MODESTO CITY COUNCIL
RESOLUTION NO. 2004-308

A RESOLUTION APPROVING A SECOND AMENDMENT TO AGREEMENT FOR WEBSITE CONSULTING SERVICES WITH MICAHLYNN RIVERA, IN AN AMOUNT NOT TO EXCEED $50,000; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT.

WHEREAS, the Community & Economic Development Department (CEDD) website is an important tool used to provide the public with information about the Department’s services, and

WHEREAS, the Community & Economic Development website was designed, created and maintained by the Department’s website consultant, Micahlynn Rivera, and

WHEREAS, the Business Development Division has a website, specifically for site selectors searching for new business locations, and

WHEREAS, both of these sites provide the public with a wide range of Department services and information such as zoning, the Housing Element, General Plan and the Urban Growth Review, and

WHEREAS, meeting agendas, minutes and resolutions for the Planning Commission and Board of Zoning Appeal are made available on the Department website, and

WHEREAS, the website consultant has unique skills and abilities that are critical in maintaining current web services and meeting future goals and demands, and

WHEREAS, the City desires to extend Consultant’s contract through June 30, 2005, for an additional amount not to exceed $50,000 for services as set forth in Exhibit “A” attached hereto, and

WHEREAS, the Finance Committee recommended approval of this item at its June 21, 2004 meeting.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Second Amendment to Agreement for Website Consulting Services with Micahlynn Rivera through June 30, 2005, in an amount not to exceed $50,000.
BE IT FURTHER RESOLVED by the Council that the City Manager, or his
designee, is hereby authorized to execute said Second Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 22nd day of June, 2004, by Councilmember Jackman,
who moved its adoption, which motion being duly seconded by Councilmember Keating,
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST

JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney
Exhibit “A”
PROJECT SCOPE

- C&ED Intranet
  Duties: Maintain internal websites for C&ED Department.
  - C&ED Intranet Site
  - Property Management Site
  - Online Newsletter
    Links to documents, forms, staff gallery and other department related information. Not available to the public.

- C&ED Websites
  Duties: Maintain public website that houses all C&ED sub-sites:
  - Board of Zoning
  - Building &Development Site
  - Business Development
  - Economic Development
  - Housing Element
  - Planning Commission
  - Planning Division
  - Redevelopment Agency
  - Urban Area Growth Review
    Update pages as requested, routine maintenance and reformatting as necessary.

- Graphic Design
  Duties: Create graphics for all marketing materials, presentations and other items as requested.

- Presentation Design
  Duties: Design PowerPoint presentations as needed.

- Technical Support
  Duties: Troubleshoot software problems and hardware problems as capable.

- Management of special projects
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-309

A RESOLUTION REJECTING THE SOLE BID OF $944,176 FROM GEORGE REED, INC., FOR THE PROJECT TITLED “EXTEND CORPORATE AND RECONSTRUCT TRANSIENT AIRCRAFT APRONS,” AND AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT AT A FUTURE DATE

WHEREAS, the bid received for the Extend Corporate And Reconstruct Transient Aircraft Aprons project was opened at 11:00 a.m. on May 11, 2004, and later tabulated for the Acting Engineering and Transportation Department Director for consideration by the Council, and

WHEREAS, the sole and low bid for the project was 47% above the engineer’s estimate, and

WHEREAS, the FAA will not approve construction grants for projects where the sole low bid is more than 10% above the engineer’s estimate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rejects all bids for the project titled “Extend Corporate And Reconstruct Transient Aircraft Aprons.”
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O' Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

MICHAEL D. MILICH, City Attorney

APPROVED AS TO FORM:

By 

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-310

RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC., FOR THE “RUNWAY 10L-28R PAVEMENT IMPROVEMENTS AND RUNWAY LIGHT FIXTURE REPLACEMENT” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $1,009,102.05 PER THE CONTRACT. TOTAL PROJECT COST IS $1,217,681.02.

WHEREAS, a report has been filed by the Acting Engineering & Transportation Director that the project titled “Runway 10L-28R Pavement Improvements and Runway Light Fixture Replacement” has been completed by George Reed, Inc., in accordance with the contract agreement dated September 2, 2003,

NOW, THEREFORE, BE IT RESOLVED that the “Runway 10L-28R Pavement Improvements and Runway Light Fixture Replacement” project be accepted from said contractor, George Reed, Inc., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $1,009,102.05, 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 22nd day of June, 2004, by Councilmember Jackman,
who moved its adoption, which motion being duly seconded by Councilmember
O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahr
JEAN ZAHRI City Clerk

(SEAL)
APPROVED AS TO FORM:

By Michael M. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-311

A RESOLUTION AWARDING THE BID AND APPROVING A $246,900 CONTRACT WITH COLLINS ELECTRICAL COMPANY, INC., FOR THE PROJECT TITLED “CENTRE PLAZA LIGHTING CONTROLS,” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT. TOTAL ESTIMATED COST OF THIS PROJECT IS $294,342

