters. The lighting and landscape plan must be fully integrated and coordinated.

(i) Service area lighting shall be contained within the service yard boundaries and enclosure walls. No light spillover shall occur outside the service area. The light source shall not be visible from the street. Full cut-off luminaries shall be used.

(j) Building illumination and architectural lighting shall be indirect. Floodlights are prohibited.

(k) The use of low-level lighting to enhance the architecture, landscape, or other features is encouraged.

(l) Architectural lighting should articulate the building design as well as provide functional lighting for the safety of pedestrian movement.

(m) Security lighting fixtures shall not project above the fascia or roofline of the building and are to be shielded. The shields shall be painted to match the surface to which they are attached. All security lighting designs shall be fully shielded (full cut-off) and subject to City of Modesto approval.

(4.10) Signage. All signs shall conform to Article 21, Sign Regulations, of the City’s Zoning Ordinance. Within the Medical Campus Subarea, signs be as approved in conjunction with the entitlements for the medical campus.
Figure III-1
Land Use Plan Diagram

Legend:

- Specific Plan Area Boundary
- Area A - Business Park
- Area B - Office
- Subarea MC - Medical Campus Subarea
- Area C - Regional Commercial

KIERNAN BUSINESS PARK
Proposed Changes to Chapter IV.
B. Existing and Planned Areawide Circulation

1. Existing Roads

The Kiernan Business Park area is currently served by the following highway and roadways:

- **State Route 99 (Highway 99):** Highway 99 is a north-south freeway facility providing six travel lanes to the west of the project. Highway 99 provides access throughout the Central Valley connecting Sacramento, to the north; to Merced, Fresno, and Bakersfield, to the south. It also provides access to other routes serving the San Francisco Bay Area.

- **Kiernan Avenue: (State Route 219):** Kiernan Avenue is an east-west, rural arterial that provides two travel lanes and is controlled by unsignalized intersections. It connects Highway 99 to McHenry Avenue (State Route 108). This segment of Kiernan Avenue is designated part of the state Highway system.

- **Pelandale Avenue:** Pelandale Avenue is an east-west, two-to-four lane facility. It runs between Highway 99 and Dale Road. Pelandale Avenue is planned to function as an expressway.

- **Dale Road:** Dale Road is a rural, north-south, two-lane road that connects Kiernan Avenue to Pelandale Avenue and provides local access.

- **Chapman Road:** Chapman Road is a rural, north-south, two-lane road that runs between Kiernan Avenue and the Modesto Irrigation District (MID) Lateral No. 6.

2. Planned Areawide Circulation

As part of development included in the City of Modesto General Plan, the surrounding and internal transportation network for the Specific Plan Area would be expanded and modernized. Under ultimate build-out of the City's General Plan (estimated at the year 2025), both Kiernan Avenue and Pelandale Avenue (east of Dale Road) would be improved to six-lane expressways. In addition, Chapman Road would be extended to the south to intersect with Pelandale Avenue and improved to a four-lane arterial, and Dale Road would be improved to a four-lane arterial.

Figure IV-1, Circulation Plan Diagram, shows the proposed roadway system in the Specific Plan area. This roadway system was designed using the City of Modesto's Transportation Model and in coordination with City of Modesto planning and public work staff. It should be noted that this system differs from the network included in the City's adopted General Plan and shown on Figure V-1, Circulation and Transportation Diagram in the General Plan. The difference is that the previously proposed Dakota Avenue flyover of Highway 99 has been removed, and Dakota Avenue is now expected to tie into the West Side of the Pelandale Avenue Expressway interchange with Highway 99. Kiernan Avenue is designated a six lane arterial along its existing alignment, and Chapman Road is designated a minor arterial to provide a link between Kiernan Avenue and Pelandale Avenue.

C. Specific Plan Area Circulation

In order to plan for the future travel demand in the Kiernan Business Park, traffic forecasts were generated for build-out of the Specific Plan land uses as show on the Land Use Plan Diagram (Figure III-1) in Chapter III. The traffic forecasts used the City of Modesto traffic model, which incorporates
planned development in the vicinity of the Kiernan Business Park as identified in the Modesto General Plan.

Policy C-1: Roadways shall be developed according to Figure IV-1, Circulation Plan Diagram that is hereby adopted into this Specific Plan. All subsequent development shall conform to this diagram.

Figure IV-1, Circulation Plan Diagram shows the proposed road classifications, internal street layout, and transit turnout locations for the Kiernan Business Park. The five roadway facility types are included within the Specific Plan area: six-lane principal arterials, four-lane minor arterials, four-lane major connectors, two-lane industrial connectors, and two-lane minor connectors. In addition to these facility types, the Specific Plan area is bounded on the north and south by six-lane expressways.

Access to the Kiernan Business Park would be made primarily from Chapman Road/Quinturn Lane and Dale Road, which are four-lane, signalized, north-south arterials that intersect with the planned Kiernan and Pelandale expressways. Chapman Road will be realigned north of M.I.D. Lateral No. 6 to curve to the east and connect to Quinturn Lane. Quinturn Lane will connect to Kiernan Avenue at a new signalized intersection. Roundabouts are planned at two locations: the three-way intersection of Chapman Road, Quinturn Lane, and the four-lane major connector street; and at the intersection of Dale Road and Bangs Avenue. Three arterial intersections serve as gateways: Kiernan Avenue at Quinturn Lane, Pelandale Avenue at Chapman Road, and Kiernan Avenue at Dale Road. Because of their functions as gateways, Chapman/Quinturn and Dale Roads have been planned with generous median and sidewalk landscaping.

Internal access to parcels within the Specific Plan area will be provided from a planned east-west, two-and-four-lane industrial connector street. The new industrial connector has been planned with generous landscape areas. The Bangs Avenue segment from Dale Road to just west of American Avenue is planned as a two-lane industrial connector terminating in a cul-de-sac. The two-lane, minor connectors also provide internal access. These include an extension of Bangs Avenue Drive from Landmark Business Park to Chapman Road and an extension of American Avenue from Kiernan Avenue to Pelandale Avenue, and a new north-south cul-de-sac between Chapman Road and Dale Road to connect with the planned Kiernan Avenue expressway. In addition, the remaining portion of Chapman Road north of the realignment will be designated a minor connector and the current connection to Kiernan Avenue will be replaced by a cul-de-sac bulb.

The Specific Plan circulation system provides access to most parcels via industrial and minor connector streets. Most of the connectors provide east-west connections to north-south arterials, Chapman Road/Quinturn Lane and Dale Road. A north-south connection between the Kiernan Avenue and Pelandale Avenue expressways is provided via the American Avenue extension east of Dale Road. A connection to Kiernan Avenue is provided via a new north-south cul-de-sac between Chapman Road and Dale Road. These connections would provide right-turn-in/right-turn-out access only, as shown on the Circulation Plan Diagram.

In order to allow some flexibility in the types of uses and sizes of various parcels, local streets have not been included in the Specific Plan network, but are assumed to be part of future development. Local streets will be designed as part of the tentative subdivision map application. Local street connections should be made to connectors and arterials, and direct connections to expressways should be prohibited.

Policy C-2: The City shall promote the improvement and development of Kiernan Avenue and Pelandale Avenue and their connection to Highway 99 to accommodate future development in the Kiernan Business Park area.

Policy C-3: Property owners shall be required, through the discretionary permit process, to reserve right-of-way for Kiernan Avenue expressway and Pelandale Avenue expressway.
Policy C-4: Direct connector street, local street or driveway connections to expressways will be allowed only under the following criteria:

a. For connections to Kiernan Avenue and Pelandale Avenue east of Dale Road (Class B expressway):
   - No driveway connections are permitted
   - Only connector street connections with right-turn-in/right-turn-out treatment are allowed at a minimum spacing of one-quarter mile.

b. For connections to Pelandale Avenue west of Dale Road (Principal Arterial Class-C expressway):
   - Driveway connections with right-turn-in/right-turn-out treatment are allowed at a minimum spacing of 300 feet.
   - Local and connector street connections are allowed with permitted right-turns in, right-turns out and left-turns in (when left turn pockets are provided in the median) and a minimum spacing of one-half one-quarter mile.

Policy C-5: The City shall promote the development of local road circulation facilities that connect to connector and arterial streets shown in the Circulation Plan Diagram to adequately serve the planned land uses in the Kiernan Business Park.

Policy C-6: Concurrent with the submittal of each Tentative Map (Chapter 4 of the Modesto Municipal Code), each Conditional Use Permit (Section 10-2.250 et seq.), and/or any other 'development' as defined by Section 66418.1 of the State Government Code, applicants shall provide a commitment to construct the necessary and feasible street and intersection improvements to meet the following standards. A Site Access Study as described in Chapter V of the Modesto General Plan may be used as the method for providing this analysis.

a. All access to the existing street network shall be through the dedication of right-of-way and improvement of public streets, consistent with the standards contained in the Specific Plan and/or Section 7-1.701 (Street Dedication and Improvements) of the Modesto Municipal Code.

b. All necessary and feasible street improvements shall be constructed to ensure that the street segments and intersections presented in Table IV-A-11 (in Section IV-A(III)(B) of the Final EIR) meet the following:

1. Individual development projects that could affect conditions on traffic facilities predicted by the General Plan Traffic Analysis (Appendix II-A of the General Plan Master EIR) to operate at LOS “D” or better in the year 2025 shall not cause conditions to be worse that LOS “D” at any time prior to the year 2025.

2. Individual development projects that could affect conditions on traffic facilities predicted by the General Plan Traffic Analysis to operate at LOS “E” in the year 2025 shall not cause conditions on those facilities to exceed LOS “E” at any time prior to year 2025.

3. Individual development projects that could affect conditions on traffic facilities predicted by the General Plan Traffic Analysis to operate at LOS “F” shall not cause further substantial degradation of conditions. Further substantial degradation shall be
defined as an increase in the peak hour volume/capacity (V/C) ratio of 0.05 or greater for roadway segments or intersections whose V/C ratio is estimated to be 1.00 or higher in year 2025 by the traffic model.

c. In making these determinations, this list of transportation facility improvements presented in Table IV-A-12 (in Section IV-A(III)(B) of the Final Focused EIR) shall be consulted, and the improvements needed to meet the above standards shall be drawn from this list:

Table IV-A-9 (in Section IV-A(II)(C) of the Final Focused EIR) provides a preliminary basis for determining the degree to which development enabled under the Kiernan Business Park and Carver-Bangs Specific Plans could contribute to funding for the required intersection improvements. A more refined method could be developed at the time a Mello-Roos District is established.

1. Street Sections

Typical street sections for the various facility types (with the exception of Kiernan Avenue) are shown in Figures IV-2, IV-3, and IV-4. The street sections have the following characteristics:

- Street sections include generous landscaped areas both in the medians of arterials and the edges of arterials and connectors;
- Arterial street sections include service/bike lanes to reduce congestion associated with vehicle breakdowns and other incidents and to promote bicycle commuting;
- On-street parking will not be provided on arterial or connector streets, but can be included on local streets at the discretion of the City during the subdivision review process; and
- Sidewalks are provided within road right-of-way to encourage pedestrian connections between transit stops and business park uses.

Policy C-7: All roadways shall be developed in accordance with the sections shown in Figure IV-2, IV-3, and IV-4 Cross Sections, which are hereby adopted into this Specific Plan. All subsequent development shall conform to these street sections.

Policy C-8: Public and private road design shall be required to follow all road standards of this Specific Plan and the Modesto General Plan.

2. Primary Gateways. The Kiernan Business Park shall have primary gateways at the following intersections:

- Pelandale Avenue with Chapman Road
- Kiernan Avenue with Quinturn Lane, Chapman Road, and
- Kiernan Avenue with Dale Road.

Buildings at these entry points, shall be oriented toward and reinforce the gateway concept. These building will be highly visible and set the tone for future development in the Business Park.

At these three distinct points, consistent design elements and landscape treatment shall be used to articulate the gateway and boundary of Kiernan Business Park, as presented in the adopted "Kiernan Business Park Gateway Concept Feature Context Plan Report". The Kiernan/Chapman...
and Pelandale/Chapman Gateways shall be framed by Business Park uses to reinforce the Park’s identify and capitalize on locational associations with the established Landmark Business Center. The Kiernan/Dale Gateways should be framed by and in proximity to Industrial type uses. This gateway, through its design, location and surrounding land uses, will accommodate the bulk of heavy truck traffic. Each gateway shall be emphasized with planting, special paving treatment and signing.

These gateways will be constructed and maintained through the establishment of a Mello-Roos Community Facility District over the Plan area.

3. Bicycle and Bus Circulation

*Policy C-9:* The City shall develop Class I Bike Paths along Pelandale and Kiernan expressways and along the north side of MID Lateral No. 6 and Class II Bike Lanes on minor arterial and collector streets as shown on Figure IV-5, Bike Paths, which is hereby adopted into this Specific Plan. All subsequent development shall conform with these planned bike facilities.

As shown on the Bike Path diagram (Figure IV-5), continuous and connective bike facilities have been planned for the Specific Plan area as follows:

- Expressway facilities (Pelandale and Kiernan Avenues) will provide Class I Bike Paths;
- A Class I Bike Path is planned along the north side of the Modesto Irrigation District (MID) Lateral No. 6 (as shown in Figure IV-6); and
- Minor arterial and connector streets will provide Class II Bike Lanes.

Local streets should be planned to encourage low speeds and minimize cut-through traffic so that bikes can safely share the road with vehicular traffic.

All streets shown on the Circulation Plan Diagram can accommodate bus routes and the landscape improvements can include locations for bus turnouts. Potential locations and design of turnouts are shown on the Circulation Plan Diagram. Bus turnouts have been provided along the Kiernan and Pelandale expressways, where bus routes are proposed. Additionally, bus stops should be provided within the Kiernan Business Park if a decision is made to extend bus service on to streets within the Kiernan Business Park.

*Policy C-10:* The City shall provide for development of a bicycle system that will provide a safe and convenient means of transportation for bicyclists that encourages commuting by bicycle.

*Policy C-11:* Future development shall provide for bicycle parking and related facilities such as lockers and showers, in accordance with Bicycle Master Plan.
Figure IV-1
Circulation Plan Diagram

Legend:

- Primary Gateway
- Secondary Entrance
- Roundabout
- Traffic Signal
- Right Turn In/Right Turn Out
- Transit Turnout

- 6 Lane Class B Expressway
- 6 Lane Class C Expressway
- 6 Lane Principal Arterial
- 4 Lane Minor Arterial
- 4 Lane Major Collector
- 2 Lane Industrial Connector
- 2 Lane Minor Connector

KIERNAN BUSINESS PARK
Figure IV-4

Major Connector and Minor Connector
Proposed Changes to Chapter V.
Chapter V
PUBLIC FACILITIES

A. Overview

This chapter describes the development of the basic wastewater collection, water supply, and storm drainage infrastructure needed to support anticipated growth in the Kiernan Business Park Specific Plan area. The Specific Plan's public facilities goal is stated below:

1. Specific Plan Public Facilities Goal

Provide public facilities and infrastructure in the Kiernan Business Park in an orderly manner consistent with the needs of planned development in the business park and applicable City standards.

2. Modesto General Plan Policies

This chapter of the Kiernan Business Park Specific Plan is consistent with the stated goals and policies of the city of Modesto General Plan including applicable overall infrastructure and public facility policies, as shown on Table V-I.

Following are the agencies and organizations, which were providing services to the project area at the time the Specific Plan was originally adopted. Subsequent changes in service responsibilities may occur without affecting the validity of the Specific Plan. The City intends that adequate service will be provided to the project area, irrespective of the organization providing that service.

B. Wastewater Collection

Policy PF-1: All infrastructure and public facilities shall be constructed in accordance with Figure V-I, Public Facilities Plan Diagram, which is hereby adopted as part of this Specific Plan.

An existing 48 39-inch wastewater collection line is planned to be extended approximately 2,800 feet to Bangs Avenue in the future alignment of Mascal Way, which would intersect with the proposed alignment of American Avenue in the Specific Plan area; has been extended through American Avenue to Bangs Avenue. Sanitary sewer service to the Kiernan Business Park will be provided by this extension. The existing 48 39-inch line flows south into the City's West Trunk Main.

The existing City of Modesto wastewater treatment system will have the capacity to provide service to the property in the Plan area as development occurs.

As shown in Figure V-1, the extension of the 48 39-inch line would pass through the Pelandale/Snyder Specific Plan area and would enter the Kiernan Specific Plan area along the southeastern edge. The extension of the line would include an under crossing of the MID Canal. As shown in Figure V-1, at Bangs Avenue the sewer main will branch into an east-west line. The line to the east is planned to be a 48 39-inch line. To the west the sewer main will be extended approximately 8,100 2,650 feet to Dale Road. The future extension of this line will be to the western boundary of the Kiernan Business Park. The size of this line is undetermined at this time and will depend on planned extensions to serve future developments to the northwest. This line will probably be in the range of 30 inches.
Branch lines from east-west main will extend north into the Kiernan Business Park in the north-south streets. The size of these lines will probably be eight inches and ten inches in diameter unless there are planned future extensions to the north, in which case they may be sized larger.

The main in Bangs Avenue between Dale Road and American Avenue and the extension of the 39-inch main south to the existing line in Marsala Way will need to be constructed with the first phase of development.

Policy PF-2: The City shall require all development to be connected to the public sanitary sewer system.

Policy PF-3: The City shall require all downstream sanitary sewer improvements to be constructed and sized consistent with the City Wastewater master Plan.

Policy PF-4: The City shall require all sanitary sewer mains to be within public street right-of-ways. Branch lines, where appropriate, may be within public easements, within private driveways and roadways, as approved by the City.

Policy PF-5: The City shall require each sanitary sewer line to be constructed prior to paving the street under which it is to be located.
D. Storm Drainage

**Policy PF-10:** The City shall require all storm drainage facilities for the Kiernan Business Park to be designed and constructed in accordance with the City of Modesto’s Drainage Master Plan and Figure V-I, Public Facilities Plan Diagram, which is hereby adopted as part of this Specific Plan.

The storm drainage system for the Kiernan Business Park will be designed in accordance with the City of Modesto’s Drainage Master Plan. The storm drainage system will consist of a positive storm drainage system consisting of catch basins, pipe lines, recharge/detention basins and pumping facilities (see Figure V-I).

The drainage system for the Specific Plan area is anticipated to include pumping storm waters from recharge/detention basins on-site into the Modesto Irrigation District (MID) Canal Lateral No. 6. This canal runs east-west along the southern side of Bangs Avenue. The MID has significant restrictions regarding timing, flow rate and water quality for discharge into their facilities. These restrictions will need to be taken into consideration when designing the storage capacity of the discharge/detention basin. Based on the City standard for commercial/industrial areas, storage requirements of 2 inches of water over the entire developed area is required. Using the maximum City allowed depth of 10 feet, this standard results in a minimum storage of five acres for Phase I with an additional 5 acres for Phase II. The actual area for the discharge/detention basin will depend on location, soil infiltration properties, MID requirements, the total area being served (could extend beyond Specific Plan area) and detailed hydrology/hydraulic calculations.

The City’s Draft Master Drainage Plan has identified two sites for a retention/detention basin to serve the study area east of Dale Road. These sites are on the north and south sides of Bangs Avenue midway between Dale Road and American Avenue, as shown in Figure V-1. The City’s Draft Master Drainage Plan does not address the area west of Dale Road. Figure V-1 identifies a storm drain basin on the east side of Chapman Road north of MID Lateral No. 6. This basin is designed to serve the development south of MID Lateral No. 6, and could also be expanded to serve development north of MID Lateral No. 6. Storm drainage for the Medical Campus Subarea shall be accommodated on site. Two potential locations west of Dale Road. The basin south of the MID canal would serve the Phase I portion of the project area located west of Fleur de Ville and the basin located north of the MID canal would serve the Phase II of the Specific Plan area.
Figure V-1
Illustrative Public Facilities Plan Diagram

KIERNAN BUSINESS PARK

Legend:

- Specific Plan Area Boundary
- Water Supply Line
- Sanitary Sewer Line
- Major Storm Drain Line
- Potential Storm Drainage Basin Site

North

1/4 mile

1320'
A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED
DEVELOPMENT PREZONE, P-P-D(567). (KAISER FOUNDATION HOSPITALS)

WHEREAS, a verified application for an amendment to Section 2-3-8 of the
Zoning Map was filed by Kaiser Foundation Hospitals on January 9, 2003, to rezone
property located on the west side of Dale Road north of Bangs Avenue from Prezone
Specific Plan-Overlay Zone, to Prezone Planned Development Zone, P-P-D(567), and
from Specific Plan-Overlay Zone to Planned Development Zone, P-D(567) to allow a
1,425,000-square-foot medical center, described as follows:

P-SP-O to P-P-D(567)

All that certain real property situated in the City of Modesto, County of
Stanislaus, State of California, and being a portion of the Northeast
Quarter of Section 2, Township 3 South, Range 8 East, Mount Diablo
Base and Meridian, more particularly described as follows:

Beginning at the southeast corner of said northeast quarter of section 2;
then thence South 89°38'01" West along the south line of said northeast quarter
of section 2, a distance of 25 feet to the west line of Dale Road and the
True Point of Beginning; thence continuing South 89°38'01" West along
said south line of said section 2 a distance of 1283.02 feet to the west line
of Lot 30 as shown on the Map of Eden Colony filed in Volume 4 of
Maps, Page 32, Stanislaus County Records; thence North 00°09'38"
West along said west line, a distance of 1323.13 feet to the northwest corner of
said Lot 30; thence continuing North 00°09'38" West along the west line
of Lot 17 of said Eden Colony, a distance of 365.63 feet to the westerly
prolongation of the north line of Parcel 2 as described in the deed to
Ronald J. Malik recorded July 30, 1991, as Instrument Number 57416,
Stanislaus County Records; thence North 89°38'01" East along said
westerly prolongation a distance of 272.70 feet to the northwest corner of
said Parcel 2; thence continuing North 89°38'01" East along the north line
of said Parcel 2, a distance of 328.22 feet to the east line of said Lot 17;
then thence South 00°11'22" East along said east line, a distance of 4.11 feet to
the northwest corner of Parcel 3 as described in the deed to Ronald J.
Malik and Edna Malik recorded April 29, 2003, as instrument Number
66261, Stanislaus County Records; thence North 89d32°03" East along
said north line of Parcel 3, a distance of 682.69 feet to the west line of
Dale Road, thence South 00°08'27" East along said west line, a distance of
1685.88 feet to the True Point of Beginning;
Also including all of MID Lateral No. 6, being immediately adjacent to
the above described property.