WHEREAS, the bids received for the Centre Plaza Lighting Controls were opened at 11:00 a.m. on June 15, 2004, and later tabulated by the Acting Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Acting Engineering and Transportation Director has recommended that the bid of $246,900 received from COLLINS ELECTRICAL COMPANY, INC., be accepted as the lowest responsible bid and the contract be awarded to COLLINS ELECTRICAL COMPANY, INC.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of COLLINS ELECTRICAL COMPANY, INC., in the amount of $246,900, and hereby awards COLLINS ELECTRICAL COMPANY, INC., the contract titled “Centre Plaza Lighting Controls” for $246,900.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney

ATTEST:  

JEAN ZAHR, City Clerk
(SEAL)
A RESOLUTION AWARDING THE BID AND APPROVING A $107,651.00 CONTRACT WITH KROEKER, INC., FOR THE PROJECT TITLED “DEMOLITION OF BUILDINGS ON 8TH STREET” FOR THE NEW BUS MAINTENANCE FACILITY, WAIVING A MINOR BID IRREGULARITY AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT. TOTAL ESTIMATED COST OF THIS DEMOLITION PROJECT IS $131,334.22.

WHEREAS, the bids received for the Demolition of Buildings on 8th Street were opened at 11:00 a.m. on May 25, 2004, and later tabulated by the Acting Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the incomplete “Quoter Information Sheets” in Kroeker, Inc., bid proposals were found to be minor irregularities in accordance with Municipal Code 8-3.203, and

WHEREAS, the Acting Engineering and Transportation Director has recommended that the bid of $107,651.00 received from Kroeker, Inc., be accepted as the lowest responsible bid and the contract be awarded to Kroeker, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of Kroeker, Inc., in the amount of $107,651.00, and hereby awards Kroeker, Inc., the contract titled “Demolition of Buildings and 8th Street” for $107,651.00.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-313

A RESOLUTION AWARDING THE BID AND APPROVING A $249,130.00 CONTRACT WITH CLAYBORN CONTRACTING GROUP, INC., FOR THE PROJECT TITLED, "RELOCATION OF GAC FILTERS TO WELL 50," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT. TOTAL ESTIMATED PROJECT COST IS $298,956.00.

WHEREAS, the bids received for Relocation Of GAC Filters To Well 50 project were opened at 11:00 a.m. on June 1, 2004, and later tabulated by the Acting Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Acting Engineering and Transportation Director has recommended that the bid of $249,130.00 received from Clayborn Contracting Group, Inc., be accepted as the lowest responsible bid and the contract be awarded to Clayborn Contracting Group, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of Clayborn Contracting Group, Inc., in the amount of $249,130.00, and hereby awards Clayborn Contracting Group, Inc., the contract titled "Relocation Of GAC Filters To Well 50."

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 22nd day of June, 2004, by Councilmember Jackman,
who moved its adoption, which motion being duly seconded by Councilmember
O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]
MICHAEL D. MILICH, City Attorney
RESOLUTION AMENDING THE FY 2003-2004 CAPITAL IMPROVEMENT BUDGET TO: 1) REDUCE PROJECT ACCOUNT NUMBER 6100-430-A03, WELLHEAD TREATMENT ZONE 1, BY $14,812 AND RETURN $14,812.00 TO THE WATER FUND RESERVES; AND 2) REAPPROPRIATE $14,812 MOVED TO THE WATER FUND RESERVES TO PROJECT ACCOUNT NUMBER 6100-480-Q211, ACQUIRE PROPERTY/INSTALL GAC AT WELL 50, THEREBY FULLY FUNDING THE PROJECT TITLED “RELOCATION OF GAC FILTERS TO WELL 50.”

WHEREAS, the bids received for Relocation Of GAC Filters To Well 50 project were opened at 11:00 a.m. on June 1, 2004, and later tabulated by the Acting Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Acting Engineering and Transportation Director has recommended that the bid of $249,130.00 received from Clayborn Contracting Group, Inc., be accepted as the lowest responsible bid and the contract be awarded to Clayborn Contracting Group, Inc., and

WHEREAS, total estimated project cost for Relocation Of GAC Filters To Well 50 is $298,956.00, which includes construction contingency and construction administration, and

WHEREAS, funding available in account number 6100-480-Q211, Acquire Property/Install GAC at Well 50, is in the amount of $284,144.00, and

WHEREAS, an additional amount of $14,812.00 from the Water Fund Reserves is required to fully fund the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 2003-2004 Capital Improvement Budget to: (1) reduce project account number 6100-430-A023, Wellhead Treatment Zone 1, by $14,812,
and return $14,812.00 to the Water Fund Reserves; and (2) reappropriate $14,812 moved to the Water Fund Reserves to project account number 6100-480-Q211, Acquire Property/Install GAC At Well 50, thereby fully funding the project titled “Relocation Of GAC Filters To Well 50.”

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-315

RESOLUTION ACCEPTING THE WORK BY CLYDE WHEELER PIPELINE, INC., FOR THE “HILLGLEN AVENUE STORM DRAIN” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $339,277.50 PER THE CONTRACT. TOTAL PROJECT COST IS $496,871.71.

WHEREAS, a report has been filed by the Acting Engineering & Transportation Director that the project titled “Hillglen Avenue Storm Drain” has been completed by Clyde Wheeler Pipeline, Inc., in accordance with the contract agreement dated October 28, 2003.

NOW, THEREFORE, BE IT RESOLVED that the “Hillglen Avenue Storm Drain” project be accepted from said contractor, Clyde Wheeler Pipeline, Inc., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $339,277.50 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 22nd day of June, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: 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. 2004-315A

A RESOLUTION APPROVING A ONE-YEAR AGREEMENT WITH THE PENTECOSTAL CHURCH OF MODESTO REVIVAL CENTER TO LEASE 75 CARPOOL PARKING SPACES COMMENCING JULY 1, 2004 THROUGH JUNE 30, 2005

WHEREAS, the Stanislaus Council of Governments (StanCOG) entered into an agreement with the Pentecostal Church of Modesto Revival Center (the Church) to lease 75 carpool parking spaces at a cost of $1,125 per quarter year, and

WHEREAS, said agreement expires June 30, 2004, and

WHEREAS, StanCOG no longer wishes to be a party to the agreement, and

WHEREAS, a need exists for carpool parking spaces to replace those that will be lost by the impending closure of the Vintage Faire Mall park and ride lot, and

WHEREAS, the Church is willing to enter into a lease agreement with the City of Modesto for 75 carpool parking spaces at a cost of $1,125 per quarter year commencing on July 1, 2004 and expiring on June 30, 2005, and

WHEREAS, Engineering and Transportation Department staff recommended to the Economic Development Committee (EDC) that the City of Modesto assume StanCOG’s role in the agreement with the Church, and

WHEREAS, the EDC met on June 7, 2004 and supported the recommendation of City staff, and

WHEREAS, by an agenda report to the City Council dated June 8, 2004, from the Engineering and Transportation Director, City staff recommended to the Council that it approve the agreement with the Church,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with the Pentecostal Church of Modesto Revival
Center for the lease of 75 carpool parking spaces at a cost of $1,125 per quarter year, commencing July 1, 2004 through June 30, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-315B

A RESOLUTION AUTHORIZING STAFF TO ENTER INTO NEGOTIATIONS WITH PARKING LOT OWNERS TO SECURE CARPOOL PARKING SPACES FOR THE EXCLUSIVE USE OF CUSTOMERS OF THE MODESTO AREA EXPRESS (MAX) COMMUTER ROUTES TO THE BAY AREA RAPID TRANSIT (BART) STATION AND ALTAMONT COMMUTER EXPRESS (ACE) TRAIN STATION

WHEREAS, customers of the MAX commuter express routes to the BART station in Pleasanton and the ACE train station in Manteca will no longer have the opportunity to park their cars at the Vintage Faire Mall Park and Ride lot as the mall owner is desirous of closing the lot as soon as possible, and

WHEREAS, a need exists for carpool parking spaces for use by MAX customers to replace those that will be lost by the impending closure of the park and ride lot, and

WHEREAS, Engineering and Transportation Department staff recommended to the Economic Development Committee (EDC) that the City of Modesto negotiate lease agreements with parking lot owners to allow for the parking of MAX commuter bus customers, and

WHEREAS, the EDC met on June 7, 2004 and supported the recommendation of City staff, and

WHEREAS, by an agenda report to the City Council dated June 8, 2004, from the Acting Engineering and Transportation Director, City staff recommended to the Council that it authorize staff to negotiate said lease agreements to provide parking spaces for customers of the MAX commuter express routes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to negotiate lease agreements with parking lot owners to provide carpool parking spaces for customers of the MAX commuter express routes.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION AMENDING THE FISCAL YEAR 2003-2004 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 2003-2004,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2003-2004 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 22nd day of June, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ____________________________
JEAN ZAHN, City Clerk

(seal)

APPROVED AS TO FORM:

By: ____________________________
MIKE MILICH, City Attorney
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Dolly Haskell
Telephone No.: 2-2202
Department: O&M
Fund Title: Water Fund

Council Action Date: __________ __________
Resolution Number: __________
FY: 03-04
Transfer No. __________

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<th>Increase/ (Decrease)</th>
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COMMENTS/JUSTIFICATION
This is a reallocation of funds within Water's Zone 1 CIP to fund the treatment of Well 100. Funds are being moved from the recoat tank interior CIP because upon inspection, tank coating in Zone 1 in sot needed this FY. Once this CIP has been reduced, it will be closed.