**SP-O to P-D(567)**

All that certain real property situated in the City of Modesto, County of
Stanislaus, State of California, and being a portion of the Northeast
Quarter of Section 2, Township 3 South, Range 8 East, Mount Diablo
Base and Meridian, more particularly described as follows:

Beginning at the southeast corner of said northeast quarter of section 2;
thence South to the point of intersection of the east line of said section 2
and the easterly prolongation of the south line of MID Lateral Number 6;
thence West along said prolongation of the south line of MID Lateral
Number 6 to the west line of Dale Road; thence North along the west line
of Dale Road to the northeast corner of
Parcel 3 as described on the deed
to Ronald J. Malik and Edna Malik recorded April 29, 2003, as Instrument
Number 66261, Stanislaus County Records; thence East along the
prolongation of said Lot 3 to the east line of said section 2; thence South
along the east line of Section 2 to the point of beginning.

WHEREAS, after a public hearing held on July 19, 2004, in the Tenth Street
Place Chambers located at 1010 10th Street, Modesto, California, it was found and
determined by the Planning Commission, by its Resolution No. 2004-38, that rezoning of
the property as requested is required by public necessity, convenience, and general
welfare for the following reasons:

1. The proposed Medical Center will alleviate the existing and
   projected shortfall of hospital beds in Stanislaus County and
   enhance Modesto’s emergence as a Regional Center of Health
   Care Excellence by creating a third hospital;

2. The proposed uses of the Medical Center are consistent with the
   intent of the Kiernan Business Park Specific Plan, in which the site
   is located, to provide opportunities for employment-intensive uses;
   and

3. The design and features of the proposed Medical Center help to
   ensure compatibility with the adjacent residential area.

4. The proposed rezone is consistent with the Modesto Urban Area
   General Plan, because:
a. The proposed uses are consistent with the purpose and intent of the Business Park General Plan Land Use Designation, and the project is consistent with the General Plan's Economic Development Goal to provide opportunities for "the types of businesses that will thrive in the 21st Century." (Sec. I.D.1.);

b. The proposal is consistent with the Overall Mission Statement of the General Plan to preserve "Modesto's quality of life" while providing direction for the growth of business and industry to meet the needs of the future generations in the Modesto community." (Sec. I.2.a.);

c. The proposal furthers General Plan Economic Goals which call for Modesto to "strive for a local jobs/housing balance by facilitating business growth..." and "Adequate land, strategically located to facilitate the expansion of Modesto's economic base, should be provided for the employment opportunities of Modesto residents. These opportunities should be focused on the types of businesses that will thrive in the 21st Century." (Sec. I.D.1. and Sec. II.B.1.a.(2));

d. With the infrastructure requirements that the developer is required to build for the Medical Center as imposed by the conditions of approval, the proposal is consistent with General Plan Economic Development Goal I.D.4, which states "Community growth should be managed so that the quality of life is enhanced without imposing significant fiscal burdens on the existing community. Whenever appropriate, and to the extent provided by law, the costs of public infrastructure required to serve new development should be financed from revenue attributable to that development. There may be instances in which it would be appropriate to invest community wide resources in public infrastructure which could lead to a significant increase in jobs or other benefits to the community." and with Community Growth Policy II.B.a.b., which states "As the City expands and vacant land becomes developed, infrastructure such as roads, sewer, water and drainage is necessary to support that development. As the City directs the extension of this infrastructure, economic development opportunities should receive the highest priority for receiving such infrastructure."; and

e. The location of the project immediately adjacent to the existing City limits and Sphere of Influence is consistent with Urban Growth Policy II.C.1.b., which states "Urban
development should be kept as contiguous as possible in order to avoid premature urbanization of valuable farm land, foster resident convenience, and provide for economy in City services."

WHEREAS, said matter was set for a public hearing of the City Council to be held on August 10, 2004, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Kaiser Foundation Hospitals for a Planned Development Zone should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2004-38 and quoted above, and

WHEREAS, Kaiser is proposing to construct a helistop (helicopter landing facility ("Helistop") as part of the proposed Medical Center, for which it will be required to obtain a permit from the California Department of Transportation Division of Aeronautics ("State Permit"), and

WHEREAS, Public Utilities Code Section 21661.5 provides that prior to submitting an application for a State Permit, the construction plan for the proposed helistop must be approved by the city council of the city in which the proposed helistop will be located, and

WHEREAS, Kaiser has submitted its proposed Helistop construction plan for review by City staff, copies of which are on file with the Community and Economic Development Department and incorporated herein by this reference, and

WHEREAS, City staff has evaluated the proposed Helistop construction plan and recommends that there will be no interference with existing flight paths, there is
sufficient clearance with existing overhead utility lines, and the Helistop is compatible with existing surrounding land uses, and

WHEREAS, City staff recommends that the City Council approve the Helistop construction plan pursuant to Public Utilities Code Section 21661.5, and

WHEREAS, the Council has introduced Ordinance No. 3356-C.S. on the 10th day of August, rezoning the above-described property from Prezone Specific Plan-Overlay Zone, to Prezone Planned Development Zone, P-D(567), and from Specific Plan-Overlay Zone to Planned Development Zone, P-D(567).

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

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(567), is hereby approved subject to the following conditions:

1. All development for the Phase 1 medical office building and hospital support wing and the Phase 2 hospital shall conform to the plot plan and building elevations titled "Kaiser Modesto Medical Center" as amended in red, stamped approved by the City Council on August 10, 2004.

2. Prior to the issuance of a building permit for the Phase 3 hospital expansion and parking garage, site plans and building elevations for the respective buildings shall require review and approval by the Community and Economic Development Director or designee. The Community and Economic Development Director may approve Phase 3 after administrative review, provided the proposed hospital expansion and parking garage are consistent with the location, size and height restrictions as shown on the plot plan approved by the City Council on August 10, 2004, and are consistent with the Kiernan Business Park Specific Plan and with the Kaiser Modesto Medical Center Cornerstone Business Park Project Final EIR. This review shall also include approval of a parking plan to ensure adequate parking provisions during the construction period of this building phase. The developer shall use best efforts to complete the parking garage for Phase 3 prior to
issuance of a building permit for the Phase 3 hospital expansion. Supplemental environmental review may be required for Phase 3.

3. Prior to the issuance of a building permit for the Phase 4 or Phase 5 medical office buildings and parking garages, the site plans and building elevations for the respective buildings shall require review and approval by the Planning Commission after a public hearing. The Planning Commission may approve Phases 4 and 5 after plot plan review, provided the proposed Phases are consistent with the location, size and height restrictions as shown on the plot plan approved by the City Council on August 10, 2004, and consistent with the Kiernan Business Park Specific Plan and the Kaiser Modesto Medical Center Cornerstone Business Park Project Final EIR. This review shall also include approval of a parking plan to ensure adequate parking provisions during the construction period of these building phases. The developer shall use best efforts to complete the parking garages for Phase 4 and 5 prior to issuance of building permits for the respective Phase 4 or 5 medical office buildings. An Initial Study and analysis shall be required with Phases 4 and 5 to determine their conformance with the Kaiser Modesto Medical Center Cornerstone Business Park Project Final EIR, and whether supplemental environmental review is required.

4. Prior to the issuance of a building permit, a landscaping and irrigation plan for the entire site shall be approved by the Parks, Recreation and Neighborhoods Director or designee. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

5. Prior to issuance of a building permit, the developer shall dedicate a 20-foot-wide right-of-way along the south edge of the project site, adjacent to MID Lateral No. 6, for a Class I bike path. Prior to occupancy of any Phase 1 building, the developer shall design and construct passive landscaping and irrigation, as approved by the Parks, Recreation and Neighborhoods Director. At such time as required by the Public Works Director or designee, the developer shall install the Class I bike path, including all required landscaping and irrigation as approved by the Parks, Recreation and Neighborhoods Director.

6. Prior to issuance of a building permit for the Phase 1 medical office building or hospital support wing, the developer shall dedicate sufficient right-of-way along the east edge of the property for a Class I bike path. Prior to occupancy of any Phase 1 building, the developer shall design and construct a Class I bike path on Dale Road within said right-of-way as approved by the City Engineer or designee and the Parks, Recreation and Neighborhoods Director or designee.
7. Fences or walls shall be constructed as follows:

a. A two-foot-high decorative masonry wall with a four-foot-high decorative wrought iron fence on top along the south side of the Class I bike path between the Class I bike path and M.I.D. Lateral No. 6, to be constructed prior to occupancy of the first building on the project site.

b. A five-foot-high decorative wrought iron fence on the north side of the Class I bike path on the property line between the Class I bike path and the project site, to be constructed in conjunction with construction of the Class I bike trail, at such time as required by the Public Works Director or designee.

8. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris. All public area landscaping installed in conjunction with required improvements on Dale Road, Technology/Healthcare Way and the Class I bike path right-of-way along the south edge of the project site shall be maintained by the developer until such time as a Community Facilities District is formed to maintain said landscaping and is financially able to assume maintenance responsibilities.

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

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

11. Existing underground and overhead electric facilities and existing irrigation lines within the subdivision shall be removed, protected, or relocated as required by the Modesto Irrigation District and the City Engineer or designee. Appropriate easements for electric facilities and irrigation lines to remain shall be dedicated as necessary.

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

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

14. The developer shall, in a manner approved by the City Attorney, provide a vehicular accessway for on-site traffic circulation for the benefit of the property to the west, Assessor’s Parcel Number 078-013-009, substantially as shown in red on the plot plan.

15. Prior to occupancy of the first structure, the developer shall dedicate to the City a minimum 100-foot by 100-foot site for a municipal well, and shall construct and dedicate a well for domestic water, including connection to the City of Modesto water system, appropriate wellhead treatment, site development including appropriate screening and security, and adequate access to allow for maintenance of the well, all as approved by the City Engineer or designee. The well shall require final approval by the City Engineer or designee and be operable prior to occupancy of the first structure.

16. Prior to occupancy of the Phase 2 hospital, the developer shall design, engineer and construct an appropriately sized on-site grinder pump and appurtenances to minimize the amount of large objects discharged into the City’s sewer collection and treatment system and shall enter into a written agreement with City regarding the developer’s obligation to maintain and repair the grinder. Said grinder shall be designed and installed as directed by the City Engineer or designee.

17. The developer shall install a 30-inch-diameter sewer line in Dale Road to the point of the Medical Center connection to the line, and a 27-inch-diameter sewer line in Dale Road north of the Medical Center connection and in Technology/Healthcare Way, in accordance with plans submitted for review and approval by the City Engineer or designee. Prior to installation of the sewer lines, the developer shall enter into a reimbursement agreement in a form approved by the City Attorney if reimbursement for oversizing of sewer lines is desired by the developer.

18. All required fire hydrants shall be installed and maintained in accordance with City of Modesto Standard Specifications prior to the delivery of combustible building materials to the site or the start of construction.

19. All fire apparatus access roads shall be installed and maintained in accordance with City of Modesto Standard Specifications prior to the start of construction, as required by the Fire Marshal or designee.
20. Ten-foot-wide public utility easements, and planting easements located within the ten-foot-wide public utility easements, shall be dedicated along all street frontages as required by the City Engineer or designee.

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

22. Signs shall be permitted as follows:

a. The following signs as shown on the “Kaiser Permanente Modesto Medical Center Site Signage Master Plan” dated March 2, 2004:

i. A 24-square-foot, 4-foot-high monument sign at the eastern entrance on Technology/Healthcare Way,

ii. A 72-square-foot, 6-foot-high monument sign at the intersection of Dale Road and Technology/Healthcare Way,

iii. A 78-square-foot, 13-foot-high monument sign at the main entrance on Dale Road,

iv. Seven 20-square-foot, 9-foot-high interior directional signs located on interior driveways as shown in the “Kaiser Permanente Modesto Medical Center Site Signage Masterplan” dated March 2, 2004,

v. Nineteen 9-square-foot, 6-foot-high internal directional signs located on interior driveways as shown in the “Kaiser Permanente Modesto Medical Center Site Signage Masterplan” dated March 2, 2004,

vi. A 150-square-foot wall sign, to be located initially on the east elevation of the hospital support wing building, and to be relocated to the east elevation of the hospital when constructed. This sign shall be located below the main building ridgeline on both buildings.

b. All other signs in the Medical Center shall comply with the sign requirements of the P-O Zone.
23. Prior to obtaining an occupancy permit from the City for the Phase I and 2 buildings, Kaiser may provide services to members at the project site in modular buildings that will be brought on to the project site. Placement and installation of modular buildings shall be consistent with and conform to all building and land use requirements contained in the Kiernan Business Park Specific Plan, and subject to administrative site plan approval, including without limitation, approval of all elevations, setbacks, parking and screen landscaping, by the Community and Economic Development Director or designee. Prior to moving or installing any modular buildings on the project site, the developer shall submit to the Community and Economic Development Director a proposed site plan and building elevations and such other information and documentation as the Director may reasonably require, for review and approval. All such modular buildings will be removed from the project site prior to issuance of a Certificate of Occupancy for the hospital support wing, or by December 31, 2007, whichever is earlier.

24. The Capital Facilities Fees for all buildings except the hospital shall be payable at the time of the issuance of a building permit for any construction in the medical center and shall be based on the rates in effect at time of issuance of the building permit or upon annexation of the site to the City of Modesto, whichever occurs later. For the hospital buildings, the Capital Facilities Fees shall be payable prior to issuance of a building permit by OSHPD or concurrent with recordation of the Certificate of Completion for the annexation, whichever occurs later, and shall be based on the rate in effect for hospitals at the time that the completed building permit application is accepted by OSHPD or upon annexation of the site to the City of Modesto, whichever occurs later.

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

26. Prior to issuance of a building permit, developer shall take all actions reasonably necessary to secure and establish a City Mello-Roos Community Facilities District ("CFD") for the purpose of funding ongoing maintenance of public landscaping and irrigation,
bike trails, storm drain facilities and other public facilities set forth in the Kiernan Business Park Specific Plan to be maintained by said CFD or, if said CFD has been established for the Kiernan Business Park Specific Plan, developer shall take all actions reasonably necessary to annex its development to said CFD, which shall actually result in annexation of its development to said CFD at the tax rate for the zone of said CFD to which the development is ultimately annexed; or alternatively, in the event complete annexation does not occur for any reason, developer may provide a funding mechanism for said ongoing maintenance to the same general standard as other similar ongoing maintenance financed by said CFD, subject to approval of the funding mechanism by the City, such approval not to be unreasonably withheld.

The following conditions are either mitigation measures from the Environmental Impact Report (EIR) for the Kaiser Modesto Medical Center and Cornerstone Business Park Project (SCH No. 2003072085), or improvements assumed by the EIR to have been constructed by the project:

27. Prior to occupancy of any structure, the following street dedication consistent with Standard Specifications and the Kaiser Modesto Medical Center EIR shall be made, and the following street improvements consistent with Standard Specifications and the Kaiser Modesto Medical Center EIR shall be constructed, as approved by the City Engineer or designee:

a. Dale Road and Technology Drive/Health Care Way
   i. Signalize intersection.
   ii. Addition of a first and second northbound left-turn lane and provide 300 feet of storage for each lane.
       (Reference p. IV.D.40 of the EIR)
   iii. Addition of a second northbound through lane.
       (Reference p. IV.D.40 of the EIR)
   iv. Addition of a first and second eastbound left-turn lane.
   v. Addition of an eastbound right-turn lane.
   vi. Addition of a second southbound through lane.
   vii. Addition of a southbound right-turn lane and revise signal phasing to provide overlap phase. (Reference p. IV.D.68 of the EIR)

b. Dale Road and Kaiser Medical Center Entrance
   i. Signalize intersection.
   ii. Addition of a first and second northbound left-turn lane and provide storage length of 340 feet for each lane.
       (Reference p. IV.D.40 of the EIR)
   iii. Addition of a second northbound through lane.
iv. Create free eastbound right turn movement from the Kaiser Medical Center Entrance onto Dale Road southbound. (Reference p. IV.D.68 of the EIR)

v. Addition of a second southbound through lane.
vi. Addition of a southbound right-turn lane.

c. Dale Road and Bangs Avenue
   i. Signalized intersection.
   ii. Addition of a second northbound-turn lane.
   iv. Addition of one or two eastbound right-turn lanes (depending on signal phasing).
   v. Addition of a second eastbound receiving lane on Bangs Avenue. (Reference p. IV.D.69 of the EIR)
   vi. Addition of a first and second southbound left-turn lanes.
   vii. Addition of a second southbound through lane.
   viii. Addition of a southbound shared through/right turn lane.
   ix. Restrict the Kaiser driveway (west) leg of the intersection, to right-turn-in and right turn-out access. (Reference p. IV.D.68 of the EIR)

d. Dale Road and Pelandale Avenue (North, South and West Approaches)
i. Addition of a second eastbound left-turn lane. (Reference p. IV.D.42 of the EIR)
   ii. Addition of a third eastbound through lane at the approach and departure legs of the intersection. (Reference p. IV.D.41 of the EIR)
   iii. Addition of a second southbound left-turn lane, providing 300 feet of storage.
   iv. Addition of a southbound right-turn lane.
   v. Addition of a third southbound through lane at the approach and departure legs of the intersection. (Reference p. IV.D.41 of the EIR)
   vi. Addition of a second westbound left-turn lane. (Reference p. IV.D.70 of the EIR)
   vii. Addition of a third westbound through lane. (Reference p. IV.D.70 of the EIR)

e. Pelandale Avenue Between Chapman Road and Dale Road
   i. Addition of a third eastbound through lane. (Reference p. IV.D.46 of the EIR)
   ii. Addition of a second and third westbound through lanes. (Reference p. IV.D.46 of the EIR)

f. Dale Road Between Kiernan Avenue and Technology Drive/Health Care Way
i. Addition of a second northbound through lane.
   (Reference p. IV.D.48 of the EIR)
ii. Addition of a second southbound through lane.
iii. Addition of Class II bike lanes on both sides of Dale Road.

**g. Dale Road Between Technology Drive/Health Care Way and Kaiser Medical Center Entrance**

i. Addition of a second northbound through lane.
   (Reference p. IV.D.48 of the EIR)
ii. Addition of a second southbound through lane.
iii. Addition of Class II bike lanes on the east side of Dale Road, and a combined Class I bike trail and sidewalk on the west side of Dale Road, as approved by the Parks, Recreation and Neighborhoods Director.

iv. A bus turnout of sufficient length to accommodate two City buses, as approved by the Transit Manager.

**h. Dale Road Between the Kaiser Medical Center Entrance and Bangs Avenue**

i. Addition of a second northbound through lane.
ii. Addition of a second and a third southbound through lane. (Reference p. IV.D.48 of the EIR)
iii. Addition of Class II bike lanes on the east side of Dale Road, and a combined Class I bike trail and sidewalk on the west side of Dale Road, as approved by the Parks, Recreation and Neighborhoods Director.

**i. Dale Road Between Bangs Avenue and Fleur de Lis Drive**

i. Addition of a second northbound through lane.
ii. Addition of a third southbound through lane.
   (Reference pp. IV.D.48-IV.D.49 of the EIR)

**j. Dale Road Between Fleur de Lis Drive and Pelandale Avenue**

i. Addition of a second northbound through lane.
ii. Addition of a third southbound through lane.
   (Reference p. IV.D.49 of the EIR)

**k. Dale Road Between Snyder Avenue and Standiford Avenue**

i. Addition of a third southbound through lane, from Braden Avenue to Standiford Avenue. (Reference p. IV.D.49 of the EIR)

**l. Technology Drive/Health Care Way Between Dale Road and the Westerly Property Line of the Kaiser Facility**
1. Addition of a first and second eastbound through lane.

i. Addition of a first and a second westbound through lane.

28. Prior to occupancy of the Phase 2 hospital, the following street dedication consistent with Standard Specifications and the Kaiser Modesto Medical Center EIR shall be made, and the following street improvements consistent with Standard Specifications and the Kaiser Modesto Medical Center EIR shall be constructed, as approved by the City Engineer or designee:

a. Dale Road and Kiernan Avenue
   i. Signalize intersection.
   ii. Addition of a second northbound left-turn lane, providing 300 feet of storage for each lane. (Reference p. IV.D.39 of the EIR)
   iii. Addition of a northbound right-turn lane. (Reference p. IV.D.67 of the EIR)
   iv. Addition of a third eastbound through lane. (Reference p. IV.D.67 of the EIR)
   v. Addition of an eastbound right-turn lane and restripe shared through/right lane to through lane. (Reference p. IV.D.39 of the EIR)
   vi. Addition of a second westbound left-turn lane. (Reference p. IV.D.39 of the EIR)

b. Dale Road and Standiford Avenue
   i. Convert the existing westbound right-turn lane into a third westbound through lane and create a new westbound free right-turn lane. (Reference p. IV.D.43 of the EIR)

29. Prior to occupancy of the Phase 3 expansion of the hospital, the following street dedication consistent with Standard Specifications and the Kaiser Modesto Medical Center EIR shall be made, and the following street improvements consistent with Standard Specifications and the Kaiser Modesto Medical Center EIR shall be constructed, as approved by the City Engineer or designee:

a. Bangs Avenue and American Avenue
   i. Signalize intersection, or construct a roundabout, as determined by the City Engineer. (Reference p. IV.D.69 of the EIR)

30. Prior to issuance of a building permit for the Phase 1 medical office building or hospital support wing, the developer shall supply documentation, in a form acceptable to the Community and
Economic Development Director or designee, that the project sponsor has contributed to the California Farm-land Conservancy Fund for the purposes of funding authorized farmland conservation projects in Stanislaus County under the California Farmland Conservancy Program, pursuant to Public Resources Code Section 10230, or to a bona fide alternative program for funding farmland preservation projects in Stanislaus County. The amount of such contribution shall allow the conservation of one acre of farmland in Stanislaus County for each acre of farmland covered by the building permit sought under the proposed project.

The amount of such contribution shall, at minimum, reflect the then-current value of an agricultural easement on comparable prime agricultural land of equal size to the acreage of the parcel for which a permit is sought, and a 10% increment for program administration under the Farmland Conservancy Program, or an equivalent program for funding farmland preservation projects in Stanislaus County.

The valuation of such easement shall be determined by the City in consultation with the California Department of Conservation. Where current information on such valuation is not available, the City may require that applicants for building permits furnish an appraisal of the valuation of an agricultural easement on comparable agricultural land in the project vicinity to inform the City's determination as to valuation.

31. Prior to issuance of a building permit for the Phase 1 medical office building or hospital support wing, the developer shall submit a plan for review and approval by the Community and Economic Development Director or designee to implement the following measures, in accordance with the provisions contained in the attached "Kaiser Modesto Medical Center/ Cornerstone Business Park Mitigation Monitoring and Reporting Program", said approval to also be subject to review and approval by the San Joaquin Valley Air Pollution Control District, if required by District regulations:

- The project developer shall designate a construction liaison to be responsible for all monitoring and reporting to the appropriate City Departments and relevant agencies on all construction-related mitigation measures.

- The project developer shall submit a compliance plan consistent with Regulation VIII of the San Joaquin Valley Air Pollution Control District to the City of Modesto prior to commencing any phase of construction. The compliance plan must demonstrate that the current requirements of Regulation...
VIII applicable at the time of construction will be implemented.

- Prior to the issuance of construction contracts, the project developer shall perform a review of new technology, as it relates to heavy-duty equipment, to determine what if any advances in emissions reduction are available for use. It is anticipated that in the near future both NO\textsubscript{2}, PM\textsubscript{2.5}, and PM\textsubscript{10} control equipment will be available. The San Joaquin Valley Air Pollution Control District should be consulted during this process.

- The project developer shall install sandbags or other control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

- The project developer shall install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site, to prevent track-out of soil to public roadways.

- The project developer shall install wind breaks at windward sides of construction areas, if necessary to prevent wind-blown dust.

- The project developer shall suspend excavation and grading activity when winds exceed 20 miles per hour.

- The project developer shall limit the area subject to excavation, grading, and other construction activity at any one time.

- The project developer shall ensure that the accumulation of mud or dirt is expeditiously removed from adjacent public streets at least once every 24 hours when construction activities are occurring (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions).

- The project developer shall use alternative-fuel construction equipment, where feasible.

- The project developer shall minimize idling time (e.g., to a 10-minute maximum).

- The project developer shall limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use to the minimum practical.
- The project developer shall replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set), where feasible.

- The project developer shall take steps to curtail construction activity during periods of high ambient pollutant concentrations; this may include reducing construction activity during the peak hour of vehicular traffic on adjacent roadways or ceasing construction activity during days declared as Spare the Air days by the San Joaquin Valley Air Pollution Control District.

- Outside construction activities shall be restricted to the hours between 7:00 a.m. and 9:00 p.m., Monday through Friday, and between 9:00 a.m. and 9:00 p.m., Saturday and Sunday and State or Federal holidays; minor construction equipment servicing and maintenance shall be excepted from this restriction, as shall inside construction, provided said construction does not result in any outside construction noise.

- Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers’ recommendations.

- Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

- Stationary noise sources and staging areas shall be located as far as possible from existing residences and occupied hospital facilities (preferably at least 200 feet), or contractors shall be required to provide additional noise-reducing engine enclosures (with the goal of achieving approximately 10 dBA of reduction compared to uncontrolled engines).

- Construction vehicle access routes shall be designed to minimize the impact on existing residences and occupied hospital facilities.

- A “construction liaison” shall be designated to ensure coordination between construction staff, neighbors, hospital staff, medical office building tenants, and business park tenants to minimize disruptions due to construction noise. Hospital and medical office staffs shall be made aware of the construction schedule and activities. Occupants and property owners of residences within 400 feet of construction activity
shall be notified in writing of the construction schedule and the contact information for the construction liaison.

32. The site design submitted for a building permit for any structure shall include the following requirements in accordance with the provisions contained in the attached “Kaiser Modesto Medical Center/Cornerstone Business Park Mitigation Monitoring and Reporting Program”:

- The project developer shall incorporate improvements for transit service, including bus turnouts, transit loading areas, and shelters, as approved by the Public Works Director or designee.

- The project developer shall incorporate sidewalks and bicycle paths throughout the site and connect those facilities to any nearby pedestrian and bicycle facilities, including those located at open space areas, parks, schools, or commercial areas.

- The project developer shall incorporate secure bicycle storage and parking facilities throughout the site.

- The project developer shall incorporate energy efficient building design features including automated control systems for heating and air conditioning and energy efficiency beyond the requirements of the Building Code (Title 24, California Code of Regulations, or for the hospital, those established by the Office of Statewide Health Planning and Development), increased wall and ceiling insulation beyond Building Code requirements, light-colored roof materials to reflect heat, and energy efficient lighting and lighting controls.

- The project developer shall incorporate approved deciduous trees to provide shade on the south- and west-facing sides of buildings.

33. Prior to occupancy of any structure, the project developer shall prepare a trip-reduction plan consistent with the provisions contained in the attached “Kaiser Modesto Medical Center/Cornerstone Business Park Mitigation Monitoring and Reporting Program”. The plan shall be submitted for review and approval by the Community and Economic Development Director or designee prior to occupation of each phase of the proposed project:
• Provision of matching services (for participants in carpools and vanpools) by employers with over 100 weekday employees or coordination with Caltrans’ “Commuter Computer” program;

• Employer-based dissemination of commute information;

• Employer subsidies for transit passes and incorporation of transit stop facilities into site design;

• A program to guarantee rideshare participants a ride home in case of emergency;

• Flex-time scheduling;

• Site plan design which encourages pedestrian movement between adjacent land uses;

• A minimum of 4% of parking spaces designated for preferred parking for carpoolers and hybrid and alternative fuel vehicles; and

• Encouraging employees to experiment with telecommuting options, where feasible.

• The Trip Reduction Plan will include procedures that the project developer shall utilize to monitor and document to the Community and Economic Development Director or designee compliance with the Plan.

34. The building design of the proposed hospital facilities and medical office buildings shall incorporate appropriate acoustical treatment features (increased insulation, fixed windows, mechanical ventilation) to ensure that interior noise levels do not exceed 45 dBA Ldn for hospital facilities under future noise conditions.

35. Prior to issuance of a building permit for the Phase 1 medical office building or hospital support wing, the developer shall submit for review and approval by the City Engineer or designee a plan and supporting calculations to provide on-site treatment of stormwater to accomplish the following requirements. Storm drain improvements shall be constructed in accordance with the approved plans, and shall be maintained by the medical center owner.

a. The pervious pavement/infiltration trench system for the Kaiser Modesto Medical Center Campus shall be designed in conformance with the City of Modesto Guidance Manual for New Development Stormwater Quality Control.
Measures ("Design Criteria for Infiltration Treatment Control Measures and Porous Paving Blocks"). If necessary, the design should provide for a redundant collection system (e.g., system of perimeter catch basins piped into a retention facility or infiltration trenches) for runoff in the event that the pervious pavement expected infiltration rate does not allow collection of all design storm runoff. The designs shall be based on appropriate testing of the infiltration rates of soils at the site of the retention facilities and the City's Storm Drainage Design Standards. Final design of the facilities shall be submitted to the Modesto Public Works Department for review and approval prior to issuance of a building permit for the Phase 1 medical office building and hospital support wing.

b. The owner/operator of the developed site shall develop and implement a Stormwater Management Plan (SMP) that incorporates the requirements of the Statewide General Permit for Storm Water Discharges Associated with Construction Activity. The SMP shall include provisions to control the discharge of sediment onto pervious pavement, into infiltration trenches, and percolation basins during and after construction. The owner/operator shall also include a post-construction Maintenance Plan that describes the operation plan activities and schedule, the equipment and resource requirements necessary to operate and maintain the facilities, and identification of the responsible party for operation and maintenance. In addition, the SMP would require that the owner/operator shall enter into a Stormwater Access & Maintenance Agreement with Modesto. At a minimum, the SMP shall provide for:

- A regular and thorough street sweeping program;
- A detailed hazardous materials storage program;
- A hazardous materials spill prevention and response plan;
- A pavement inspection and repair program.

c. All infiltration features shall be constructed to maximize the distance between the base of the infiltration feature and the groundwater table and in no case shall the bottom of the feature be less than ten feet above the groundwater table.

d. All infiltration features shall be located the minimum distance specified by the State Department of Health Services from any potable water well.
e. The project developer shall describe in detail in the Stormwater Management Plan and implement, at a minimum, the following BMPs to minimize pollutant loading at the site:

- All refuse disposal areas and loading bays (and any other similar types of outdoor uses that could impact water quality runoff) shall be either completely contained within enclosed weatherproof structures or designed to capture all runoff, wash water, leaks and spills. For facilities not in enclosures, impermeable berms, drop inlets, trench catch basins, and/or overflow containment structures around these areas shall be used to prevent spilled materials and wash-down waters from entering the storm drain system. The drains shall be connected to a sump(s) for collection and disposal. Direct connection of these areas to the storm drain system is prohibited.

- All chemicals and other materials that could contribute pollutants to runoff shall be properly stored and protected from contact with rainfall.

- Any outdoor chemical spills shall be promptly mitigated in accordance with the site’s Spill Prevention Plan.

- Any pesticides and/or fertilizers applied to landscaping shall be done so in compliance with a site specific Integrated Pest Management Plan (IPM). The project proponents shall develop and implement IPMs for all landscaped areas. The IPM shall be prepared by a qualified professional approved by the Public Works Director or designee. The IPM shall address and recommend methods of pest prevention and plant management that use pesticides as a last resort in pest control. Types and rates of fertilizer and pesticide application shall be specified. Special attention in the IPM shall be directed toward avoiding persistent pesticides that could leach to the shallow groundwater table. Pesticides shall be used only in response to a persistent pest problem. Preventative chemical use shall not be employed. Institutional and biological approaches to pest control shall be more fully integrated into the IPM with an emphasis toward reducing pesticide application.

36. Prior to issuance of a building permit for the Phase 1 medical office building or hospital support wing, the developer shall submit for review and approval by the City Engineer or designee a plan...
and supporting calculations to provide treatment of off-site stormwater on Dale Road and Technology/Healthcare Way to accomplish the following requirements. Storm drain improvements shall be constructed in accordance with the approved plans, and shall be maintained by the medical center owner.

a. Inasmuch as the infiltration bed system is being proposed as an alternative to a positive storm drain system, the system shall be designed to perform to the criteria required in the City of Modesto Standard Specifications for a positive storm drain system. The infiltration bed system shall be designed to the criteria for Percolation (Infiltration) Basins.

b. The design shall be based on appropriate testing of the infiltration rates of soils at the site of the retention facilities and the City’s Storm Drainage Design Standards. The system shall be designed to include Stormwater Quality Control Measures to prevent, to the maximum extent possible, pollutants from entering the infiltration beds. Final design of the facilities shall be submitted to the Public Works Director or designee for review and approval prior to issuance of a building permit for the Phase 1 medical office building and hospital support wing.

c. All infiltration features shall be constructed to maximize the distance between the base of the infiltration feature and the groundwater table and in no case shall the bottom of the feature be less than ten feet above the groundwater table.

d. Prior to occupancy of the Phase 1 medical office building or hospital support wing, the developer shall enter into an agreement with the City of Modesto to assume all maintenance and liability, either directly or indirectly, associated with the permanent storage and treatment of stormwater from the adjacent frontages on the west side of Dale Road and the south side of Technology/Healthcare Way, the temporary storage and treatment of stormwater in facilities constructed by the developer on the non-adjacent frontages of Dale Road and Technology/Healthcare Way. The agreement shall also include a provision that in the event the infiltration bed system fails or is deemed unacceptable by any regulatory entity having jurisdiction over stormwater, the developer shall at its sole expense install a positive storm drain system in accordance with City standards. Failure of the system is defined as failure to meet the design criteria in the Standard Specifications at any time.
e. As a temporary measure until development occurs on the east side of Dale Road, a temporary storm drain solution may be implemented in accordance with the plans submitted for review and approval by the City Engineer or his designee. Infiltration trenches with appropriate Stormwater Quality Control Measures are allowable. Rockwells are not allowed in this area.

f. The developer shall not construct anything that prevents the future installation of the storm drain trunk line in Dale Road needed for future development in the Kiernan Business Park.

37. Prior to approval of a grading plan for development of the Medical Center, a well survey shall be conducted to determine the location and characteristics of all existing wells. The survey shall be conducted and documented by a State-registered geologist or engineer, and the results submitted to the City Engineer or designee for review.

The water supply wells shall either be:

a. Properly abandoned in compliance with the California Department of Water Resources, California Well Standards and Stanislaus County Code, Chapter 9.36 prior to final approval of the grading plan, or

b. Inspected by a qualified professional to determine whether each well is properly sealed at the surface to prevent infiltration of water-borne contaminants into the well casing or surrounding gravel pack. The well seal shall be consistent with the California Well Standards. If any of the wells are found not to comply with this requirement, the developer shall retain a qualified well driller to install the required seal. Documentation of the inspections and seal installations, if any, shall be provided to the City Engineer or designee prior to final approval of the grading plan.

38. Use of the helistop shall be limited to four trips (each trip to include a takeoff and landing) during any continuous 30-day period, unless the Medical Center owner submits future studies for review and approval by the Airport Manager or designee, demonstrating that additional helicopter trips will not cause unreasonable noise and disturbance to nearby residential areas in excess of the impacts identified in the Kaiser Modesto Medical Center EIR.
39. In addition to the above mitigation measures, the developer shall complete all required mitigation measures for Phases A, B and C presented in the attached "Kaiser Modesto Medical Center/Cornerstone Business Park Mitigation Monitoring and Reporting Program", in the manner and schedule prescribed by the Mitigation Monitoring and Reporting Program.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(567):

The construction program be accomplished in phases as follows:

Phase 1: Construction to start on or before August 10, 2006, and be completed by not later than August 10, 2008.

Phase 2: Construction to start on or before August 10, 2007, and be completed by not later than August 10, 2009.

Phase 3: Construction to start on or before August 10, 2014, and be completed by not later than August 10, 2016.

Phases 4 and 5: Requires approval by the Planning Commission prior to the start of construction.

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

SECTION 4. APPROVAL OF HELISTOP CONSTRUCTION PLAN. Pursuant to Public Utilities Code Section 21661.5, the proposed construction plan for a Helistop in the approximate location shown on the proposed site plan for the Kaiser Medical Center is hereby approved.

SECTION 5. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in
strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 6. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(567), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 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’Bryan, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ________________
JEAN ZAHR, City Clerk

(SEAL)

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

APPROVED AS TO LEGAL DESCRIPTION
By: ________________________
Community & Economic Development Department
Planning Division
RESOLUTION APPROVING THE FILING OF A SPHERE OF INFLUENCE PLAN, MASTER SERVICES ELEMENT, AND MUNICIPAL SERVICE REVIEW TO THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION IN CONJUNCTION WITH THE APPLICATION TO AMEND MODESTO’S SPHERE OF INFLUENCE AND ANNEX APPROXIMATELY 88 ACRES OF PROPERTY LOCATED ON THE WEST SIDE OF DALE ROAD SOUTH OF KIERNAN AVENUE TO THE CITY OF MODESTO

WHEREAS, the City has received a written request from Kaiser Foundation Hospitals to initiate an amendment to Modesto’s adopted sphere of influence and annex the Property to the City of Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq, and

WHEREAS, California Government Code Section 56430 requires the Local Agency Formation Commission (LAFCO) to conduct a service review before, or in conjunction with, but no later than the time it is considering an action to update a sphere of influence, and

WHEREAS, on December 5, 2001, Stanislaus LAFCO adopted Policies and Procedures that specify informational standards for local agency’s Sphere of Influence and require each agency to prepare a Sphere of Influence Plan and Master Services Element ("MSE") which contains specific information relative to the need, capacity, and anticipated timing of the required services, and

WHEREAS, Stanislaus LAFCO requires that an application to amend the sphere of influence be accompanied by a Municipal Service Review ("MSR") prepared pursuant to Section 56430, and a Sphere of Influence Plan and Master Services Element ("MSE") prepared pursuant to Stanislaus LAFCO requirements, and
WHEREAS, a Sphere of Influence Plan, Master Services Element, and Municipal Service Review have been prepared by Economic & Planning Systems in accordance with California Government Code 56430 and Stanislaus LAFCO requirements, and

WHEREAS, the City Council has received and considered the Final Environmental Impact Report for the Kaiser Modesto Medical Center/Cornerstone Business Park Project (SCH No. 2003072085) that analyzed the potential environmental effects of the proposed Sphere of Influence amendment and annexation and has, by separate resolution, certified said Final Environmental Impact Report.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto Sphere of Influence Plan, Master Services Element, and Municipal Services Review, a copy of which is on file in the City Clerk's office.

BE IT FURTHER RESOLVED by the Council that the Community and Economic Development Director is hereby authorized and directed to submit said City of Modesto Sphere of Influence Plan, Master Services Element, and Municipal Services Review to the Stanislaus Local Agency Formation Commission in conjunction with the application to amend Modesto's Sphere of Influence for the Kaiser Medical Center and Cornerstone Business Park project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 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

(SEAL)

APPROVED AS TO FORM:

By: 

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-427

RESOLUTION OF APPLICATION TO THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION TO AMEND MODESTO'S SPHERE OF INFLUENCE AND ANNEX APPROXIMATELY 88 ACRES OF PROPERTY LOCATED ON THE WEST SIDE OF DALE ROAD SOUTH OF KIERNAN AVENUE TO THE CITY OF MODESTO AND THE MODESTO SEWER DISTRICT NO. 1 AND TO DETACH SAID PROPERTY FROM THE SALIDA FIRE PROTECTION DISTRICT (OWNER INITIATED – UNINHABITED)

WHEREAS, Kaiser Foundation Hospitals, Ron and Edna Malik, Leaping Lizards Land Development LLC, and Ernest George, Jr. (collectively “Owners”) are the owners of five parcels totaling approximately 88 acres of real property, located on the west side of Dale Road south of Kiernan Avenue (“Property”), and propose that the Property be developed as the Kaiser Modesto Medical Center/Cornerstone Business Park (“Project”), and

WHEREAS, the City has received a written request from Owners to initiate an amendment to Modesto’s adopted sphere of influence and annex the Property to the City of Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq, and

WHEREAS, Government Code section 56428 authorizes any person or local agency to file a written request with the Executive Officer of its Local Agency Formation Commission (“LAFCO”) to amend a sphere of influence, and

WHEREAS, Government Code Section 56650 provides that proceedings to initiate a change of organization to annex additional territory to a City may be initiated by Resolution of Application or Petition, and
WHEREAS, the request to amend the City of Modesto’s sphere of influence and the Resolution of Application are proposed pursuant to California Government Code Sections 56428, 56650, 56654 and 56700, and

WHEREAS, the Property proposed to be annexed is uninhabited, and a description of the boundaries of the subject Property is set forth in Exhibits “A” and “B,” and the proposed sphere of influence amendment boundary is set forth in Exhibit "C", attached hereto and by this reference incorporated herein, and

WHEREAS, the subject Property proposed to be annexed is within Stanislaus County, is contiguous to the existing sphere of influence and City limits and can be most efficiently served by City services, and

WHEREAS, Stanislaus LAFCO requires that an application to amend City’s sphere of influence be accompanied by a Municipal Service Review (“MSR”) prepared pursuant to Section 56430 and a Master Services Element (“MSE”) prepared pursuant to Stanislaus LAFCO requirements, and

WHEREAS, City has prepared an MSR and MSE and, concurrent with this Resolution of Application, has authorized staff to submit the MSR/MSE to the Stanislaus LAFCO with City’s application to amend the Sphere of Influence, and

WHEREAS, before an annexation application may be heard by LAFCO, there must be an agreement with the County providing for the sharing of property taxes following an annexation, and

WHEREAS, an agreement for the sharing of property taxes for the Property was approved by the Stanislaus County Board of Supervisors and the Modesto City Council on July 13, 2004, and
WHEREAS, Government Code Section 56425(a) requires that at least thirty (30) days prior to submitting an application to LAFCO to update an existing sphere of influence for a city, representatives from the city shall meet with county representatives to discuss the proposed sphere and its boundaries, and to explore methods to reach agreement on the boundaries, development standards and zoning requirements within the sphere, and

WHEREAS, on or about June 14, 2004, City of Modesto representatives met with County of Stanislaus representatives to discuss the proposed sphere amendment and its boundaries, and reached a verbal agreement that the parties would support Owners’ request for an amendment to the City’s sphere of influence and annexation to the City of Modesto for the purpose of constructing the proposed Kaiser Medical Campus/Cornerstone Business Park, in accordance with the proposed site plans attached hereto as Exhibit “D”, and

WHEREAS, the proposed Property is not subject to a Williamson Act Contract pursuant to Government Code Sections 51200, et seq, and

WHEREAS, City desires that its sphere of influence be amended and that a reorganization of the Property be approved as follows:

(a) The annexation of said Property to the City of Modesto and Modesto Sewer District No. 1.