AUTHORIZATION (check if required)

| DEPARTMENT DIRECTOR or |
| AUTHORIZED ASSISTANT |
| (Allocation of Dept Appr to Line-Item Level) |
| FINANCE DIRECTOR |
| (Transfers to/from Internal Service Charges) |
| (All items requiring City Manager's Approval) |
| CITY MANAGER |
| (Transfers between Budgeted Activities of Departments within Funds) |
| (Appropriation of Unbudgeted Dept Revenues) |
| (Salary lines movement in or out) |

SIGNATURE

DATE
# REQUEST FOR BUDGET ADJUSTMENT

**Contact Person:** Micheal Musca  
**Telephone No.:** Airport  
**Department:** Airport  
**Fund Title:** Airport  
**Council Action Date:**  
**Resolution Number:**  
**FY:** 03-04  

## June Monthly Adjustment

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</tr>
<tr>
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<td>($22,271)</td>
<td>$6,729</td>
<td>Aircraft Tax not needed</td>
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<td>$22,271</td>
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<td>$22,271</td>
<td>$22,271</td>
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<td>Aircraft Tax</td>
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## COMMENTS/JUSTIFICATION

This adjustment is to decrease the N127 Perimeter Rd CIP by $22,271 and return the funds to reserves, then reallocate the monies to CIP N559 Emergency Airfield Generator to finish the project.

## AUTHORIZATION (check if required)

<table>
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<tbody>
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## FINANCE DIRECTOR

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

## CITY MANAGER

(Transfers between Budgeted Activities of Departments within Funds)  
(Appropriation of Unbudgeted Dept Revenues)  
(Transfers into Personnel Services)
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Dean Phillips
Telephone No.: 577-5215
Department: E&T
Fund Title: Gas Tax Fund/General Fund

Council Action Date: ___________________ Resolution Number: ___________________
FY: 03-04

Transfer No. ___________________

<table>
<thead>
<tr>
<th>Fund-Agency-Object</th>
<th>Appropriated Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
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<tr>
<td><strong>TRANSFERS BETWEEN FUNDS</strong></td>
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<td>REVENUE</td>
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<td>04-0100-700-4200-9030</td>
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<td></td>
<td>$ 109,004</td>
<td>$ 110,000</td>
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</table>

This is a technical adjustment to the transfers between funds 0100 and 0300. The budget adjustment corrects a transfer programming error. The amount remaining after the budget adjustment is that amount included in the operations budget for FY04.

<table>
<thead>
<tr>
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<td></td>
<td>(Appropriation of Unbudgeted Dept Revenues)</td>
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<tr>
<td></td>
<td>(Transfers into Personnel Services)</td>
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<tr>
<td>Budget Office Form (Oct 2001) gh</td>
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</tbody>
</table>
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Jeff Barnes
Telephone No.: 577-5215
Department: O&M
Fund Title: GAS TAX FUND

Council Action Date: 
Resolution Number: 
Transfer No. 
FY: 03-04

<table>
<thead>
<tr>
<th>Fund-Agcy-Org-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
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<th>Revised Budget</th>
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<td><strong>APPROPRIATIONS</strong></td>
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<tr>
<td>04-0700-800-8000-8003</td>
<td>$ 1,556,050</td>
<td>$ (25,000)</td>
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<td>$ 1,556,050</td>
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<tr>
<td>04-0700-480-4616-6041</td>
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</table>

| TRANSFERS BETWEEN FUNDS |
| **FROM** |
| TOTAL | $ - | $ - | $ - |
| **TO** |
| TOTAL | $ - | $ - | $ - |

| CONTROL TOTAL | $ 1,556,050 | $ - | $ 1,556,050 |

Although the Kansas Needham overcrossing and several roundabouts were completed by the city this year, no funds were established to maintain them. E&T has proposed to move $25,000 from the gas tax reserves to provide this necessary maintenance. This will roll over to FY05.

<table>
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</tr>
</tbody>
</table>

Budget Office Form (Oct 2001)
The Federal Demonstration grant to remove the railroad tracks from 9th street was recently amended to include a project to lower the railroad crossings along the Virginia corridor. Moving these funds to a separate CIP will allow us to track the funds better for federal accounting purposes.
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Jeff Barnes
Telephone No.: 577-5215
Department: O&M
Fund Title: GAS TAX FUND

Council Action Date: 
Resolution Number: 
FY: 03-04
Transfer No. 

<table>
<thead>
<tr>
<th>Fund-Agency-Organ-Object</th>
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<td>FROM</td>
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</tr>
<tr>
<td>TOTAL</td>
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<td>$99,000</td>
<td>$ (99,000)</td>
<td>$</td>
<td>construction</td>
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<td>TOTAL</td>
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<td>$99,000</td>
<td>$ (99,000)</td>
<td>$</td>
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</tr>
</tbody>
</table>

| **APPROPRIATIONS**        |           |                |                   |                |                       |
| FROM                     |           |                |                   |                |                       |
| 04-0700-480-4613-6041    | 4613C     | $99,000        | $ (99,000)        | $              | construction          |
| TOTAL                    |           | $99,000        | $ (99,000)        | $              |                       |
| TO                       |           | $99,000        |                   | $99,000        |                       |
| MY-2300-480-A019-6041    | A019C     |                |                   | $99,000        | construction          |
| TOTAL                    |           | $99,000        |                   | $99,000        |                       |