(b) The detachment of said Property from the Salida Fire Protection District.

WHEREAS, the reasons for this proposed sphere of influence amendment and reorganization to the City of Modesto are as follows:
(a) Staff has received a written request signed by all property owners of the Property to annex the Property to the City of Modesto.

(b) The proposed annexation is consistent with the Urban Area General Plan and can be most efficiently served by City services.

(c) The proposed annexation will result in planned, orderly and efficient development of the area, and provision of services, and

WHEREAS, pursuant to Government Code Section 56653, a plan for providing services is set forth in Exhibit “E”, attached hereto and by this reference incorporated herein, and

WHEREAS, on July 19, 2004, City of Modesto Planning Commission held a duly noticed public hearing in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which time both oral and documentary evidence were received and considered, and

WHEREAS, after said public hearing, the City of Modesto Planning Commission adopted Resolution No. 2004-40, recommending to the City Council that they adopt the Resolution of Application for an amendment to add the Property to the City’s sphere of influence and annexation of the Property to the City of Modesto, and

WHEREAS, said matter was set for public hearing of the City Council to be held on August 10, 2004, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed annexation and sphere of influence amendment, and
WHEREAS, the City Council has received and considered the Final Environmental Impact Report for the Kaiser Modesto Medical Center/Cornerstone Business Park Project (SCH No. 2003072085) that analyzed the potential environmental effects of the proposed Sphere of Influence amendment and annexation and has, by separate resolution, certified said Final Environmental Impact Report.

NOW, THEREFORE, the Council of the City of Modesto hereby finds and determines as follows:

1. That the proposed sphere of influence amendment and annexation are consistent with the Modesto Urban Area General Plan, because they are consistent with General Plan Urban Growth Policy II.C.1.b., which states “Urban development should be kept as contiguous as possible in order to avoid premature urbanization of valuable farm land, foster resident convenience, and provide for economy in City services” and because the development resulting from the proposed Sphere of Influence amendment and annexation is consistent with the General Plan.

2. The Property proposed to be added to Modesto’s sphere of influence and annexed is uninhabited, and a description of the boundaries of the subject Property is set forth in Exhibits “A”, “B,” and "C" attached hereto and by this reference incorporated herein.

3. The Property is located within Stanislaus County, is contiguous to the existing sphere of influence and City limits and can be most efficiently served with City services.

4. The proposed annexation will result in planned, orderly and efficient development of the area, and the most efficient provision of services.

5. An MSR and MSE has been prepared and approved for submission with the proposed application to amend the Sphere of Influence.

6. An agreement for the sharing of property taxes for the Property was approved by the Stanislaus County Board of Supervisors and the Modesto City Council on July 13, 2004.

7. Pursuant to Government Code section 56425(a), on or about June 14, 2004, City of Modesto representatives met with County of Stanislaus representatives to discuss the proposed sphere amendment and its
boundaries, and reached a verbal agreement that the parties would support Owners’ request for an amendment to the City’s sphere of influence and annexation to the City of Modesto for the purpose of constructing the proposed Kaiser Medical Campus/Crnerstone Business Park, in accordance with the proposed site plans attached hereto as Exhibit “D”.

8. The proposed Property is not subject to a Williamson Act Contract pursuant to Government Code Sections 51200, et seq.

9. The proposed Sphere of Influence amendment and annexation is within the scope of the Kaiser Modesto Medical Center/Cornerstone Business Park Final EIR (SCH No. 2003072085) and has been adequately analyzed by the EIR.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts this Resolution of Application for an amendment to add the Property to the City of Modesto’s sphere of influence, for annexation of the Property to the City of Modesto and Modesto Sewer District No. 1 and the detachment of the Property from the Salida Fire Protection District.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that:

1. All owners of land within the affected Property have given their written consent to the reorganization and therefore, pursuant to California Government Code Section 56663 (c)(1), the City Council hereby consents to a waiver of conducting authority proceedings.

2. Pursuant to Government Code Section 56653, the City Council submit the plan for providing services as set forth in Exhibit “E”, attached hereto and by this reference incorporated herein.

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

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

ATTEST: ______________
JEAN ZAHR, City Clerk

(SEAL)
Exhibit "A"

WRITTEN LEGAL DESCRIPTION
Exhibit “A”
Annexation

That portion of the southeast quarter of Section 35, Township 2 South, Range 8 East, and the northeast quarter of Section 2, Township 3 South, Range 8 East, Mount Diablo Meridian, Stanislaus County, California, described as follows:

Commencing at the Southeast corner of said Section 35; thence along the east line of said Section 35, North 00° 21' 25" West 94.96 feet to the general northerly line of the Kiernan Avenue Reorganization described in the Modesto City Council Resolution No. 98-657; thence along said general northerly line, South 89° 38’ 35" West 25.00 feet to the Point of Beginning being the northwest corner of said Kiernan Avenue Reorganization; thence along the westerly line of said Kiernan Avenue Reorganization the following three (3) courses: 1) South 00° 14’ 55" East 190.00 feet, 2) South 00° 08’ 27" East 2581.23 feet, 3) South 00° 08’ 34" East 90.40 feet to the north line of the Fleur De Ville Reorganization described in the Modesto City Council Resolution No. 91-767; thence along said north line of Fleur De Ville, South 89° 38’ 15" West 1282.99 feet to the southerly prolongation of the west line of the property described in the Grant Deed to Ronald Malik, recorded March 15, 2004, in Document Number 2004-0036445, Official Records of Stanislaus County; thence along said prolongation and west line of Malik, North 00° 09’ 38" West 1413.25 feet to the south line of Parcel 2 described in the Grant Deed to Malik, recorded April 29, 2003, in Document Number 2003-0066261, Official Records of Stanislaus County; thence along said south line, South 89° 32’ 28" West 358.24 feet to the southwest corner of said Parcel 2; thence along the west line of said Parcel 2 and the northerly prolongation thereof, North 00° 09’ 38" West 1376.68 feet to the northerly right of way line of Kiernan Avenue (50 feet in width); thence along said northerly line of Kiernan Avenue, North 89° 33’ 26" East 1186.91 feet to the northwest corner of the public road described in the Grant Deed to the State of California, recorded October 28, 1980, in Book 3376, Page 320, Official Records of Stanislaus County; thence along the general northerly line of said Grant Deed to the State of California the following two courses: 1) North 86° 09’ 04” East 420.75 feet, 2) North 37° 39’ 35” East 57.19 feet to the Point of Beginning, containing 93.71 acres, more or less.

This real property description has been prepared at Mark Thomas & Company, Inc., by me or under my direction, in conformance with the Professional Land Surveyors Act.

Michael J. Stanley

June 30, 2004
Exhibit "B"

ANNEXATION PROPOSAL MAP
PROPOSED ANNEXATION BOUNDARY IN THE NE 1/4 OF SECTION 2, T.3S., R.8E & SE 1/4 OF SECTION 35 T.2S., R.8E M.D.M.

FLORIDA DEPARTMENT OF LAW ENFORCEMENT

MARK THOMAS & COMPANY, INC.

STANWIX, OR 97316
SHEET 1 OF 1 SCALE 1"=1000' 1/4"=100'
Exhibit "C"

CITY OF MODESTO PROPOSED SPHERE OF INFLUENCE AMENDMENT
City of Modesto Proposed Sphere of Influence Amendment

- **Existing Sphere of Influence**
- **Proposed Sphere of Influence Amendment**
- **City of Modesto Incorporated Area**

June 30, 2004
Exhibit "D"

PROPOSED SITE PLANS FOR

KAISER MEDICAL CENTER/CORNERSTONE BUSINESS PARK
Cornerstone Business Park Boundary

Representative 1, 2 and 3 Story Cornerstone Business Park Professional and Medical Office Buildings

Building Assumptions:
Total Building Footprint: 196,000 sq. ft.
Total Building Area: 400,000 sq. ft.

FIGURE III.3: CORNERSTONE BUSINESS PARK SITE PLAN
Exhibit "E"

PLAN FOR SERVICE
PUBLIC SERVICES PLAN

Upon annexation, the City of Modesto will be the primary provider of a broad range of urban services to the Kaiser/Cornerstone Project. Table 1 summarizes current and proposed service providers to the Project. Table 2 summarizes required infrastructure improvements to the City’s SOI, and specifically to the Kaiser/Cornerstone Project. The following sections describe the provision of major services to the Project.

WATER SUPPLY

The Kaiser/Cornerstone Project will be served by the City of Modesto’s municipal water system. The Water Supply Assessment (WSA) prepared by the City of Modesto for the Kaiser project estimates a future demand for water on the project site of 586,075 gpd. The Cornerstone Business Park is expected to generate a water demand of 83,663 gpd at buildout. Together, the entire project is projected to demand 670,000 gpd, or 750 acre-feet.

The proposed project includes plans for a new well on the southwest corner of the Cornerstone Business Park site. The well is designed to pump 800 to 1,000 gpm and would provide sufficient water to account for the entire demand from the Kaiser/Cornerstone project. The well would be constructed during Phase A of the development process.

WASTEWATER COLLECTION AND TREATMENT

The City of Modesto’s wastewater collection and treatment system will serve the project site. A portion of the collection facilities to serve the site are already in place, and have adequate capacity to serve additional flows from the project. The remaining lines necessary to convey wastewater from the site to the existing lines are already planned and will be developer-funded and constructed.

STORM DRAINAGE

The City of Modesto will oversee the provision of storm drainage facilities and their maintenance. Both the Kaiser and the Cornerstone projects are required to develop a Storm Water Pollution Prevention Program (SWPPP) to comply with RWQCB regulations. Stormwater at both sites is intended to remain onsite, not creating any additional demand on downstream drainage facilities.
<table>
<thead>
<tr>
<th>Service</th>
<th>Existing Providers Outside City Limits</th>
<th>Existing Providers Serving Kaiser/Cornerstone</th>
<th>Proposed Providers upon Annexation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Government (including land use planning, finance, administration, public works, etc.)</strong></td>
<td>County of Stanislaus</td>
<td>County of Stanislaus</td>
<td>City of Modesto</td>
</tr>
<tr>
<td><strong>Water</strong></td>
<td>City of Modesto serves some unincorporated areas; other existing residences served by non-City groundwater wells, Modesto Irrigation District serves ag water needs</td>
<td>Existing residences served by non-City groundwater wells</td>
<td>City of Modesto Municipal Water System</td>
</tr>
<tr>
<td><strong>Wastewater collection and treatment</strong></td>
<td>City of Modesto serves some unincorporated areas; existing buildings currently served by septic tanks</td>
<td>Existing buildings currently served by septic tanks</td>
<td>City of Modesto Municipal Sewer District No. 1</td>
</tr>
<tr>
<td><strong>Storm water drainage</strong></td>
<td>County of Stanislaus, funding from CSA 7, CSA 8, and CSA 20</td>
<td>None: storm water drains to perimeter ditches and does not leave site</td>
<td>On-site improvements responsibility of developer; runoff will not enter City storm drainage system</td>
</tr>
<tr>
<td><strong>Roads, Circulation</strong></td>
<td>County of Stanislaus (funding for street lighting in certain areas from dependent special districts)</td>
<td>County of Stanislaus (funding for street lighting in certain areas from dependent special districts)</td>
<td>City of Modesto</td>
</tr>
<tr>
<td><strong>Police</strong></td>
<td>Stanislaus County Sheriff and Modesto Area Office of the California Highway Patrol</td>
<td>Stanislaus County Sheriff and Modesto Area Office of the California Highway Patrol</td>
<td>City of Modesto Police Department, CHP patrols along state routes and county highways</td>
</tr>
<tr>
<td><strong>Fire</strong></td>
<td>Salida FPD</td>
<td>Salida FPD</td>
<td>City of Modesto Fire Department</td>
</tr>
<tr>
<td><strong>Solid Waste</strong></td>
<td>Various private providers</td>
<td>Bertolotti Disposal</td>
<td>Gilton Solid Waste</td>
</tr>
<tr>
<td><strong>Parks and Recreation</strong></td>
<td>Stanislaus County</td>
<td>Stanislaus County</td>
<td>City of Modesto</td>
</tr>
<tr>
<td><strong>Schools</strong></td>
<td>Several School Districts</td>
<td>Stanislaus Union School District (elementary) Modesto City School District (high school)</td>
<td>No change</td>
</tr>
<tr>
<td><strong>Mosquito Abatement</strong></td>
<td>Turlock Mosquito Abatement District</td>
<td>Eastside Mosquito Abatement District</td>
<td>No change</td>
</tr>
<tr>
<td><strong>Health Care</strong></td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td><strong>Cemetery</strong></td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td><strong>Resource conservation</strong></td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td><strong>Telephone</strong></td>
<td>Various private providers</td>
<td>Various private providers</td>
<td>No change</td>
</tr>
<tr>
<td><strong>Electricity &amp; Natural Gas</strong></td>
<td>PG&amp;E, MID</td>
<td>PG&amp;E, MID</td>
<td>No change</td>
</tr>
</tbody>
</table>

Source: City of Modesto and Economic & Planning Systems, Inc.
<table>
<thead>
<tr>
<th>Service</th>
<th>Current (2004) Capacity</th>
<th>Capacity Required to Serve the Sphere of Influence</th>
<th>Plan for Improvements/ Increased Capacity</th>
<th>Primary Funding Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wastewater Collection</td>
<td>City of Modesto collects sewage from entire City, plus unincorporated community of Empire, northern portion of City of Ceres, and some other unincorporated islands within Modesto's B.O.I.</td>
<td>The Empire Sanitary District collects wastewater from the town of Empire, but it is transferred for treatment to the City of Modesto. Wastewater from the northern part of the City of Ceres is collected by Ceres and treated by the City of Modesto. Existing buildings on the Kaiser/Cornerstone site have private septic tanks.</td>
<td>New collection infrastructure to be funded by developer; City’s 20-inch wastewater collection line on Bangs Av. is sufficient.</td>
<td>Wastewater system will need to accommodate an average dry weather flow of 72 mgd to accommodate projected General Plan buildout.</td>
</tr>
<tr>
<td>Wastewater Treatment</td>
<td>Treats an average of 27.8 mgd (dry weather flow) plus cannon waste at two treatment plants. Treatment capacity is 82.7 mgd.</td>
<td>No additional capacity is expected to be needed at wastewater treatment plant.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Water Supply and Distribution</td>
<td>Modesto pumps 42,250 acre-feet per year from the Modesto and Turlock subs-basins. Surface water from M&amp;D is treated at the regional water treatment plant with capacity to treat 33,607 acre-feet per year.</td>
<td>Several communities outside Modesto’s City limits are served by Modesto’s water system, including Salida, Empire, Waterford, Hickman, Grayson, and Del Rio, plus portions of the cities of Ceres and Turlock. The Riverdale Park Tract Community Service Water District provides potable water to 193 connections southwest of the City limits. Existing buildings on the project site have private wells.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police</td>
<td>1.5 Sworn Officers per 1,000 residents with a response time ranging from 5.6 to 6.5 minutes.</td>
<td>The Modesto Police Dept. occasionally responds to calls for service outside City limits. The Sphere of Influence is also served by the Stanislaus County Sheriff’s Dept. and law enforcement and traffic control is provided by California Highway Patrol.</td>
<td>The Kaiser Medical Center will hire its own security force. The Modesto Police Department estimates the addition of one 1.85 sworn officers per 1,000 population.</td>
<td></td>
</tr>
<tr>
<td>Fire</td>
<td>Modesto Fire Department maintains an ISO rating of 2.</td>
<td>Fire service outside City limits is provided by the Burbank/Pardies, Industrial, Woodland, and Stanislaus Consolidated Fire Districts and the Salida Fire Protection District (SFPD). The Kaiser/Cornerstone site is served by the SFPD with an ISO rating of 9.</td>
<td>The Modesto Fire Dept. will require new fire stations and an expanded staff to serve General Plan buildout.</td>
<td></td>
</tr>
<tr>
<td>Storm Drainage</td>
<td>11,000 rockwells serve 2/3 of the City and positive storm drains serve the remainder. Pipeline drainage emprises Tuolumne River, Dry Creek, or M&amp;D canals.</td>
<td>Three County Service Areas (CSA) provide storm drainage control within City limits, not including the Kaiser/Cornerstone project site. On-site stormwater runoff flows to perimeter drainage ditches; site is highly permeable vegetated soil surface and surrounded by raised roadbeds. So on-site runoff is minimized and controlled and off-site runoff does not enter site.</td>
<td>Kaiser proposes to construct pervious asphalt paveements on surface parking areas; runoff would permeate to underlying soils. At Cornerstone, runoff would be collected and conveyed to percolation basin onsite; thus no runoff would leave project site and the project would not contribute additional runoff to downstream drainage facilities. Additionally, the Kaiser/Cornerstone project must consider the possibility of hazardous materials discharge.</td>
<td>Developers are required to prepare Stormwater Management Plans and to self-finance or establish a Community Facilities District to finance new stormwater infrastructure.</td>
</tr>
<tr>
<td>Circulation</td>
<td>Modesto strives to maintain LOS D, but some streets, especially during rush hour, do not meet this standard. The City operates a bus system but es of yet lacks extensive bicycle/pedestrian/vanpool facilities.</td>
<td>Currently mostly rural roads; few transit, bicycle or pedestrian facilities. Bus service by Modesto Area Express (MAE). Street lighting funded by County dependent special districts.</td>
<td>The City will need to widen and reconfigure various existing roads, adding left and right turn lanes and installing new intersections.</td>
<td>Individual developers are required to plan for and fund local streets and off-site minor collector streets. The City will need to complete improvements on expressways, arterials, major collectors, and intersections as development occurs. The City will also need to purchase new buses, construct public transit infrastructure, and construct carpooling and bicycle facilities.</td>
</tr>
</tbody>
</table>

Source: City of Modesto and Economics & Planning Systems, Inc.
CIRCULATION

The City of Modesto will be responsible for assuring that adequate facilities for circulation are provided and maintained, and will also provide transit service to the project. Improvements to the area will be constructed by project developers, the City, and CalTrans, drawing on a variety of private, local, State and Federal sources.

FIRE PROTECTION

Provision of fire service for the Kaiser/Cornerstone project site will transfer from the Salida Fire Protection District to the City of Modesto Fire Department. The City of Modesto expects to complete construction on Fire Station No. 11 in northwest Modesto by fall of 2004. This station will be located 1.5 miles east of the project site and will be the primary service provider to the site.

POLICE PROTECTION

The City of Modesto’s police department will serve the area. The project site is located contiguous to “Beat 66” in the City’s northwest area of command. The nearest command center is in the Vintage Faire Mall and is located less than two miles south of the project site. Kaiser will employ its own on-site security maintenance force, and Modesto Police will be called when there is criminal activity on-site.

PARKS AND RECREATION

The City of Modesto will manage public parks and recreation facilities available for use by the employees working in the area. Facilities managed by the City of Modesto’s Parks, Recreation and Neighborhoods Department include parks, open space, community centers, pools, sports centers and other recreational resources.
A RESOLUTION AUTHORIZING THE APPOINTMENT OF MAYOR JIM RIDENOUR AND COUNCILMEMBER GARRAD MARSH TO THE JPA GOVERNING BOARD FOR TENTH STREET PLACE

WHEREAS, the City Councilmembers serve on various boards and committees and act as representative on behalf of the City of Modesto,

WHEREAS, the recent election left vacancies on several boards and committees.

WHEREAS, the Tenth Street Place JPA Agreement calls for the creation of a governing board which includes two members of the Modesto City Council to act in an advisory capacity to staff in carrying out the provisions of the agreements and also act in an advisory capacity to the legislative bodies of the parties of these agreements.

WHEREAS, the term of offices for the councilmembers serving on these committees have expired,

NOW, THEREFORE, be it resolved, that Mayor JIM RIDENOUR and Councilmember GARRAD MARSH are appointed as the City Council representatives to the Tenth Street Place Joint Powers Agency.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th 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
WHEREAS, the Council of the City of Modesto has considered the provisions of Proposition 66 relating to California’s Three Strikes Law, and

WHEREAS, Proposition 66 would amend the Three Strikes law to require increased sentences only when the current conviction is for specified violent and/or serious felonies and only prior convictions for specified violent and/or serious felonies, brought and tried separately, would qualify for second and third strike sentence increases, and

WHEREAS, Proposition 66 would allow conditional re-sentencing of persons with sentences increased under the Three Strikes law if the previous sentencing offenses, or prior convictions used to increase sentences, would no longer qualify as violent and/or serious felonies, and

WHEREAS, Proposition 66 would therefore send thousands of convicted felons back to cash-strapped counties for re-sentencing and likely release, and

WHEREAS, these criminals are serving time for serious and violent crimes – threatening public safety and would cost taxpayers millions of dollars in new court and law enforcement costs, and
WHEREAS, the initiative would weaken the law against burglary, arson, felony gang crimes, felonies resulting in great bodily injury and violent crimes against the elderly and disabled, and

WHEREAS, a criminal spree of many felonies would only be a single strike, and

WHEREAS, the current structure of the Three Strikes law is effective in protecting our community and holding violent offenders accountable, and

WHEREAS, the California Police Chiefs Association, the California Governor and the California Attorney General have taken positions against Proposition 66, and

WHEREAS, the Attorney General predicts increased one-time costs of up to several tens of millions of dollars for jail and court-related costs and ongoing costs, and

WHEREAS, the Modesto Chief of Police desires to take a public position against this initiative,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it is hereby opposed to the passage of Proposition 66, on the November 2004 ballot, into law.

BE IT FURTHER RESOLVED that the Modesto Chief of Police is hereby authorized to take a public stand against Proposition 66.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2004, by Councilmember Keating, 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
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-430

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF JASON GORDO FROM THE CITIZENS ADVISORY COMMITTEE ON RECYCLING, EFFECTIVE SEPTEMBER 7, 2004

WHEREAS, JASON GORDO was appointed a member of the Citizens Advisory Committee on Recycling on February 25, 2003; and

WHEREAS, JASON GORDO has tendered his resignation from the Citizens Advisory Committee on Recycling, effective September 7, 2004; and

WHEREAS, JASON GORDO 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 JASON GORDO from the Citizens Advisory Committee on Recycling 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 JASON GORDO 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 7th 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: Dunbar, Hawn, Jackman, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-431

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF
JAYNA HAMEL FROM THE COMMUNITY QUALITIES FORUM,
EFFECTIVE SEPTEMBER 7, 2004

WHEREAS, JAYNA HAMEL was appointed a member of the Community
Qualities Forum on February 24, 2004; and

WHEREAS, JAYNA HAMEL has tendered her resignation from the Community
Qualities Forum, effective September 7, 2004; and

WHEREAS, JAYNA HAMEL 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 JAYNA
HAMEL 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 JAYNA HAMEL for her 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 7th 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: 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-432

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF CHARLES QUINONES FROM THE COMMUNITY QUALITIES FORUM, EFFECTIVE SEPTEMBER 7, 2004

WHEREAS, CHARLES QUINONES was appointed a member of the Community Qualities Forum on February 25, 2003; and

WHEREAS, CHARLES QUINONES has tendered his resignation from the Community Qualities Forum, effective September 7, 2004; and

WHEREAS, CHARLES QUINONES 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 CHARLES QUINONES 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 CHARLES QUINONES 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 7th 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: 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
RESOLUTION APPROVING A STANDARD AGREEMENT FOR CONSULTANT SERVICES WITH AARON READ & ASSOCIATES FOR STATE LOBBYING SERVICES FOR AN AMOUNT NOT TO EXCEED $69,300 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, On January 1, 2001, the City entered into an agreement with Aaron Read & Associates to perform legislative advocacy in Sacramento, and

WHEREAS, though originally hired to work solely on transportation issues, Aaron Read and Associates (ARA) have assisted the City with other state issues, and

WHEREAS, three members of their staff, Aaron Read, Terry McHale and Robyn Black have been responsible for performance of contracted services for the City, and

WHEREAS, ARA has provided key and critical advocacy for the City since January 2001, and

WHEREAS, their influence and assistance has spanned far beyond the area of transportation, and

WHEREAS, staff recommends that the City of Modesto execute a standard agreement for consultant services with Aaron Read & Associates for state lobbying services for an amount not to exceed $63,900, and

WHEREAS, on August 11, 2004 the Finance Committee met and recommended support for this item,

NOW, THEREFORE, BE IT RESOLVED, that the City Council of Modesto approves a standard agreement for consultant services with Aaron Read & Associates for state lobbying services for an amount not to exceed $63,900.
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 7th 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: Dunbar, Hawn, Jackman, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr

JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION AMENDING THE
FISCAL YEAR 2004-2005 ANNUAL BUDGET

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

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

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to
take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th 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: Dunbar, Hawn, Jackman, Keating, Marsh,

O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZAHR, City Clerk

(state)

APPROVED AS TO FORM:

By: MIKE MILICH, City Attorney
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Michael Musca
Telephone No.: Public Works
Department: Fund Title: Airport

Council Action Date: __________________________
Resolution Number: __________________________
FY: 04-05 Transfer No. BT

August Monthly

<table>
<thead>
<tr>
<th>Fund-Agency-Organization-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
<th>Description of Object</th>
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<tr>
<td>05-6310-440-5412-8155</td>
<td></td>
<td>$62,286</td>
<td>($62,286)</td>
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<td>Misc Revenue</td>
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<td>TO</td>
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| APPROPRIATIONS                   |           |                |                      |                |                      |
| FROM                             |           |                |                      |                |                      |
| TO                               |           |                |                      |                |                      |
| 05-6310-800-8000-8003            | 6310R     | ($62,286)     | ($62,286)            | Airport Contingency |

COMMENTS/JUSTIFICATION
This adjustment is to reduce the Misc Revenue. It was assumed when the Airport budget was submitted that the
decision packages would be paid for from the reserves not additional revenue(approx 42k).
Also, the outstanding loan was retired reducing the need for the additional amount in the Misc Revenue

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<tr>
<th>AUTHORIZATION (check if required)</th>
<th>SIGNATURE</th>
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<tr>
<td>DEPARTMENT DIRECTOR or</td>
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<td>AUTHORIZED ASSISTANT</td>
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<tr>
<td>FINANCE DIRECTOR</td>
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<tr>
<td>(Transfers to/from Internal Service Charges)</td>
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<tr>
<td>(All items requiring City Manager's Approval)</td>
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<tr>
<td>CITY MANAGER</td>
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</tr>
<tr>
<td>(Transfers between Budgeted Activities of Departments)</td>
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<tr>
<td>(within Funds)</td>
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<tr>
<td>(Appropriation of Unbudgeted Dept Revenues)</td>
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<tr>
<td>(Salary lines movement in or out)</td>
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REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Paul Hom
Telephone No.: 75294
Department: Public Works
Fund Title: Capital Grants Fund

Council Action Date: 9-24-02
Resolution Number: 
FY: 04-05
Transfer No. 

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<tr>
<th>Fund-Agency-Organization</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
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<td>$44,504</td>
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<td>$165,504</td>
<td>Transfer out to 2300</td>
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<tr>
<td>TO 2300-700-A153-9070</td>
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<td>$44,504</td>
<td>$121,000</td>
<td>$165,504</td>
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<td>APPROPRIATIONS FROM 0700-800-8000-8003</td>
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<td>($121,000)</td>
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COMMENTS/JUSTIFICATION

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<td>FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)</td>
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</tr>
<tr>
<td>CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)</td>
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</table>
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Glen Carrington
Telephone No.: 75390
Department: Finance, City Manager, PRN
Fund Title: General Fund

<table>
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<tr>
<th>Fund-Agcy-Org-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/ Decrease</th>
<th>Revised Budget</th>
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<td>FROM</td>
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<tr>
<td>0100-020-0219-8129</td>
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<td>$50,000</td>
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<td>$58,500</td>
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<td>Misc. Special Services</td>
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<td>TO</td>
<td></td>
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</tbody>
</table>

APPROPRIATIONS

FROM
0100-800-8000-8003    | ($100,000) | ($100,000) | Reserve

TO

COMMENTS/JUSTIFICATION

The cable settlement monies came in prior to the start of FY2005 for $100,000 on June 29, 2004. We have received the funds in FY2004 and need to reduce the budget in FY2005. The impact to General Fund is as follows: Increase $100,000 in FY2004 and Decrease in FY2005 of $100,000 equals a net impact to General Fund of 0.

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MODESTO CITY COUNCIL
RESOLUTION NO. 2004-435

A RESOLUTION AUTHORIZING THE PURCHASE OF GRANULAR ACTIVATED CARBON (GAC) FROM THE CITY OF FRESNO CONTRACT WITH CARBON ACTIVATED CORPORATION, COMPTON, CA, FOR A TERM OF ONE (1) YEAR, WITH TWO (2) ONE-YEAR EXTENSION OPTIONS, AT AN ESTIMATED ANNUAL COST OF $176,000

WHEREAS, granular activated carbon (GAC) units are pressure vessels filled with GAC, and

WHEREAS, the GAC is a filter used to remove and dissolve organics and chlorine from drinking water, and

WHEREAS, these vessels treat water down flow through a fixed bed of GAC, handling varying flows and on-off operating conditions, and

WHEREAS, the GAC has a life expectancy of approximately two (2) years while filtering contaminants out of groundwater, and

WHEREAS, the City of Modesto currently has nineteen (19) water wells retrofitted with GAC vessels, and

WHEREAS, in an ongoing effort to improve the quality of the City’s drinking water, the Public Works Department, Water Division periodically replaces the GAC in these vessels as required, and

WHEREAS, a GAC unit typically contains two (2) vessels that hold 22,000 lbs of GAC in each vessel, and

WHEREAS, a unit change-out requires that the old GAC is removed and replaced with a total of 44,000 lbs of new GAC, and

WHEREAS, the average cost for one (1) City of Modesto unit change-out is approximately $22,000, and
WHEREAS, there are approximately eight (8) unit change-outs performed annually, and

WHEREAS, the City of Modesto has historically “piggybacked” off of a competitively bid City of Fresno contract for the purchase of GAC, and

WHEREAS, the GAC that was bid by the City of Fresno meets all of the appropriate quality standards, and

WHEREAS, the City of Fresno went through a competitive bid process for the purchase of GAC and awarded a contract to the lowest responsive and responsible bidder, which was Carbon Activated Corporation, and

WHEREAS, to take advantage of this process and award by “piggyback” would be an efficient and effective way to purchase GAC, by shortening the time period required to begin unit change-outs, and by saving the time and expense to the City to formally solicit Request for Bids, and

WHEREAS, Carbon Activated Corporation has a ready supply of GAC and is able to furnish unit change-outs to the City of Modesto in an expeditious manner, thus minimizing downtime at the City’s water wells and pump stations, and

WHEREAS, adequate water pressure during high demand periods of the year would remain constant, which is critical for fire protection, and

WHEREAS, City staff recommends the purchase of GAC from the City of Fresno contract with Carbon Activated Corporation, Compton, CA, for a term of one (1) year, with two (2) one-year extension options, at an estimated annual cost of $176,000, and
WHEREAS, the Modesto Municipal Code, MMC 8-3.203, generally requires all purchases, which meet or exceed $50,000.00 for material, equipment or contractual services to be formally bid, and

WHEREAS, one exception, MMC8-3.204 (d), is available where the Purchasing Supervisor, in his or her discretion, determines that a process other than the formal bid procedure set forth in Section MMC 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality. Acting within his discretion, the Purchasing Supervisor invoked that exception for this purchase. The purchase of GAC from the City of Fresno contract with Carbon Activated Corporation, Compton, CA, will conform to MMC 8-3.204 (d),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the purchase of GAC from the City of Fresno contract with Carbon Activated Corporation, Compton, CA, for a term of one (1) year, with two (2) one-year extension options, at an estimated annual cost of $176,000.

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 7th 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: 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 - 436

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO FORMALMELY SOLICIT REQUEST FOR BIDS (RFB) FOR HYDROCHLORIC ACID FOR AN INITIAL ONE-YEAR PERIOD, WITH FOUR (4) ONE-YEAR CONTRACT EXTENSION OPTIONS FOR A TOTAL ESTIMATED ANNUAL COST OF $40,000.00

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

WHEREAS, hydrochloric acid (HCL) is used during the river discharge season from October 1st through May 31. This product is utilized at the Jennings Road facility for pH adjustment as required in the City’s NPDES permit, and

WHEREAS, the Jennings Road facility, located at 7007 Jennings Road, borders the San Joaquin River. The plant was constructed in 1965, and in 2002 the HCL system was installed due to change in NPDES permit requirements, and

WHEREAS, the system includes a 10,000 gallon storage tank and 2-75 gph feed pumps, and

WHEREAS, the hydrochloric acid is delivery by tanker truck with a maximum load capacity of 4,000 gallons per delivery, and

WHEREAS, The City Council has appropriated $210,149.00 in account number 6210-480-5214-0312 for hydrochloric acid, and

WHEREAS, Modesto Municipal Code, (MMC) Section 8-3.203, generally requires all purchases that meet or exceed $50,000.00 for material, equipment, or contractual services to be formally bid, and
WHEREAS, by soliciting formal bids for the purchase of hydrochloric acid for an initial one-year period, with four (4) one-year contact extension options for an estimated annual cost of $40,000.00, the Finance Department, Purchasing Division will comply with MMC Section 8-3.203 regarding formal bid procedures.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Supervisor to solicit formal Request for Bids (RFB) for hydrochloric acid for an initial one-year period, with four (4) one-year contact extension options for an estimated annual cost of $40,000.00 as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the purchase of hydrochloride acid 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 7th 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: 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. 2004-437

A RESOLUTION APPROVING AN AMENDMENT TO THE FIRST HOME AGREEMENT WITH THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS FOR THE MILLER POINTE PROJECT, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AMENDMENT TO THE AGREEMENT.

WHEREAS, on November 20, 2001, the City of Modesto released Requests for Proposals for Affordable Quality Housing for Working Citizens for fiscal year 2001-2002; two organizations were awarded funding to provide multi-family units for very-low, low and moderate-income families, and

WHEREAS, on April 9, 2002, by Resolution No. 2002-168, the City Council approved the Citizens Housing and Community Development Committee’s (CH&CDC) recommendations to allocate $250,000 in fiscal year 2001-2002 HOME funds to the Miller Pointe project submitted by the Housing Authority of the County of Stanislaus, and authorized the City Manager to execute necessary documents, and

WHEREAS, on October 2, 2002, the City Council by Resolution 2002-519, approved the agreement with the Housing Authority of Stanislaus County to provide $250,000 in HOME funds for the development of Miller Pointe project, and authorized the City Manager to execute the necessary documents, and

WHEREAS, on July 8, 2003, the City of Modesto released a Request for Proposals for fiscal year 2003-2004; the same organizations were awarded additional funding for the same projects they applied for during fiscal year 2001-2002, and

WHEREAS, while preparing the new agreement, staff realized that some terms of the first loan agreement needed clarification; after reviewing the loan documents, staff recommended amending the agreements to reflect the extension on the deadline to complete the construction of the units on or before June 30, 2005, instead of on or before
December 31, 2003, and clarifying that the principal of the loan shall bear simple interest and reflects the correct amount on the repayment of the loan based on the simple interest, and

WHEREAS, the regulatory agreement has been amended to add additional language to outline the affordability requirements for the units that are non-HOME assisted, to amend a typographical error; add language requiring that the landlord shall attend and complete a landlord training class sponsored by the Modesto Police Department, a requirement for the project to be certified under the City of Modesto Crime Free Multi-Housing Program; and add language regarding discrimination and form of nondiscrimination and non-segregation clauses, and

WHEREAS, the amendments will clarify the agreement, which will benefit the agencies that received the HOME Investment Partnership Program funds for the development of these two projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an amendment to the first HOME agreement with the Housing Authority of the County of Stanislaus for the Miller Pointe Project as set forth herein.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment to the agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th 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: 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:
By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-438

A RESOLUTION APPROVING AN AMENDMENT TO THE FIRST HOME AGREEMENT WITH THE STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION (STANCO) FOR THE 3333 CARVER ROAD PROJECT, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AMENDMENT TO THE AGREEMENT.

WHEREAS, on November 20, 2001, the City of Modesto released Requests for Proposals for Affordable Quality Housing for Working Citizens for fiscal year 2001-2002; two organizations were awarded funding to provide multi-family units for very-low, low and moderate-income families, and

WHEREAS, on April 9, 2002, by Resolution No. 2002-168, the City Council approved the Citizens Housing and Community Development Committee’s (CH&CDC) recommendations to allocate $832,000 in fiscal year 2001-2002 HOME funds to the 3333 Carver Road project submitted by STANCO, and authorized the City Manager to execute necessary documents, and

WHEREAS, on September 3, 2003, by Resolution No. 2002-406, the City Council approved the agreement with STANCO to provide $657,000 in HOME funds and $175,000 in HOME CHDO-designated funds for the development of 3333 Carver Road, and authorizing the City Manager to execute the necessary documents, and

WHEREAS, on July 8, 2003, the City of Modesto released a Request for Proposals for fiscal year 2003-2004; the same organizations were awarded additional funding for the same projects they applied for during fiscal year 2001-2002, and

WHEREAS, while preparing the new agreement, staff realized that some terms of the first loan agreements needed clarification; after reviewing the loan documents, staff recommended amending the agreement to reflect the extension on the deadline to
complete the construction of the units on or before June 30, 2005, instead of on or before December 31, 2003, and clarifying that the principal of the loan shall bear simple interest and reflects the correct amount on the repayment of the loan based on the simple interest, and

WHEREAS, the regulatory agreement has been amended to add additional language to outline the affordability requirements for the units that are non-HOME assisted, to amend a typographical error; add language requiring that the landlord shall attend and complete a landlord training class sponsored by the Modesto Police Department, a requirement for the project to be certified under the City of Modesto Crime Free Multi-Housing Program; and add language regarding discrimination and form of nondiscrimination and non-segregation clauses, and

WHEREAS, the amendments will clarify the agreements, which will benefit the agencies that received the HOME Investment Partnership Program funds for the development of these two projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an amendment to the first HOME agreement with the Stanislaus County Affordable Housing (STANCO) for the 3333 Carver Road Project as set forth herein.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment to the agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th 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: 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:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-439

A RESOLUTION ACCEPTING $36,276 IN FEDERAL LAND AND WATER
CONSERVATION FUND FUNDING FROM THE STATE OF CALIFORNIA
RESOURCES AGENCY FOR CONSTRUCTION OF A PICNIC SHELTER AT
ORVILLE WRIGHT NEIGHBORHOOD PARK AND AUTHORIZING THE
CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT
CONTRACT

WHEREAS, staff has been notified by the State of California Resources Agency
that the City of Modesto has been awarded $36,276 in funding from the Federal Land and
Water Conservation Fund (LWCF), and

WHEREAS, said funding will allow for construction of a picnic shelter at Orville
Wright Neighborhood Park, and

WHEREAS, LWCF grants require a fifty percent (50%) local match which will
come from Park Fund 1400, and

WHEREAS, in order to accept the funding, the City Manager must be authorized
to execute the Grant Contract,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the Council hereby accepts $36,276 in funding from the Federal Land and Water
Conservation Fund program for construction of a picnic shelter at Orville Wright
Neighborhood Park.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby
authorized to execute the Grant Contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7\textsuperscript{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: Dunbar, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

Attest: \underline{Jean Zahr}

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: \underline{Michael D. Milich}, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-440

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 CREEKSIDE GOLF COURSE, 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 Creekside Golf Course 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 Creekside Golf Course to Metro PCS for said use for the sum of $1,400.00 per month with a rental increase of three percent (3%) at the beginning of years two through five and 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 is also willing to pay the City a lump sum of $10,000 for the purpose of supporting The First Tee program,

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 Creekside Golf Course, 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 7th 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: Dunbar, Hawn, Jackman, Keating, Marsh,
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:                          ATTEST:

By _________________________                            By _________________________
MICHAEL D. MILICH , City Attorney                    JEAN ZAHR, City Clerk
A RESOLUTION AUTHORIZING STAFF TO ISSUE A REQUEST FOR PROPOSALS (RFP) FOR DEVELOPMENT OF A POLICY AND MARKETING PLAN FOR PROGRAM SPONSORSHIP AND THE DEVELOPMENT OF PRESENTATION SPONSORS FOR THE CITY’S PARKS, PROGRAMS, AND CITY OWNED PROPERTIES

WHEREAS, on February 25, 2003, the City Council by Resolution No. 2003-95 accepted the Parks, Recreation and Neighborhoods Department’s first Fund Development Report, and

WHEREAS, as part of City Council Resolution No. 2003-95, staff was directed to develop a policy and marketing plan for Corporate Program sponsorship, and

WHEREAS, City of Modesto staff has identified a special need for sponsorship funding for the City’s Activity Guide, city recreational programs and park projects and maintenance, and

WHEREAS, City of Modesto staff, through the evaluation of the creation of the corporate program sponsorship, came to the conclusion that the marketing of sponsorships for the City is a specialized field, and

WHEREAS, City of Modesto staff believes that City staff does not have the depth of expertise that is needed to be successful in marketing of sponsorships, and

WHEREAS, the City of Modesto staff is interested in issuing a Request for Proposal to qualified companies to successfully serve the City in developing a policy and marketing plan for Presentation Sponsors, which will include the City’s activity guide, parks and City-owned properties as well as their projects, programs and aesthetics,
NOW, THEREFORE, BE IT RESOLVED, that the City Council of Modesto hereby authorizes staff to issue a Request for Proposal to search for a qualified company to develop a policy and marketing plan for Program Sponsorship and the development of Presentation Sponsors.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th 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: Dunbar, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: \underline{Jean Zahr}

JEAN ZAHRI, City Clerk

APPROVED AS TO FORM:

By: \underline{Michael D. Milich}, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-442

A RESOLUTION AUTHORIZING STAFF TO NEGOTIATE A SOLE SOURCE AGREEMENT WITH PACIFIC MEDIA GROUP FOR DEVELOPMENT OF A MARKETING PLAN FOR NAMING RIGHTS TO MODESTO CENTRE PLAZA

WHEREAS, on February 25, 2003, the City Council, by Resolution No. 2003-95, accepted the Parks, Recreation and Neighborhoods Department’s first Fund Development Report, and

WHEREAS, as part of City Council Resolution No. 2003-95, staff was directed to develop a policy and marketing plan for Corporate Naming Rights and to identify properties to include in naming rights inventory, and

WHEREAS, City of Modesto staff has identified the Modesto Centre Plaza as a premier City owned property to be the first of City-owned property to acquire naming rights sponsorship, and

WHEREAS, City of Modesto staff, through the evaluation of the creation of the corporate naming rights sponsorship, came to the conclusion that the marketing of naming rights and sponsorships for the City is a highly specialized field. The field is limited to both knowledge of the local area and businesses as well as expertise in the corporate naming rights market, and

WHEREAS, City of Modesto staff believes that City staff does not have the depth of expertise that is needed to be successful in corporate naming rights, and

WHEREAS, the City of Modesto staff has located a company, Pacific Media Group, that has both the local contacts and the expertise in naming rights marketing
within the Modesto market area, and recommends negotiating a sole source agreement with Pacific Media Group,

NOW, THEREFORE, BE IT RESOLVED, that the City Council of Modesto hereby authorizes staff to negotiate a sole source agreement with Pacific Media Group for the development of a marketing plan for naming rights for the Modesto Centre Plaza.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th 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: Dunbar, Hawn, Jackman, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:  
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By:  
MICHAEL D. MILICH, City Attorney
A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO.