| **TRANSFERS BETWEEN FUNDS** |           |                |                   |                |                       |
| REVENUE                  |           |                |                   |                |                       |
| 04-2300-700-A019-7070    | A019G     | $              | $99,000           | $99,000        | transfer to 2300 from 0700 |
| TOTAL                    |           | $99,000        |                   | $99,000        |                       |
| EXPENSE                  |           |                |                   |                |                       |
| 04-0700-700-A019-9230    | A019G     | $              | $99,000           | $99,000        | transfer to 2300 from 0700 |
| TOTAL                    |           | $99,000        |                   | $99,000        |                       |

| **CONTROL TOTAL**        |           | $99,000        |                   | $99,000        |                       |

The operations project to improve BlueGum Road was reviewed and determined to be best classified as a CIP. As a result the project was moved from an operations account in the Gas Tax fund to the CIP Fund (2300).
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Fred Cavanah  
Council Action Date: ____________________________

Telephone No.: 577-5215  
Resolution Number: ____________________________

Department: E&T  
FY: 03-04

Fund Title: BUS/CFF PUBLIC TRANSIT FUNDS

<table>
<thead>
<tr>
<th>Fund-Agent-Org-Object</th>
<th>Appr Unit</th>
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<tr>
<td>TOTAL</td>
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<td>$ 339,508</td>
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<td><strong>REVENUE</strong></td>
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Although the CFF program includes Capital improvements for the Bus Fund (Bus Maintenance Facility, Expansion Buses, & Expansion Bus Stop Improvements, these funds were not budgeted in the FY04 Capital Improvement Program. The proposed transfers facilitates the transfer of the these funds to the appropriate projects.

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Budget Office Form (Oct 2006) Rev.
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-317

A RESOLUTION APPROVING RENEWAL OF EXCESS WORKERS' COMPENSATION INSURANCE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE RENEWAL AGREEMENT FOR THE INSURANCE

WHEREAS, the City of Modesto has participated in the workers’ compensation excess insurance pool, California Public Employers Insurance Authority (CPEIA), since July 1, 2002, and

WHEREAS, renewal of City’s excess workers’ compensation insurance is due on July 1, 2004, and

WHEREAS, staff has received an initial quote that provides for a rate increase due to the pool’s loss experience and the City of Modesto’s loss experience in particular, and

WHEREAS, our Broker of Record, Driver Alliant, was unable to obtain a better price in the commercial insurance market, and

WHEREAS, based upon prior policy direction received from Council, staff will bind Insurance coverage through the City’s broker at $750,000 self-insured retention.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Risk Manager is hereby authorized to bind excess workers’ compensation insurance coverage in the amount of $244,127 as presented by the City’s Broker of Record.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the renewal agreement for excess Workers’ Compensation Insurance.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: 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
A RESOLUTION AUTHORIZING THE RISK MANAGER TO BIND PROPERTY AND BOILER & MACHINERY INSURANCE FOR THE CITY OF MODESTO OWNED AND/OR OPERATED PROPERTIES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE RENEWAL AGREEMENT FOR THE INSURANCE

WHEREAS, since 1993, Driver Alliant Insurance Services has been the Broker of Record for the City’s property-related needs, and

WHEREAS, Driver has developed a joint-purchasing group of clients called PEPIP (Public Entity Property Insurance Program) which includes over 4,400 public entities in 7 different states, and

WHEREAS, PEPIP’s loss experience, coverage form and pricing have been the most competitive in the industry, and

WHEREAS, renewal of said insurance is due on June 30, 2004 and

WHEREAS, staff has received the initial renewal quote that provides for a rate decrease of 3.16% for property and boiler & machinery coverage due to stabilization in the market and City of Modesto’s favorable loss record, and

WHEREAS, based upon policy direction from Council, staff will bind the insurance coverage through PEPIP, at the cost of $216,754.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Risk Manager is hereby authorized to bind property and boiler & machinery insurance coverage in the amount of $216,754 as presented by the City’s Broker of Record pursuant to Council direction.
BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute the renewal agreement for property and boiler & machinery insurance coverage and pay the quoted premiums.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-319

A RESOLUTION APPROVING THE REQUEST FROM THE WEST MODESTO KING KENNEDY NEIGHBORHOOD COLLABORATIVE FOR A TOTAL OF $175,000 IN CDBG FUNDS FOR A NEW “COLLABORATIVE NEIGHBORHOOD CENTER HEADQUARTERS” AT MELLIS PARK, AND AUTHORIZING STAFF TO NEGOTIATE A LEASE AGREEMENT.