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

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

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

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

SECTION I. CLASSIFICATIONS REVISED. The Position Classification Plan of the City of Modesto is hereby amended to revise the following classifications:

1. Transportation Planner
2. Laboratory & Environmental Monitoring Supervisor

The job specification for Transportation Planner is being revised as a result of a job audit recently completed on this classification. The specification for the classification of Transportation Planner as shown on the attached Exhibit “A,” which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.
The job specification for Environmental Laboratory Supervisor is being revised as a result of a title change from Laboratory and Environmental Monitoring Supervisor to Environmental Laboratory Supervisor. The specification for the classification of Environmental Laboratory Supervisor as shown on the attached Exhibit “B,” which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after September 7, 2004.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th 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: Dunbar, Hawn, Jackman, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By [Signature]

MICHAEL D. MILICH, City Attorney
TRANSPORTATION PLANNER

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

DEFINITION

To perform professional work in transportation planning and transportation demand management. To administer, coordinate, and implement city-wide and area-wide transportation/circulation plans, incorporate system improvements and traffic management to meet both current needs and future development.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from higher-level engineering staff the Traffic Engineer or Deputy Director of Public Works.

May exercises functional and technical supervision over assigned staff.

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

Conduct feasibility studies and planning for transportation deficiencies and improvements.
Develop, prepare and review transportation policies and transportation systems for the General Plan, specific plans, and precise plans.

Develop and update policies, guidelines, and specifications for street and street access design in the City's Standard Specifications.

Update street projects in the City Capital Facility Fee (CFF) Program. Review CFF documents, conduct analyses and recommend specific CFF rates for developments.

Conduct, direct and review advanced level traffic studies and analyses. Perform and check traffic engineering simulation. Check intersection geometric design, traffic signal phasing and timing, roadway capacity, traffic delay and queuing; conduct engineering calculation and prepare drawings.

Review, evaluate, and make recommendations on public and private development maps, site plans and designs, conditional use permits, rezoning and lot line adjustment proposals. Ensure project compliance with Federal, State
and local traffic/transportation laws, rules, and regulations.

Confer and negotiate with developers, business and property owners, consultants, attorneys, and various agencies and jurisdictions including state, county adjacent cities, schools and hospitals on traffic issues, conditions of approval and traffic impact mitigation measures.

Coordinate with state, regional agencies, adjacent jurisdictions and city departments on transportation system planning, street classifications, design standards, traffic modeling applications and requirements.

Manage and enhance the computerized travel forecast model, and develop traffic forecast and analyses for decision making on long-range citywide transportation plan alternatives, area-wide specific plans, current land developments, capital facility improvement and operation projects and Caltrans freeway interchange design alternatives.

Make recommendations to engineers on traffic operation studies, project development and improvement plan checking on traffic-related issues.

Provide information and interpretation on City policies, street classifications, right of way, design standards, and other traffic related issues to citizens, businesses and developers; respond to members of the public on a wide range of transportation related matters; resolve citizen complaints.

Prepare traffic studies to analyze land use impact on traffic flow and circulation and recommend mitigations:

Direct, review, and conduct traffic, economic, and demographic data collection, statistical analyses and research. To append and edit the City Traffic Model data base.

Use City's Traffic Model to forecast future traffic, and traffic impacts, due to proposed developments and changes to City's transportation systems.

Determine impact location and areas for traffic studies; discuss the scope of traffic studies with developers and consultants:

Comment on traffic studies prepared by consultants:

Prepare both oral and written reports and represent City staff at the Planning Commission and City Council meetings regarding transportation planning, traffic demand forecast and management issues.

Participate with Planning and Community Development staff in writing and/or amending the Land Use Element and Circulation Element of the General Plan:

Exhibit “A”
Develop most efficient routing for intercity transit buses. Provide information to the public; respond to and resolve citizen inquiries and complaints.

May participate in the selection of staff; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures; recommend employees terminations.

Participate in the preparation of the departmental budget.

Coordinate Capital Improvements Program submittals.

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Theories, principles and practices of transportation planning, traffic engineering, and urban planning. Transportation planning process and analytical planning techniques.

Transportation system management, access management and travel demand management.

Pertinent Federal, State and local rules, regulations, ordinances and policies.

Travel demand model and traffic simulation model theory, technology, software packages, the current literature and new methods.

Transportation funding source and mechanism at Federal, State and local levels.

Procedures related to transportation planning and micro-processing applications.

A variety of information management systems and applications including GIS, database management and computer programming.

Computer simulation models for developing traffic scenarios.

Research methods and statistical analysis and source of data and information.
Ability to:

Apply transportation and traffic engineering principles and techniques to a variety of assigned functional areas.

Perform a wide range of duties involving sensitive issues simultaneously under tight time lines.

Conduct comprehensive traffic related studies, prepare reports and make sound decisions and appropriate recommendations based on professional judgment and experience.

Develop innovative approaches and solutions to a variety of issues.

Ensure project compliance with State, Federal and local rules, laws and regulations.

Recommend street coverage in CFF and develop CFF rates for specific development projects.

Perform travel forecast modeling and traffic simulation modeling.

Communicate effectively and establish positive working relationships with a wide variety of people at all levels of the organization including staff, outside agencies, citizens, businesses, developers and property owners. Effectively communicate orally and in writing:

Prepare clear and accurate reports, memos and other correspondence.

Read and understand desk-top computer program instructions, input data and perform interactive operations to obtain desired results.

Prepare and monitor a program budget.

Plan, direct, and coordinate work of others.

Supervise, train and evaluate assigned staff.

Establish and maintain cooperative working relationships with those contacted in the course of work:

EXPERIENCE AND TRAINING GUIDELINES

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

Exhibit “A”
Experience:

Three years of increasingly responsible professional transportation planning/traffic engineering experience.

Training:

A Bachelor's degree from an accredited college or university with major course work in civil/transportation engineering, transportation planning or a related field. A master's degree in a similar field is highly desirable.

License

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

WORKING CONDITIONS

Environmental Conditions:

Office and field environment; exposure to traffic.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time, bending and stooping to retrieve files, walking, measuring and using a personal computer and other office equipment.
LABORATORY & ENVIRONMENTAL MONITORING SUPERVISOR
ENVIRONMENTAL LABORATORY SUPERVISOR

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

DEFINITION

Supervise, plan, direct, and coordinate the City's Laboratory and Environmental Monitoring Program; to maintain the consistency of the City's Laboratory with State and Federal mandates, approved standards and quality assurance and control; to maintain consistency of the City's Environmental Monitoring Programs with State and Federal mandates; to direct the implementation of required sampling and testing; to direct the activities related to state, Federal and local regulations regarding stormwater and pretreatment sampling and industrial discharges into the City's wastewater collection system; to direct the monitoring, sampling and record keeping associated with compliance with discharge permits; to coordinate the development and maintenance of a data base regarding Industrial, pretreatment, Water Quality processes, and Water Quality discharge samples and testing, to correspond and write required documents associated with NPDES discharges; and to do related work as required.

DISTINGUISHING CHARACTERISTICS

This is a single-position, first level supervisor for the Laboratory and Environmental Monitoring functions. The incumbent is responsible for supervising two major programs consisting of laboratory and environmental sampling and directing the work of assigned staff, ensuring that programs are fully implemented and meet required standards and mandates. In addition, the incumbent has a major role in the development of new markets for water quality and water laboratory services.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Deputy Director of Operations and Maintenance. Exercises direct and indirect supervision over technical and clerical support staff.

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

Exhibit “B”
ESSENTIAL FUNCTIONS, Continued:
Direct Industrial and Water Quality Control sampling and testing programs and Laboratory Staff in accordance with regulations, standards, and quality assurance requirements.

Coordinate the development of additional markets for existing laboratory services and recommend further testing apparatus be purchased based on cost effectiveness or the need to meet regulatory requirements.

Coordinate with the Water Operations Division and other existing clients to make sure client monitoring, sampling, testing, and reporting needs are being met.

Supervise, evaluate and coach assigned staff including maintaining discipline and ensuring all rules, policies and procedures are enforced; advise and counsel subordinates; follow up on problems and complaints; participate in selection of staff.

Develop programs for the implementation and enforcement of environmental monitoring, sampling, and testing programs to protect collection systems, groundwater, and receiving waters in compliance with state, Federal, and local laws, regulations, and ordinances.

Develop and manage program budgets, projecting future goals and projects based on program elements, ensuring proper spending and funding.

Oversee development and submission of required reports for State and Federal regulatory agencies associated with programs.

Monitor and coordinates contractual service activities related to effluent discharges, storm water, and pretreatment sampling activities.

Meet with industry managers to discuss current pretreatment sampling needs and pending regulations.

Oversee the development and maintenance of a laboratory, water quality control, and environmental monitoring database.

Meet with various City and community groups and committees to discuss Laboratory and environmental monitoring issues.

MARGINAL FUNCTION STATEMENTS:

Perform related duties as assigned.
QUALIFICATIONS

Knowledge of:

Program planning and development methods and techniques.

Principles of budget development and fiscal monitoring.

Principles and practices of water/wastewater laboratory operations, maintenance, and services.

Approved related laboratory practices and procedures.

Pertinent State and Federal environmental health and water quality regulations.

Policies and procedures of the City's Environmental Compliance Program.

State and Federal laws, rules, regulations, requirements and procedures governing laboratory and pretreatment, and storm water sampling including applicable local ordinances, and related State and Federal regulations.

Chemical, biological, physical, and environmental sciences.

Principles and practices of environmental sampling and testing, methods and practices.

Functions and operations of State and Federal environmental health and regulatory agencies.

Sampling techniques and standards.

Computers and software used in laboratory testing and environmental sampling.

Principles of personnel administration including staff supervision, training, and performance evaluation.

Ability to:

Plan, develop, organize, implement, and direct laboratory and environmental monitoring programs and staff to ensure compliance with State and Federal programs.

Exhibit “B”
Supervise and train staff to perform a variety of laboratory and environmental monitoring and associated activities.

Analyze, and interpret environmental data, reaching valid conclusions.

Prepare a variety of technical reports, which includes use of word processing and spreadsheet software.

Develop budget and conduct fiscal monitoring activities.

Prepare or oversee the preparation of a variety of technical program reports.

Operate a variety of office and technical equipment and computers in the performance of laboratory sampling and testing and environmental monitoring.

Effectively represent the Environmental Services Section of the Water Quality Control Division in contacts with the public, businesses, engineers, architects, and other City staff.

Establish and maintain cooperative working relationships.

Experience and Training Guidelines:

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

Experience:

Three (3) years of experience performing laboratory analyses chemical, biological, or microbiological analysis and/or a variety of laboratory work including with emphasis on environmental monitoring, sampling, and analysis of water, wastewater or other closely related environmental samples, including at least one year of lead or supervisory experience

Training:

Education equivalent to completion of college degree in biology, chemistry, biochemistry, or closely related field.
License or Certificate

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

Possession of a valid CWEA Grade II Laboratory Certificate within two and a half years (2.5 years) years of appointment. Possession of a CWEA Grade III Laboratory Certificate within four (4) years of appointment.

Completion of Hazardous Material Forty-Hour (40) First Responder Training, as prescribed by the State Office of Emergency Services within two (2) years of appointment.

WORKING CONDITIONS

Environmental Conditions:

Work is usually performed in office environment; some work is performed in varying temperatures and humidity; some exposure to dust; possible exposure to hazardous waste and materials; possible exposure to gases, fumes, and a variety of pollutants; contact with other staff and the public.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time, and frequently standing and walking.
A RESOLUTION AMENDING EXHIBIT “A” OF RESOLUTION NO. 2003-178 (MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION MEMORANDUM OF UNDERSTANDING) TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO CHANGE THE TRANSPORTATION PLANNER FROM RANGE 438 TO RANGE 440 AND TO CHANGE THE TITLE OF LABORATORY AND ENVIRONMENTAL MONITORING SUPERVISOR TO ENVIRONMENTAL LABORATORY SUPERVISOR REMAINING AT RANGE 434.

WHEREAS, the City Council desires to amend Exhibit “A” of Resolution No. 2003-178 (MCMA Memorandum Of Understanding),

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2003-178. (MCMA Memorandum of Understanding), Resolution No. 2003-178 Effective April 8, 2003, is hereby amended as shown on the amended Exhibit “A” entitled “City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective September 7, 2004, which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit “A” changes the salary range for Transportation Planner from Range 438 to Range 440 and changes the title of the Laboratory and Environmental Monitoring Supervisor to Environmental Laboratory Supervisor remaining at Range 434.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after September 7, 2004.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th 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: 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
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
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<tbody>
<tr>
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<td>Administrative Office Assistant I (Confidential)</td>
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</table>
| 407   | Administrative Clerk II (Confidential)  
        | Administrative Office Assistant II (Confidential) |
| 408   | |
| 409   | |
| 410   | |
| 411   | Administrative Office Assistant III (Confidential)  
        | Police Clerk II (Confidential) |
| 412   | |
| 413   | Administrative Technician (Confidential) |
| 414   | |
| 415   | Senior Administrative Office Assistant (Confidential)  
        | Secretary |
| 416   | |
| 417   | |
| 418   | Legal Secretary |
| 419   | Public Information Technician (Confidential) |
| 420   | Accountant I (Confidential)  
        | Deputy City Clerk  
        | Employee Benefits Coordinator  
        | Executive Secretary (Represented)  
        | Legal Services Technician  
        | Systems Technician |

Exhibit “A”
<table>
<thead>
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<tbody>
<tr>
<td>421</td>
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| 422   | Office Supervisor  
       Utility Dispatch Supervisor  
       Workers' Compensation Claims Examiner I |
| 423   | Custodian Supervisor |
| 424   | Assistant Planner  
       Buyer  
       Police Facilities Coordinator |
| 425   | Administrative Analyst I |
| 426   | Police Civilian Supervisor  
       Stores Manager |
| 427   | Assistant City Clerk/Auditor  
       Legal Services Administrator  
       Workers' Compensation Claims Examiner II |
| 428   | Accountant II (Represented)  
       Senior Buyer |
| 429   |       |
| 430   | Associate Planner  
       Community Services Supervisor  
       Events Supervisor I  
       Junior Civil Engineer  
       Junior Traffic Engineer  
       Senior Crime Analyst |
| 431   | Administrative Analyst II  
       Assistant Risk Manager  
       Budget Analyst I  
       Geographic Information Systems Analyst  
       Personnel Analyst  
       Recycling Program Coordinator  
       Senior Community Development Program Specialist  
       Systems Analyst |

Exhibit “A”
<table>
<thead>
<tr>
<th>RANGE</th>
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</tr>
</thead>
</table>
| 432   | Communications Specialist  
       | Customer Services Supervisor  
       | Neighborhood Preservation Supervisor  
       | Operations and Maintenance Supervisor  
       | Recreation Supervisor II  
       | Senior Accountant  
       | Water Quality Control Maintenance Supervisor  
       | Water Quality Control Operations Supervisor |
| 433   | Organizational Development Specialist |
| 434   | Assistant Civil Engineer  
       | Assistant Traffic Engineer  
       | Budget Analyst II  
       | Electrical Supervisor  
       | **Environmental Laboratory Supervisor**  
       | Events Supervisor II  
       | Geographic Information Systems Coordinator  
       | Operations Supervisor  
       | Regulatory Compliance Supervisor  
       | SCADA Supervisor  
       | Senior Housing Rehabilitation Specialist  
       | Senior Programmer Analyst |
| 435   | Business Analyst  
       | Cultural Services Manager  
       | Integrated Waste Specialist  
       | Management Analyst  
       | Senior Personnel Analyst |
| 436   | Senior Planner |
| 437   | |

Exhibit "A"
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 438   | Budget Officer  
Development and Operations Coordinator  
Housing Program Supervisor  
Land Surveyor  
Property Agent  
Purchasing Supervisor  
Senior Business Analyst  
Systems Engineer |
| 439   | Administrative Services Officer  
Community Facilities Districts Administrative Officer |
| 440   | Associate Civil Engineer  
Associate Traffic Engineer  
**Transportation Planner** |
| 441   | Airport Manager  
Building Maintenance Superintendent  
Fire Marshal  
Fleet Manager  
Parks Operations Superintendent  
Parks Planning and Development Manager  
Recreation Superintendent  
Solid Waste Program Manager  
Streets Engineer  
Transit Manager  
Urban Forestry Superintendent  
Wastewater Collections Superintendent  
Water Superintendent |
| 442   | Customer Services Division Manager  
Information Services Manager  
Manager of Budget and Financial Analysis  
Supervising Building Inspector  
Supervising Construction Inspector |
<p>| 443   | |</p>
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 444   | Deputy Chief Building Official  
Principal Planner |
| 445   | Accounting Division Manager |
| 446   | Water Quality Control Superintendent |
| 447   | Business Development Division Manager  
Chief Building Official  
Planning Division Manager  
Senior Civil Engineer  
Traffic Engineer |
| 448   |   |
| 449   |   |
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| 451   |   |
| 452   |   |
| 453   |   |
| 455   |   |

Exhibit “A”
A RESOLUTION INCREASING THE DIRECTOR OF PUBLIC WORKS' AUTHORITY TO ISSUE CHANGE ORDERS ON THE “CENTRE PLAZA ELEVATOR EXTENSION” PROJECT FROM $25,000 TO $41,000.

WHEREAS, on February 24, 2004, the City Council awarded a $232,900 contract to TCB Industrial, Inc. to construct the “Centre Plaza Elevator Extension” project, and

WHEREAS, the contractor started work on March 29, 2004, and

WHEREAS, additional work not included in the original bid needs to be added to the project to allow completion of a useable elevator that conforms to code requirements, and

WHEREAS, the cost of the extra work could be as high as an estimated $41,000, an amount, which exceeds the Director’s authority for the project as established by the Council’s Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of $25,000,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director’s authority level to issue change orders, from $25,000 to $41,000 for the project entitled “Centre Plaza Elevator Extension.”
The foregoing resolution was introduced at a regular meeting of the Council of

the City of Modesto held on the 7th day of September, 2004, by Councilmember Dunbar,

who moved its adoption, which motion being duly seconded by Councilmember

Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Jackman, Keating, Marsh,

O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-446

A RESOLUTION ACCEPTING THE WORK BY R. E. MCCOLLUM FOR THE
"PUMP STATION 65 AT TANK 5" PROJECT AS COMPLETE, AUTHORIZING
THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND
AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $521,153.96 PER
THE CONTRACT. TOTAL PROJECT COST IS $574,135.61.

WHEREAS, a report has been filed by the Public Works Director that the project
titled "Pump Station 65 at Tank 5" has been completed by R. E. McCollum in accordance
with the contract agreement dated April 1, 2003.