WHEREAS, on October 26, 2001, the Citizens Housing and Community Development Committee (CH&CDC) approved a request by the Collaborative to use $125,000 of Community Development Block Grant (CDBG) funds to acquire property to establish a new or expanded headquarters for their administrative offices and program activities, and

WHEREAS, since the time of this approval, the Collaborative has looked at many properties to “house” their offices and activities; however, they have been unsuccessful in obtaining any solid leads on properties suitable for their purposes, in an appropriate location, and

WHEREAS, during the search for properties, the staff of the Collaborative started meeting with City staff to discuss the possibility of expanding the King Kennedy Memorial Center (KKMC); after a few meetings, staff of the Collaborative and City both agreed that there would be significant benefit to the community, as well as both organizations, to be located in the same area, and

WHEREAS, after further review, both the Collaborative and the City realized that a separate building, detached from the KKMC, would better serve as the Collaborative headquarters; this building would serve as a meeting place and program location, open to the public, to take advantage of the Collaborative programs, and
WHEREAS, the Collaborative building would include the following features:

- Offices for the Collaborative staff
- Meeting and conference rooms
- Restroom facilities
- Storage area
- Small kitchenette area

and,

WHEREAS, during the past 12 months, the Collaborative has been working to find additional funding to contribute to the construction and furnishing of the building; one funding source the Collaborative has been actively pursuing is the Cowell Foundation, and

WHEREAS, in February, representatives from the Cowell Foundation visited Modesto in order to conduct a site visit to evaluate the Collaborative, their work, as well as their relationships within the community, and

WHEREAS, the site visit was very successful that the Cowell Foundation has tentatively committed to fund the Neighborhood Headquarters and other Collaborative projects, and

WHEREAS, in order to receive the full commitment from the Cowell Foundation, (valued at approximately $325,000), the Collaborative needs to secure an additional $150,000 in matching funds; in order to meet this mandate set forth by the Cowell Foundation, the Collaborative has requested an additional $50,000 from the City of Modesto and is also requesting $100,000 from the County of Stanislaus, and

WHEREAS, the Community Housing and Citizens Development Committee (CH&CDC) approved this request on May 14, 2004, increasing the total City contribution to the Collaborative for their "Headquarters Project" to $175,000; in addition, the local representatives from the American Institute of Architects (AIA) will be donating all
services from the pre-design service to construction drawing to the project; this donation represents a large investment from the local AIA community, and

WHEREAS, the Collaborative also has to receive City Council verification of their proposed lease with the City of Modesto for the land where their building will be located, and

WHEREAS, the City and Collaborative staffs need to verify that each agency is willing to agree to a $1.00 per year lease for 98 years in order for the Collaborative to receive the funds from the Cowell Foundation; the Foundation wants to make sure both the City and the Collaborative are committed to a long-standing relationship, and

WHEREAS, when the lease is completed, staff will bring the item back to City Council for a full review of the terms; the lease agreement will include language that, in the event the West Modesto King-Kennedy Neighborhood Collaborative ceases to exist for the stated purposes (social and health services open to the public), the Collaborative can assign the lease to another non-profit organization that serves the community in a similar manner, if approved by the Collaborative and the Modesto City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the request from the West Modesto King Kennedy Neighborhood Collaborative (Collaborative) for a total of $175,000 in CDBG funds (in FY 2004-2005) for a new “Collaborative Neighborhood Center Headquarters” at Mellis Park.

BE IT FURTHER RESOLVED that the Council hereby authorizes staff to negotiate a lease agreement with the West Modesto King Kennedy Neighborhood Collaborative for $1.00 per year for ninety-eight (98) years.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: 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. 2004-320

A RESOLUTION APPROVING A THIRD AMENDMENT TO AGREEMENT WITH MODESTO SISTER CITIES INTERNATIONAL TO DECREASE FUNDING FOR FISCAL YEAR 2004-05 BY 10%, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE THIRD AMENDMENT.

WHEREAS, in 1996, the City of Modesto entered into an agreement with Modesto Sister Cities International (MSCI) for MSCI to administer Modesto’s Sister City program, and

WHEREAS, the City agreed to compensate MSCI $31,600 annually to administer the Sister City program, and

WHEREAS, said annual compensation remained the same until FY 02-03, when MSCI agreed to accept a 5% budget cut due to budgetary constraints, and

WHEREAS, the City Council recommended a 10% budget reduction to MSCI for the Fiscal Year 2003-04, and

WHEREAS, MSCI agreed to a 10% decrease and accepted payment in the amount of $28,440 for Fiscal Year 2003-04, and

WHEREAS, a 10% reduction in funding to MSCI is again included as part of the adoption of the Fiscal Year 2004-05 budget, and

WHEREAS, MSCI has again agreed to a 10% decrease and accepted payment in the amount of $28,440 for Fiscal Year 2004-05,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Third Amendment to Agreement with Modesto Sister Cities International to decrease funding by 10% from $31,600 annually to $28,440 for Fiscal Year 2004-05.
BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute the Third Amendment to the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-321

A RESOLUTION APPROVING A THREE-YEAR RENEWAL AGREEMENT WITH COMMUNITY REINVESTMENT FUND, INC. FOR LOAN SERVICING OF EXISTING AND FUTURE LOANS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, the City's current loan portfolio includes housing rehabilitation loans, down payment assistance loans, HOME loans, Redevelopment Agency loans, and tracking of Capital Facilities Fees and Deferrals, and