NOW, THEREFORE, BE IT RESOLVED that the "Pump Station 65 at Tank 5"
project be accepted from said contractor, R. E. McCollum, that the Notice of Completion
be filed with the Recorder of Stanislaus County and that payment of amounts due totaling
$521,153.96 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 7th 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: Dunbar, Hawn, Jackman, Keating, Marsh,
O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney

09/07/04/ Public Works/ T. Parmet/ Item 18 1 2004-446
RESOLUTION ACCEPTING THE WORK BY SB CABLE, JOINT VENTURE FOR THE “EXPAND ATMS NORTHWEST” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $426,289.80 PER THE CONTRACT. TOTAL PROJECT COST IS $543,640.08.

WHEREAS, a report has been filed by the Public Works Director that the project titled “Expand ATMS Northwest” has been completed by SB Cable, Joint Venture in accordance with the contract agreement dated May 6, 2003.

NOW, THEREFORE, BE IT RESOLVED that the “Expand ATMS Northwest” project be accepted from said contractor, SB Cable, Joint Venture, that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $426,289.80 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th 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: 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-448

RESOLUTION ACCEPTING THE WORK BY AGEE CONSTRUCTION CORPORATION FOR THE “KANSAS-NEEDHAM OVERHEAD” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $9,568,163.97 PER THE CONTRACT. TOTAL PROJECT COST IS $17,116,212.40.

WHEREAS, a report has been filed by the Public Works Director that the project titled “Kansas-Needham Overhead” has been completed by Agee Construction Corporation in accordance with the contract agreement dated May 7, 2002.

NOW, THEREFORE, BE IT RESOLVED that the “Kansas-Needham Overhead” project be accepted from said contractor, Agee Construction Corporation, that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $9,568,163.97 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th 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: Dunbar, Hawn, Jackman, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
RESOLUTION ACCEPTING THE WORK BY JF PACIFIC LINERS, INC., FOR THE “2004 SEWER MAIN AND BRICK MANHOLE REHABILITATION” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $191,766.35 PER THE CONTRACT. TOTAL PROJECT COST IS $239,381.52.

WHEREAS, a report has been filed by the Public Works Director that the project titled “2004 Sewer Main and Brick Manhole Rehabilitation” has been completed by JF Pacific Liners, Inc., in accordance with the contract agreement dated January 6, 2004.

NOW, THEREFORE, BE IT RESOLVED that the “2004 Sewer Main and Brick Manhole Rehabilitation” project be accepted from said contractor, JF Pacific Liners, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $191,766.35 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th 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: Dunbar, Hawn, Jackman, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By [Signature]

MICHAEL D. MILICH, City Attorney
A RESOLUTION REJECTING THE SOLE BID FOR THE PROJECT TITLED "COMMUNITY GATEWAY" AND AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT AT A FUTURE DATE

WHEREAS, the bid received for Community Gateway was opened at 11:00 a.m. on August 17, 2004, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, during the bid evaluation process staff determined that the sole bid for the project unreasonably exceeded the Engineer's estimate. Therefore, staff recommends the bid be rejected and staff be allowed to re-advertise the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the sole bid received for "Community Gateway," opened in the office of the City Clerk on August 17, 2004, is hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project at a future date.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th 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: Dunbar, Hawn, Jackman, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:
By [Signature]
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-451

A RESOLUTION AMENDING THE ROUNDBOUGHT POLICY TO INCLUDE
THE FEDERAL HIGHWAY ADMINISTRATION AND CALTRANS
GUIDELINES AND RESCINDING RESOLUTION NO. 2004-114

WHEREAS, staff has been implementing roundabout installations in both newly
developing areas and in retrofit areas in Modesto, and

WHEREAS, there is currently an accepted City policy regarding guidelines for
use and installation of roundabouts, and

WHEREAS, staff developed a Roundabout Policy to create consistent guidelines
for installation and use of roundabouts, and

WHEREAS, on September 3, 2002, by Resolution No. 2002-432 the City Council
adopted the Roundabout Policy, and

WHEREAS, on February 24, 2004, by Resolution No. 2004-114 City Council
adopted the amended Roundabout Policy to include 1,000 ft notification area, and

WHEREAS, the Federal Highway Administration (FHWA) and Caltrans have
established guidelines for the design of roundabouts, and

WHEREAS, staff recommends that the Roundabout Policy be amended to include
the FHWA and Caltrans guidelines for the design of roundabouts, and

WHEREAS, the Economic Development Committee at their July 12, 2004
meeting reviewed and approved staff’s recommended changes to the Roundabout Policy,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Roundabout Policy to include the Federal Highway Administration and Caltrans guidelines for the design of roundabouts, a copy of which is attached hereto as Exhibit "A", and incorporated by reference as though fully set forth herein.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th 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: Dunbar, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr

JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO ROUNDABOUT POLICY

This policy was approved and revised as per City Council Resolution 2004-114 at the City Council meeting of February 24, 2004
Roundabout Policy

I. Introduction

II. Modern Roundabouts – What Are They?

III. The Benefits of Roundabouts

IV. The Use of Roundabouts – Where They Are Applicable and Where They Are Not.

V. Roundabout Justification

VI. Implementation Strategy

VII. Design Criteria

VIII. Roundabout Installation in Newly Developing Areas

IX. Roundabout Installation at Retrofit Locations

X. Operation & Maintenance

XI. Appeal of Staff Decision
I. Introduction

Each year the City receives numerous requests to reduce the traffic congestion on streets throughout the City. Citizens also express concerns about the safety of the streets on which they live. In an effort to find appropriate ways to deal with these concerns, reduce traffic congestion and improve safety, the City has recently considered the use of roundabouts.

The purpose of this Roundabout Policy is to establish guidance on where roundabouts are to be used in the City, to describe the performance and operation of roundabouts, and to give general guidance on design standards for roundabouts, so that high standard and uniform design can be implemented. It is recognized that the use and design of roundabouts in the United States is an emerging technology and that as the technology improves, changes in design and application will be modified so that the best available practices can be implemented.

II. Modern Roundabouts – What Are They?

In essence, a roundabout is a traffic circle that has been refined in its design principles and characteristics. These improved principles and design standards have made roundabouts a safe and efficient form of intersection control.

Traffic circles have many forms, but their common feature is that they are designed around a central island that prevents vehicles from passing through them on a linear path. Until recently, roundabouts have been slow to gain support in this country. The lack of acceptance can generally be attributed to the negative experience with traffic circles built in the earlier half of the twentieth century. Severe safety and operational problems caused these traffic circles to fall out of favor by the 1950’s. However, substantial progress has been achieved in the subsequent design of circular intersections, and a modern roundabout should not be confused with the traffic circles of the past.

The modern roundabout is defined by four basic principles that distinguish it from a nonconforming traffic circle.

1. Roundabouts follow the “yield-at-entry” rule, in which approaching vehicles must wait for a gap in the circulating flow before entering the circle, whereas traffic circles require circulating vehicles to grant the right of way to entering vehicles.
2. Roundabouts involve low speeds for entering and circulating traffic, as governed by small diameters and deflected entrances. In contrast, traffic circles emphasize high-speed merging and weaving, made possible by larger diameters and tangential entrances.
3. Compared to most traffic circles, roundabouts are small. Usually, a roundabout can be retrofitted within the space used by an existing traffic signal or stop-controlled intersection, with little or no additional right-of-way required.
4. At the entrance of each roundabout, triangular ‘splitter islands’ prevent drivers from going around the circle the wrong way, and simultaneously provide a safe refuge for crossing pedestrians. These islands are not used in traffic circles.

In giving priority to entering vehicles, a traffic circle tends to lock up at higher volumes. The operation of a traffic circle is further compromised by the high-speed environment in which large gaps are required for proper merging. These deficiencies have been corrected with the modern roundabout.

Figure 1-1 following shows the layout and design of a basic modern roundabout.
III. The Benefits of Roundabouts

In the interest of safety, the conflict between two competing traffic movements must be resolved by a traffic control device that gives one movement priority over the other. When both movements are heavy, the priority must be alternated or distributed in some manner or else one of the movements will fail. For high volume roadways, traffic signals provide the most common traffic control discipline in the U.S. because of the positive way in which the priority is alternated. Low volume roads are normally controlled by stop signs. A growing number of studies show that in many situations, modern roundabouts are both safer and more efficient than either traffic signals or stop signs.

For the past two decades, thousands of modern roundabouts have been replacing traffic signals and stop signs all across Europe. This trend is well documented by several papers presented at the conference “Giratoires ‘92” (Roundabouts ‘92). France, for instance, has been building about 1,000 roundabouts per year. In the Netherlands, more than 400 were built between 1986 and 1992. In Norway, the number swelled from just 15 in 1980 to 500 in 1992; in Switzerland, from 19 to 220 during the same period. And, with the construction of some 50 to 100 modern roundabouts in the last five to eight years, roundabouts have finally gained a foothold in the U.S.

Modern roundabouts are now found in a number of U.S. states, including California, Nevada, Florida, South Carolina, Massachusetts, Vermont, Tennessee, Texas, Washington, Kansas, Wisconsin and Maryland. They are being used in a wide range of applications: to control speeds on residential streets; to improve capacity at congested freeway interchanges; to beautify gateway entrances to towns and shopping centers; and, most importantly, to reduce the number and severity of crashes at both major and minor intersections. In many communities, the roundabouts have been so successful that residents have quickly demanded more to fix other problem intersections.

Sources such as Public Roads Magazine, Tech Transfer from the University of California Institute of Transportation Studies, and Transportation Departments from the states of Maryland and Florida indicate that the following benefits are gained through the use of roundabouts:

1. Safety – Roundabouts have been shown to reduce fatal and injury accidents as much as 75% in Australia and 86% in Great Britain. The reduction in accidents is attributed to slower speeds and reduced number of conflict points.
2. Low Maintenance – Eliminates maintenance costs associated with traffic signals. In addition, electricity costs are reduced.
3. Reduced Delay – By yielding at the entry rather than stopping and waiting for a green light, delay is significantly reduced. A reduction in delay corresponds to a decrease in fuel consumption and air pollution.
4. Capacity – Intersections with a high volume of left turns are better handled by a roundabout than a multi-phased traffic signal.
5. Aesthetics – The central island affords an opportunity to provide landscaping, or some other forms of beautification.

The reduction in crashes occurs for several reasons:

- The number of possible conflict points between vehicles decreases from 32 at a four-way intersection, to 8 at a roundabout. (See the figures below.) By reducing the number of conflict points, roundabouts also reduce the number of collisions.
- Vehicle speeds at roundabouts are much lower, generally less than 20mph. Lower speeds mean shorter braking distances and longer decision-making time. Therefore, even if someone makes a mistake a collision is easier to avoid.
• Decision-making is simplified. A driver about to enter has one decision: “Is there a vehicle circulating in the roundabout blocking my path?” If not, the driver enters. Otherwise, the driver waits for a gap.

• If a collision does occur at a roundabout, the force of impact is much lower due to the lower speed and the low angle of impact. No one can “run the red” and cause a right angle collision. Nor can a left-turning driver make a mistake in selecting a gap in the approaching through traffic, with the resulting head-on or right angle crash.

IV. The Use of Roundabouts – Where They Are Applicable and Where They Are Not.

Roundabouts perform better at intersections with roughly similar traffic flows and a high proportion of left turning traffic. This does not mean that all movements must be of the same magnitude. Rather, that the predominant movements are “broken up” by circulating traffic, so that gaps are provided to allow vehicles waiting on adjacent legs to enter the roundabout without major delays.

Engineering judgement and traffic analysis must be factored into the decision making process when roundabouts are being considered. Roundabouts are not the solution to all traffic problems at all locations. Careful study is required to identify the most appropriate control mode at any given location. The studies required to justify the installation of traffic signal control and all-way stop control are based on the warrants and requirements set forth in the Caltrans Traffic Manual. No such warrants or requirements exist for roundabouts.

Three general questions must be answered to justify a roundabout as the most appropriate form of control at any intersection.

• Will a roundabout be expected to perform better than other alternative control modes? In other words, will it reduce delay, improve safety or solve some other operational problem?

• Are there factors present to suggest that a roundabout would be a more appropriate control, even if delays with a roundabout are slightly higher?

• If any factors exist that makes installation of a roundabout inadvisable, can they be resolved satisfactorily?

If these questions may be answered favorably, then a roundabout should be considered as a logical candidate control mode.

Generally speaking, roundabouts are particularly suited in the following situations:

• Heavy delay on minor road.
• Traffic signals result in greater delay.
• Intersection with heavy left turning traffic.
• Intersection with more than four legs or unusual geometry.
• At rural intersections (including those in high-speed areas) at which there is an accident involving crossing traffic.
• Where major roads intersect at “Y” or “T” junctions.
• At locations where traffic growth is expected to be high and where future traffic patterns are uncertain or changeable.
• At intersections where U-turns are desirable.
• At Freeway Interchange Ramps.
• High accident intersection where right angle accidents are prominent.
Generally speaking, roundabouts are unsuitable in the following situations:

- Where a satisfactory geometric design cannot be provided.
- Where a signal interconnect system would provide a better level of service.
- Where it is desirable to be able to modify traffic via signal timings.
- Where peak period reversible lanes may be employed.
- Where the roundabout is close to existing signals and queuing from the signal could be a problem.
- Where there are insufficient gaps in the major flow, so that the minor flow has difficulty entering the roundabout. (Sometimes, however, this problem can be fixed by signalizing one approach to a roundabout to create gaps for another leg. Usually, this signal need only be turned on during the peak hour.)
- Where traffic volumes are very high, say 6,000 vph. (Here a very large signalized intersection is necessary to separate vehicles in time. Alternatively, an overpass is probably more suitable and safer.)

V. Roundabout Justification

Roundabouts have been used successfully in many cities throughout the world, including several in the U.S. They offer a proven form of traffic control that has, up to this point, not been applied extensively in Modesto. There may be several locations in the City that could benefit from the installation of a roundabout as an alternative to the more conventional intersection control methods.

This section sets forth the procedure required to justify a roundabout as the most appropriate form of control for a given situation. The procedure is intended to provide documented support for the decision to install a roundabout.

A. Intersection Control Alternatives

There are three alternatives to roundabouts for intersection control. Each has significant operational limitations in comparison with a roundabout. Each alternative will be discussed separately:

Traffic Signals – Roundabouts can efficiently handle particular intersections with decreased delay and greater efficiency than traffic signals. This is especially true where traffic volumes entering the roundabout are roughly similar and where there are a high number of left turning vehicles.

Two-Way Stop Control (TWSC) can accommodate low traffic volumes with much less delay than traffic signals, but this control mode favors the major street (unstopped) movements at the expense of the minor street (stopped) movement. When the major street traffic volumes are heavy (typically 1400 vph or more) there is little or no opportunity for cross street access. This places a definite limit on the application of TWSC. Even when TWSC capacity is not exceeded, there is often public pressure to install signals at TWSC intersections.

All-Way Stop Control (AWSC) treats the cross street movements more favorably, without the wasted time associated with traffic signals. However, the rate at which vehicles may enter an intersection (i.e. headway) under AWSC is relatively low and, therefore, the total intersection capacity is somewhat limited.

The roundabout on the other hand, overcomes all of these disadvantages. There is no sequential assignment of right-of-way and therefore no wasted time. Left turns are not subordinated to through
traffic. Vehicles enter under yield control instead of stop control and therefore have lower headways and higher capacities. There are no electrical components to malfunction.

B. **Roundabout Justification Categories**

To provide an organized approach to the justification process, a series of categories has been developed, each of which represents a good reason to install a roundabout. These categories are summarized in the following Table in terms of their anticipated relationships to warrants contained in the Caltrans Traffic Manual. A brief description of the justification categories is provided.

1. **Community Enhancement**

Projects qualifying for roundabout treatment in this category should demonstrate that a roundabout is an essential part of the community's development plan for a given area, and not just an arbitrary idea. Roundabouts in this category would typically have one or more of the following characteristics:

- They are often located in commercial and civic districts. Traffic volumes would typically be low, otherwise, one of the more operationally oriented justification categories would normally be more appropriate;
- Aesthetics are an important factor in this category. Particular attention will be required with respect to choice of materials, landscaping requirements, etc.; and
- They will not generally be proposed as a solution to traffic problems. Therefore, any factors that would imply either operational or safety problems should be taken very seriously.

2. **Traffic Calming**

Projects qualifying for roundabout treatment in this category should demonstrate that there is a need for traffic calming along the intersecting roadways. Although these roundabouts are primarily located in residential areas, there are situations where a roundabout on a higher classification road would be justified under this category. Examples of conditions that might suggest a need for traffic calming include:

- Documented observations of speeding, high traffic volumes and/or careless driving activities; or
- New construction (road opening, traffic signal, new road, etc.) which would potentially increase the volumes of "cut-through" traffic.

3. **Safety Improvement**

Projects qualifying for roundabout treatment in this category should demonstrate that there is a safety problem at the intersection. In addition, it should be documented how the roundabout treatment will improve safety at the intersection. A special review of accident reports and the type of accidents occurring is usually necessary. Examples of safety problems include:

- High rates of crashes involving conflicts that would be readily resolved by a roundabout (right angle, head-on, left/through, U-turns, etc.);
- High crash severity that should be reduced by the slower speeds associated with roundabouts;
- Site visibility problems that reduce the effectiveness of stop sign control; and
- Inadequate separation of movements, especially on single lane approaches.
4. All Way Stop Control Alternative

Projects qualifying for roundabout treatment in this category should demonstrate that an all-way stop control (AWSC) is warranted and that delay from the roundabout treatment would compare favorably with the AWSC treatment. Traffic volumes in this category will not normally meet the Caltrans warrants for traffic signals.

5. Low Volume Signal Alternative

Projects qualifying for roundabout treatment in this category should demonstrate that warrants for a traffic signal have been met. It should also be demonstrated that delay from the roundabout treatment would compare favorably with the signal treatment. This category will normally be limited to single lanes on the approaches and on the circulating roadway.

6. Medium Volume Signal Alternative

Projects qualifying for roundabout treatment in this category should demonstrate that warrants for a traffic signal have been met. It should also be demonstrated that delay from the roundabout treatment would compare favorably with the signal treatment. This justification category is appropriate for two lane roundabouts, however, designs involving more than one lane should only be considered when an operational analysis indicates a significant advantage compared to a signalized intersection.

The conversion of an existing signalized intersection to a two-lane roundabout would normally be undertaken as a solution to an observed operational or safety problem caused by the signal.

7. Special Conditions

Projects qualifying for roundabout treatment in this category should demonstrate that site specific conditions make a roundabout the appropriate intersection treatment. These conditions include unusual geometrics, high traffic volumes, right-of-way limitations, 5 or more legs in the intersection, etc.

VI. Implementation Strategy:

As stated earlier, roundabouts may be deployed at a variety of locations throughout the City of Modesto’s transportation system. It is the policy of the City of Modesto to implement roundabouts at the following locations and in the following manner:

A. At Minor Collector/Minor Collector Intersections:

- For newly developing areas, each Minor Collector/Minor Collector intersection shall be evaluated for the installation of a roundabout, and except where there are physical constraints or significant overriding circumstances, roundabouts are proposed for installation.

- For retrofit locations, Section IX of this policy governs.
B. **At Intersections that are classified Minor Arterial/Collector; Minor Arterial/Minor Arterial or Principal Arterial/Minor Arterial, the following shall apply:**

**Before Installation:**

A roundabout at intersections with a classification higher than Collector/Collector cannot be justified as the most appropriate form of control without a sense of how it will perform at a specific intersection and how that performance will compare to other intersection control alternatives.

In the City of Modesto, the implementation of roundabouts at intersections classified Minor Arterial/Collector and above will be accomplished using the following approach:

1. Identify the target location.
2. Perform computerized capacity analysis of proposed roundabout installation. If favorable, then
3. Recommend, design and install the roundabout.

A capacity analysis of each proposed roundabout installation shall be conducted to demonstrate its ability to handle anticipated traffic volumes for the subject intersection using a 20-year design period. The capacity analysis shall be accomplished using traffic projections from the most up-to-date traffic model the City possesses and by using the most up-to-date simulation software available to simulate roundabout operation as determined by the City's Traffic Engineer. The capacity of the roundabout must be equal to or better than that provided by the appropriately warranted traditional traffic control devices for the same traffic design volumes being analyzed.

**After Installation:**

The analytical models described above can only estimate the performance of a roundabout. Actual performance can only be obtained through field observation. However, given that the roundabouts are designed and simulated based on a 20-year design period, the roundabouts should perform very well when first opened, and for a good number of years thereafter. Nonetheless, initial field observations of the roundabout operation at its inception is prudent. Observations will be made to verify that the roundabout operates as intended and the travelling public negotiates the roundabout in an appropriate manner. All of the following questions should produce negative answers:

- Do drivers stop unnecessarily at the yield point?
- Do drivers stop unnecessarily within the circulating roadway?
- Do any vehicles pass on the wrong side of the central island?
- Do queues from an external bottleneck back up in the roundabout on an exit road?
- Do the actual number of entry lanes differ from those intended by the design?
- Do smaller vehicles encroach on the truck apron?
- Is there evidence of damage to any of the signs in the roundabout?
- Is there any pedestrian activity on the central island?
- Do pedestrians and cyclists fail to use the roundabout as intended?
- Are there tire marks on any of the curb surfaces to indicate vehicle contact?
- Is there any evidence of minor accidents, such as broken glass, pieces of trim, etc., on the approaches or the circulating roadway?
- Is there any gravel or other debris collected in non-traveled areas that could be a hazard to bicycles or motorcycles?
These questions should all be examined in the days immediately after the roundabout opening. Both daytime and nighttime observations of the operating characteristics should be made. Follow-up strategies to ensure satisfactory operation may be implemented as necessary after initial observation. Periodic checks should also be made to ensure that no serious sight distance obstructions have occurred due to growth of foliage or roadside development. The City’s Traffic Engineering Staff will continue to monitor traffic volumes, accidents and operations at intersections with roundabouts, just as they do at intersections where other alternative traffic control devices are in place.

VII. Design Criteria

As per Federal Highway Administration publication “ROUNDABOUTS: AN INFORMATIONAL GUIDE” and Caltrans Design Bulletin 80, both design guidelines and subsequent revisions shall be considered. Final approval will be by the City Traffic Engineer.

The final approval will be based on whether the proposal conforms with the general concepts contained in this policy. The purpose of this document is to provide a basis for evaluating roundabout proposals, and it is not intended to contain the comprehensive information needed to complete a design. Proposed roundabouts being designed by City engineering staff and by those other than City staff should be discussed with the City’s Traffic Engineer throughout the conceptual and design stages of the project.

VIII. Roundabout Installation in Newly Developing Areas

Section V of this policy describes in general terms when a roundabout installation may be appropriate for a given situation. It is recognized that roundabout installation is applicable in a variety of geometric configurations, and as such, the design can vary greatly, depending on the situation. As such, it is incumbent upon the designer to work closely with the City’s Traffic Engineer on the detailed design of a roundabout.

Roundabout installation, whether contemplated by the development community or by City staff, shall be coordinated with the City’s Traffic Engineer. The City’s Traffic Engineer shall give approval to the roundabout concept being proposed for a given intersection. Once approval is given, the design of the roundabout shall be in accordance with design standards set forth in the City’s Standard Specifications or as directed by the City’s Traffic Engineer to accommodate non-standard situations.

In newly developing areas, the developer shall be responsible to install roundabouts at Collector/Collector intersections. Roundabouts installed at higher classified intersections will be the responsibility of the developer as conditions of approval may warrant. In some cases, the City of Modesto may be responsible for installation via proceeds from a Community Facilities District.

IX. Roundabout Installation at Retrofit Locations

There will be occasions when existing intersections in the City are scheduled to have new stop signs or traffic signals added to them, due to the need to assign right of way for increased safety purposes. Similarly, existing controlled intersections may be destined for an upgrade in controls (i.e., from a 2-way stop to a 4-way stop, or from a 4-way stop to a traffic signal). Thirdly, there may be occasions where an existing controlled intersection may warrant replacement with a roundabout (i.e., replace a 4-way stop with a roundabout). Lastly, an existing intersection may be destined for a roundabout for either traffic calming or beautification purposes.
In such cases as these, the installation of roundabouts may be considered as an alternative to the traditional forms of traffic control. These are considered "retrofit" situations and special consideration of roundabout installation is required.

If a roundabout is proposed in a retrofit situation, the design and installation must be such that all modes of vehicles using that particular intersection are accommodated, and the "modern roundabout" concept and operational characteristics are preserved. Generally speaking, roundabouts in retrofit situations would not be applicable to anything less than a minor collector/minor collector intersection (i.e., 60' of right of way on each leg of the intersection). Even then, additional right of way may be required to gain proper deflection angles and tapers on all approaches. Each retrofit situation shall be analyzed on a case-by-case basis, and the final design of any proposed roundabouts at a retrofit location shall be approved by the Engineering and Transportation Director.

In the event a "retrofit" development adds a roundabout to an intersection in a previously-approved specific plan area that did not include such a roundabout, then that specific plan shall be amended in the usual and customary manner in accordance with state law and the applicable provision of the Modesto Municipal Code.

If it is decided that a roundabout will be deployed in a retrofit situation, and right of way is needed to install a properly designed roundabout, the City shall be responsible to acquire the right of way. If the situation is such that development has not occurred on one or more corners of the target intersection, then the property owner or developer of those non-developed parcels is responsible to dedicate the necessary right of way for proper installation of the roundabout.

In retrofit situations for a roundabout, notification will be 1,000 ft. All properties within 1,000 ft will be notified of the roundabout proposal.

X. Operation and Maintenance

Roundabouts generally will become an asset of the City once public improvements are accepted as complete by the City Council. Exceptions would be those roundabouts that are constructed within a private gated community, or on any other non-public thoroughfare. The City of Modesto will assume responsibility for operation and maintenance of those roundabouts that are within the public right of way. Maintenance of landscaping associated with a City-owned roundabout may be the City's responsibility, or may be included in a Capital Facilities District, and therefore, the CFD's responsibility.

XI. Appeal of Staff Decision

Any staff decision made pursuant to this policy may be appealed to the City Council pursuant to Section 1-4.01 through 1-4.05 of the Modesto Municipal Code.
A RESOLUTION APPROVING THE RECOMMENDATION OF THE CITIZENS HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE (CH&CDC) TO PROVIDE A $640,000 LOAN TO HABITAT FOR HUMANITY, STANISLAUS, TO PURCHASE A 1.85-ACRE PARCEL FOR THE DEVELOPMENT OF THE HOPE VILLAGE PROJECT, A 20-UNIT AFFORDABLE HOUSING PROJECT FOR LOW-INCOME FAMILIES, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LOAN AGREEMENT.

WHEREAS, on March 1, 2004, Anita Hellam, Executive Director for Habitat for Humanity, Stanislaus (Habitat), contacted the City of Modesto, Parks, Recreation and Neighborhoods Department (PR&N) regarding a 1.85-acre parcel of property that the Habitat “Site Selection Committee” had recently found for sale, and

WHEREAS, Habitat was interested in pursuing the property due to the parcel’s appropriate zoning and ideal location, a parcel zoned R-3, Medium High Density Residential, in a low-income census tract, at the end of Houser Lane in Southwest Modesto, north of Paradise Road, and

WHEREAS, after several negotiations between Habitat for Humanity and the property owner, both parties agreed on a selling price of $650,000 for this parcel, and

WHEREAS, Habitat for Humanity was required to pay $10,000 deposit, and escrow is currently scheduled to close on September 10, 2004, pending approval of the $640,000 loan, and

WHEREAS, the City of Modesto received an appraisal of this parcel on March 31, 2004, prepared by Cogdill & Giomi Real Estate Appraisers and Consultants; the 1.85-acre rectangular shaped site, void of any structural improvements, was appraised “as is” at a market value of $650,000; the parcel has been mapped to a subdivision of ten residential lots, averaging around 6,450 square feet in size; and the price per paper lot is $65,000, and
WHEREAS, according to the property appraisal, the property under discussion, owned by the Petersen family, has existed as a partially improved multi-family rental, with excess land, for several years; recently the Petersens decided to map a large portion of the property to the ten proposed lots, then, deciding against actual development and construction of duplex properties, the Petersens opted to sell the proposed lot portion of their property to Michael Beckwith, a local developer/builder, and

WHEREAS, in February of this year, escrow opened with Northern American Title to facilitate the sale from the Petersens to Michael Beckwith; the appraisal states the purchase price established by the sellers at $35,000 per potential lot, and

WHEREAS, after Michael Beckwith deposited substantial non-refundable money to secure the property, a deal was agreed on between Michael Beckwith and Habitat for Humanity; the property was never listed for sale, but a local broker, Fred Miller with Lapata Realty brought the two parties together, and after negotiation, structured a contract based on $65,000 per paper lot, and

WHEREAS, on April 6, 2004, by Resolution 2004-194, the City Council approved the allocation of $10,000 of Community Housing Development Organization (CHDO) set-aside funds from the HOME Investment Partnership Program to Habitat for Humanity, for the deposit required for the purchase of this property; also, on this date, Habitat for Humanity submitted a timeline for the land acquisition, predevelopment activities and construction of the proposed twenty (20) affordable housing units, and

WHEREAS, a review sub-committee, consisting of three members of the CH&CDC, met on Friday, May 7, and Monday, May 10, 2004, to review the request from Habitat for Humanity, the appraisal and project timeline; the sub-committee agreed that this is a good opportunity to provide affordable housing; the sub-committee also
recommended that the City request a development proforma from Habitat for Humanity, which has been submitted, and

WHEREAS, on May 14, 2004, the CH&CDC supported the general recommendation that the City Council approve a $640,000 loan to Habitat for Humanity, Stanislaus, to purchase a 1.85-acre parcel for the development of 20 affordable housing units; however, the specific agreement terms were not decided at this point, so the staff brought this item to the CH&CDC meeting on June 28, 2004, and

WHEREAS, since the first contact with Habitat for Humanity, staff has been meeting with the City Attorney's Office as well as the representatives of Habitat for Humanity to discuss options for the acquisition of the property, the terms of a potential loan, and the relocation of the residents that are occupying the two existing structures, and

WHEREAS, staff has also obtained an estimated cost of the infrastructure needed for this piece of property; the cost to add the infrastructure is approximately $620,000; this estimate does not include PG&E, MID, SBC, Cable TV, engineering, mapping, sewer connection or water connection charges or service fees; Habitat for Humanity will be responsible for raising the necessary funds to add the infrastructure, and

WHEREAS, on June 28, 2004, the CH&CDC discussed this issue extensively, primarily due to two "risk issues" identified by staff:

• Habitat for Humanity has minimum experience developing a project of this magnitude; this project will not only include the construction of 20 houses, but will also involve the planning and development of the corresponding infrastructure; this is a new undertaking for the local Habitat organization,

• the funding needed to complete this project has not been secured nor have all the potential sources been identified yet,
WHEREAS, The CH&CDC ultimately recommended an initial loan to Habitat for $640,000 with a two-year agreement with the following items:

1. Habitat will raise funds of $325,000 to match a portion of the City's contribution of $650,000 within one year of the date of the signed loan agreement. Habitat will raise an additional $300,000 within two years of the signed loan agreement. The funds may come from diverse sources such as donations, grants, loans or other sources. The funds shall be set aside or designated to the Hope Village Project. The funds can be in hand or guaranteed by written commitment or authorization. A total of $625,000 will be raised by Habitat within two years of the signed loan agreement between Habitat and the City of Modesto.

2. Habitat will submit a complete application for the 20-parcel lot split to the City of Modesto Planning Division within two years of the signed loan agreement between Habitat and the City of Modesto. Habitat received a letter from the City of Modesto Planning Division stating that the feasibility for placing 20 homes on the 1.85-acre lot looks promising.

3. If the previous conditions are not met, Habitat will refund $640,000 to the City.

and

WHEREAS, if all conditions listed above are met and Habitat raises funds in the amount of $625,000 within two years, then the City of Modesto will re-issue a loan agreement with a 30-year amortization period, deferred for 5 years for 16 low-income units, and a 30-year deferral for 4 very low-income units, with the following affordability clauses and loan conditions:

**Low-Income Households:**

A. 16 units will be allocated for low-income families (60% of the Area Median Income or below).

B. 30-year amortized loan, zero percent (0%) interest, and deferred for five years from the day the money is transferred to Habitat for Humanity. Until the properties are built and “sold” to low-income households, Habitat will hold the title and will be responsible for any payments or relocation issues on the property.

C. The repayment of debt will be transferred from Habitat at a rate of 1/20 for each property ($32,500) when it is sold to individual households. Title for each unit will be transferred to the new owner and secured by a Note.
Very Low-Income Households:

D. In addition, twenty (20%) percent of the units, or four (4) units, will be assigned to very-low income families, including homeless families, or households that are under 35% of the Area Median Income or below. Both parties agreed to the following terms for four (4) of the twenty units:

1) Defer payments on these units for thirty (30) years, or

2) Require that the total amount owed to the City become due and payable at the time of sale or transfer of ownership from the first household, refinancing of the property or upon change of use of the property, if the first household owner moves out and/or rents the unit.

Timeline for construction:

E. Habitat will complete one fourth of the units (5 units) by January 2008.

F. Habitat will complete one half of the units (10 units) by January 2009.

G. Habitat will complete three fourths of the units (15 units) by January 2010.

H. Habitat will complete all 20 proposed units by January 2011.

and

WHEREAS, although staff believes that this transaction is risky, the high demand of affordable housing requires immediate action; the City of Modesto and Habitat have worked together to provide performance triggers that will help protect the City's investment as well as ensuring a positive project completion,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to allocate $640,000 for a loan to Habitat for Humanity, Stanislaus, to purchase a 1.85-acre parcel for the development of the Hope Village Project, a 20-unit affordable housing project for low-income families.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary loan agreement and documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2004, by Mayor Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Jackman, 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
RESOLUTION APPROVING A LOAN AGREEMENT FOR A NO-INTEREST $400,000 LOAN BETWEEN THE CITY OF MODESTO AND THE STANISLAUS COUNCIL OF GOVERNMENTS FOR THE STATE ROUTE 132 WIDENING PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, Stanislaus Council of Governments (StanCOG) is the Regional Transportation Planning Agency (RTPA) for Stanislaus County pursuant to Section 29532(b) of the California Government Code and, as such, is responsible for State transportation planning and programming for Stanislaus County, and

WHEREAS, under California Government Code Section 14529.7, StanCOG may enter into an agreement with the California Transportation Commission (CTC) to use local funds to implement a State Transportation Implementation Program (STIP) project at an earlier date than it has been programmed by the State and to receive a later reimbursement from STIP funds, and

WHEREAS, StanCOG proposes to widen State Route 132 (SR 132) to a uniform four lanes from Frazine Road and Codoni Road in the east to Riverside drive in the west including:

- A median divider designed and equipped for future landscaping;
- Intersection and pedestrian safety improvements;
- Sidewalk installation on the north side of road;
- Storm drainage improvements; and
- A continuous bicycle lane; and

WHEREAS, the completion of this project will significantly improve overall traffic flow in the State Route 132/Beard Industrial Tract Area, facilitate up to 15,000 daily truck trips, stimulate jobs and economic development, and ease congestion on adjacent roadways, and
WHEREAS, insufficient STIP funds are available to implement the project on schedule resulting in a potential delay of the project, and

WHEREAS, StanCOG has requested that the City of Modesto, the Economic Development Bank, the State Infrastructure Bank, the private sector, and the StanCOG Regional Surface Transportation Program to loan or grant funds to implement the project on schedule under the provisions of Government Code Section 14529.7 according to the following formula:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Regional Funds Grant (RSTP)</td>
<td>$140,000</td>
</tr>
<tr>
<td>Federal Regional Funds Loan (RSTP)</td>
<td>$75,000</td>
</tr>
<tr>
<td>Stanislaus County Economic Development Bank Loan</td>
<td>$420,000</td>
</tr>
<tr>
<td>City of Modesto Loan</td>
<td>$400,000</td>
</tr>
<tr>
<td>State Infrastructure Bank Loan</td>
<td>$520,000</td>
</tr>
<tr>
<td>Private Sector Grants</td>
<td>$25,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$1,580,000</td>
</tr>
</tbody>
</table>

and

WHEREAS, the Council has identified this project as an important transportation project within the City’s General Plan Sphere of Influence, and

WHEREAS, initially, it appeared that by entering into this loan agreement there was no risk to the City but after legal review a potential risk was identified, and

WHEREAS, it was believed that once StanCOG entered into an AB 3090 agreement with the California Transportation Commission (CTC) State law required that these funds be paid back on the agreed upon date, and

WHEREAS, in reality, these funds are subject to annual legislative appropriation, and the potential exists that the legislature will not appropriate STIP funds permitting StanCOG to reimburse the City pursuant to the provisions of Section 14529.7, and

WHEREAS, despite this risk, staff feels that the benefits of providing this loan to StanCOG outweigh the potential risk of late or nonpayment, and
WHEREAS, staff recommends that the City Council approve, and the City Manager execute, a loan agreement that provides StanCOG $400,000 as a no-interest loan to be repaid on or before July 1, 2007, and

WHEREAS, StanCOG agrees to repay the $400,000 loan on or before July 1, 2007, using State funds with only those limitations consistent with Public Utility Code Section 99402, and

WHEREAS, no interest will be charged to StanCOG if the loan is repaid on or before July 1, 2007, and

WHEREAS, in the unlikely circumstance that StanCOG does not repay the loan on or before July 1, 2007, the loan will convert to a 4% APR, compounded interest-bearing loan beginning July 1, 2007, and

WHEREAS, all reimbursements to the City or to other parties of the SR132 Loan Package made by StanCOG or any project overrun costs incurred by StanCOG will not decrease the City's state or federal apportionment from any funding source that it would otherwise received in any year, and

WHEREAS, the following requirements as defined in the City Manager’s Letter of Intent dated December 8, 2003, have been meet as follows:

1. StanCOG has executed agreements with all parties of the funding package.
2. The CTC has approved the required STIP amendment for reimbursement of the loan,
3. StanCOG and Caltrans have executed the required Government Code Section 14529.7 reimbursement agreement for this project,
4. StanCOG board has approved the City’s supplemental Local Transportation Fund claim for FY 2003 and the City has received payment of this claim, and

WHEREAS, StanCOG has agreed to provide the City a complete set of executed loan and grant agreements before the September 7, 2004, Council Meeting,

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby approves a loan agreement for a no-interest $400,000 loan between the City of Modesto and the Stanislaus Council of Governments for the State Route 132 Widening Project.

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 7th 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: Council members: Dunbar, Hawn, Jackman, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Council members: None

ABSENT: Council members: None

ATTEST: \underline{Jean Zahr} City Clerk

APPROVED AS TO FORM:

\underline{Michael D. Milich} City Attorney

09/07/2004/CMO/B Whitemyer/Item 28
MODESTO CITY COUNCIL
RESOLUTION NO. 2004 - 454

A RESOLUTION AMENDING THE BUDGET TO APPROPRIATE $400,000 INTO ACCOUNT 0510-430-4382-0497 TO ENABLE THE CITY OF MODESTO TO EXECUTE A $400,000 NO-INTEREST LOAN WITH THE STANISLAUS COUNCIL OF GOVERNMENTS FOR THE STATE ROUTE 132 WIDENING PROJECT

WHEREAS, Stanislaus Council of Governments (StanCOG) is the Regional Transportation Planning Agency (RTPA) for Stanislaus County pursuant to Section 29532(b) of the California Government Code and, as such, is responsible for State transportation planning and programming for Stanislaus County, and

WHEREAS, under California Government Code Section 14529.7, StanCOG may enter into an agreement with the California Transportation Commission (CTC) to use local funds to implement a State Transportation Implementation Program (STIP) project at an earlier date than it has been programmed by the State and to receive a later reimbursement from STIP funds, and

WHEREAS, StanCOG proposes to widen State Route 132 (SR 132) to a uniform four lanes from Frazine Road and Codoni Road in the east to Riverside drive in the west, and

WHEREAS, the City desires to provide a $400,000, no-interest loan to StanCOG to help fund said project,

NOW, THEREFORE, BE IT RESOLVED by the City Council that it hereby approves amending the FY 04-05 budget to appropriate $400,000 in account number 0510-430-4382-0497 in order to execute said loan with the Stanislaus Council of Governments in the amount of $400,000 for the State Route 132 Widening Project.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 7th 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: Council members: Dunbar, Hawn, Jackman, Keating, Marsh,
O’Bryant, Mayor Ridenour

NOES: Council members: None

ABSENT: Council members: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004 - 455

WAS NOT USED
MODESTO CITY COUNCIL  
RESOLUTION NO. 2004-456

A RESOLUTION APPROVING AN AGREEMENT FOR $981,750.00 BETWEEN THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) AND HASHEM NARAGHI, TRUSTEE OF THE NORA NARAGHI SEPARATE PROPERTY TRUST FOR RIGHT OF WAY ACQUISITION OF PROPERTY FOR CONSTRUCTION OF FLOYD AVE. AND AUTHORIZING THE DISTRICT ADMINISTRATOR TO EXECUTE THE AGREEMENT AND ALL RELATED PROPERTY DOCUMENTS, AND AUTHORIZE THE CITY ENGINEER TO ACCEPT THE DEDICATIONS OF RIGHT-OF-WAY AS GRANTEE ON BEHALF OF THE CITY OF MODESTO

WHEREAS, the Floyd Ave. road widening project is listed as a priority 1 facility on the Village One Facilities Prioritization List included in the Village One Facilities Master Plan, and

WHEREAS, this segment of Floyd between Oakdale Rd. and Roselle Ave. is currently being designed to accommodate a four lane road as described in the Village One Facilities Master Plan, and

WHEREAS, additional right-of-way must be acquired on the north side of Floyd Ave. to construct the proposed Floyd Ave. road widening project, and

WHEREAS, additional right-of-way must be acquired on Roselle Ave. and Oakdale Rd. to construct the proposed Floyd Ave. at Oakdale Rd. intersection and the Floyd Ave. at Roselle Ave. intersection, and

WHEREAS, The City of Modesto desires to acquire 5.775 acres of property for right-of-way from Hashem Naraghi, trustee of the Nora Naraghi separate property trust,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that the Agreement for the amount of $981,750.00 between the City of Modesto Community Facilities District No. 2004-1 and Hashem Naraghi, trustee of the Nora
Naraghi Separate Property Trust, for right of way acquisition of property for construction of Floyd Ave. is hereby approved.

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

BE IT FURTHER RESOLVED that the City Engineer, or his designee, is hereby authorized to accept the dedication of right-of-way as Grantee on behalf of the City of Modesto.

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

APPROVED AS TO FORM:
By: Michael Milich, City Attorney