WHEREAS, during an audit of the Finance Department in 1993, it was recommended that the loan portfolio be serviced by an outside company; in November 1993, the City Council authorized the City Manager to execute a two-year agreement for loan servicing with Community Reinvestment Fund, Inc. (CRF), located in Minneapolis; this agreement has been renewed every two years, and

WHEREAS, the current agreement for loan servicing was approved by City Council on July 23, 2002, by Resolution No. 2002-350, and

WHEREAS, in February 2004, a Request for Qualifications for Loan Servicing was made available to all known servicing companies; the City received proposals from two companies: Community Reinvestment Fund, Inc. (CRF), and Loan Service Center (LSC), Atlanta, and

WHEREAS, the proposals were evaluated by a staff committee, in the categories of pricing, completeness of the RFQ, customer service, and stability of the company; staff also analyzed loan servicing activity using data from three separate months during last year, and compared the proposed pricing for CRF and LSC for these months, and
WHEREAS, each member of the evaluation committee scored CRF higher than LSC in each category, and the monthly fees for CRF averaged 47% of the proposed LSC pricing, resulting in the recommendation of CRF as the continued loan servicer for the City, and

WHEREAS, CRF is a nonprofit organization that began operations in 1989 to provide capital to community development lenders in low- to moderate-income communities; their core service is to purchase loans so that the funds can be reinvested in the community, and

WHEREAS, the CRF loan servicing includes the processing of monthly payments, sending payment coupons to customers, a toll free number for customers, collection efforts on past due loans, insurance tracking, processing of demand statements and subsequent payoffs, monthly reports to the City, and a monthly check to the City for funds collected on the serviced loans, and

WHEREAS, the City will remain responsible for collection efforts on loans past due more than 90 days, follow-up for needed fire insurance, and releasing all liens for loans that have been paid, and

WHEREAS, the agreement will be a three-year agreement and will expire on June 30, 2007, and

WHEREAS, the Housing Rehabilitation Loan Committee reviewed and supported this action at its May 6, 2004, meeting, and

WHEREAS, the Citizens Housing and Community Development Committee reviewed and supported this action at its May 14, 2004, meeting.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a three-year renewal agreement with Community Reinvestment Fund, Inc. for loan servicing of existing and future loans.

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager, or his designee, to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: 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
WHEREAS, the Annual Budget of the City of Modesto is recommended for adoption, and Proposition 4 of the California State Constitution requires the City to establish an appropriation limit calculation for the Fiscal Year 2004-2005, and

WHEREAS, Article XIIIIB of the California Constitution specifies that appropriations made by State and local governments may increase annually by a factor comprised of the change in population combined with either the change in California per capita personal income or the change in the local assessment roll due to local nonresidential construction, and

WHEREAS, the attached schedule shows the preferred price and population factors to be used and the appropriation limit with the recommended factors in calculating the limit are the price factor of "state growth in per capita income" and the population factor of "growth rate in Stanislaus County", and

WHEREAS, a copy of said report is on file in the City of Modesto Finance Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appropriation limit calculation is established as shown on Attachment A, attached hereto, and made a part hereof.

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 22nd day of June, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following votes:

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: MIKE MILICH, City Attorney
EXHIBIT "G"
FY2004-2005
PROPOSITION 4
APPROPRIATION LIMIT CALCULATION

FY2003-2004 Appropriation Limit $251,886,032

Adjustment Factors

Per Capita Personal Income Change 3.28%
Population Change (Modesto) 1.32%

Per Capita converted to a ratio 1.0328
Population converted to a ratio 1.0132

Calculation of factor for FY2004-2005 1.0464

Adjustment $11,687,512

FY2004-2005 Appropriation Limit $263,573,544

Article XIIIIB places a limit on most, but not all, government revenue sources. The limit applies to appropriations from proceeds of taxes from both the general fund and special funds of government entities. Proceeds of taxes include tax revenues, interest earnings on invested tax revenues, and any revenues collected by a regulatory license fee or user charge in excess of the amount needed to cover the cost of providing the regulation, product, or service.

Appropriations from nontax revenues, including the City’s enterprise funds, are not subject to the limit. Enterprise fund expenditures for fiscal year 2004/05 are estimated to be $102 million. We are significantly below the limit when we exclude these expenditures from the calculation.
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-323

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(566) (SIGNATURE THEATRES)

WHEREAS, a verified application for an amendment to Section 8-3-9 of the Zoning Map was filed by Signature Theatres on December 17, 2003, to reclassify from Highway Commercial Zone, C-3, to Planned Development Zone, P-D(566), to allow expansion of an existing movie theater, property located at 3969 McHenry Avenue, described as follows:

All that portion of the northeast ¼ of the northeast ¼ of section 8, Township 3 South, Range 9 East, M.D.B. & M., City of Modesto, County of Stanislaus, State of California, described as follows:

Parcel A of that certain Map filed in Vol. 25 of Parcel Maps at Page 37, Stanislaus County Records;

Also including the Westerly ½ of McHenry Avenue, all being adjacent to the above-described property.

WHEREAS, after a public hearing held on April 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. 2004-22, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The project site is large enough to accommodate the proposed planned development zone for movie theaters and associated off-street parking, and is located on a principal arterial (which is also a State highway), and therefore will not result in adverse impacts to the adjacent residential neighborhoods.

2. Due to the specifics of the existing and proposed site design features (masonry wall separating residential, reduction in number of driveways), the proposed Planned Development Zone is compatible with existing and potential surrounding development.
WHEREAS, said matter was set for a public hearing of the City Council to be held on May 25, 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 Signature Theatres 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. 2004-22 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3352-C.S. on the 25th day of May, 2004, reclassifying the above-described property from Highway Commercial Zone, C-3, to Planned Development Zone, P-D(566).

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(566), is hereby approved subject to the following conditions:

1. All development shall conform to the site plan and elevations titled “Signature Theatres 14-Screen Cinema Renovation” as amended in red, stamped approved by the City Council, including extension of the north (inbound) side of the center and south driveways, consistent with City of Modesto Standard Specifications Table 10.2.

2. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Chief Building Official. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

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

4. Prior to the issuance of a building permit, the developer shall submit a plan to provide on-site treatment of storm water, as
approved by the Operations and Maintenance Director. Storm drain improvements shall be constructed in accordance with the approved plans.

5. Existing overhead and underground electric facilities shall be removed, protected, or relocated as required by the Modesto Irrigation District and the Engineering and Transportation Director.

6. Street dedication consistent with Standard Specifications, and as shown on the approved site plan, shall be made prior to the issuance of a building permit or at any time requested by the Engineering and Transportation Director to alleviate a health, safety, or traffic problem in the area.

7. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the Engineering and Transportation Director. Improvements shall be constructed in accordance with the approved plans.

8. Ten-foot-wide public utility easements and four-foot planting easements located within the ten-foot-wide public utility easements shall be dedicated along all street frontages as required by the Engineering and Transportation Director.

9. Prior to issuance of a building permit the developer shall dedicate public utility easements as required by the utility companies and the Engineering and Transportation Director.

10. All signs shall comply with the sign requirements of the C-3 Zone.

11. All outdoor lighting shall be shielded from adjacent residential properties as required by the Engineering and Transportation Director.

12. 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.
13. At the time McHenry Avenue is widened, and the public improvements along the theater parcel frontage are relocated, the developer shall physically modify the project site to provide a minimum eight-foot-net landscaped setback for all parking areas along McHenry Avenue.

In addition, the following mitigation measures from the approved Modesto Urban Area General Plan Master EIR should be included as Conditions of Approval:

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

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

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

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

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

   b. An impact wrench, or other tool or equipment powered by compressed air.

   c. A hand-powered saw.

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

   e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

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

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

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

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(566):

The entire construction program be accomplished in one phase, construction to begin on or before May 25, 2006, and completion to be not later than May 25, 2008.
SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

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

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(566), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: JEAN ZAHR, City Clerk

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

APPROVED AS TO LEGAL DESCRIPTION
By: Steve Mitchell
Community & Economic Development Planning Division

06/22/04/C&ED/Brad Wall/Item 24 6 2004-323
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-324

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING SECTION 8-3-9 OF THE ZONING MAP TO REZONE FROM HIGHWAY COMMERCIAL ZONE, C-3, TO PLANNED DEVELOPMENT ZONE, P-D(566), PROPERTY LOCATED AT 3969 McHENRY AVENUE (SIGNATURE THEATRES)

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

WHERAS, Signature Theatres has proposed the zoning designation for the property located at 3969 McHenry Avenue be amended to rezone from Highway Commercial, C-3, to Planned Development Zone, P-D(566), in the City of Modesto (“the project”), to allow expansion of an existing movie theater, and

WHERAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHERAS, the City’s Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED No. 2004-23 (“Initial Study”) reviewed the proposed amendment to the zoning map and rezone to P-D(566) project to determine whether the project is within the scope of the project covered by the
Modesto Urban Area General Plan Master EIR ("Master EIR"), and made the
determination that the proposed project will have no additional significant effect on the
environment that was not identified in the Master EIR, and further, that no or new
additional mitigation measures or alternatives are required, and that, therefore, the
proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on May 4,
2004, the City caused to be published a 20-day notice of the City's intent to make a
finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly
noticed public hearing which was held on May 25, 2004, at 5:30 p.m., in the Tenth Street
Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of
Modesto that the Council has reviewed and considered the Initial Study prepared for the
proposed amendment to the zoning map and rezone to P-D(566) project, a copy of which
is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on the
substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the
Master EIR (SCH No. 1999082041) as being within the scope of
the Master EIR.

2. That the project will have no new significant effects on the
environment not identified or examined in the Master EIR, and no
new or additional mitigation measures are required.
3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

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

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 22nd day of June 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 ZAFFR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ________________________________

MICHAEL D. MILICH, City Attorney
EXHIBIT A

Initial Study

EA/C&ED No. 2004-23
Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. 2004-23

For the proposed:

Rezone to Planned Development for Signature Theatres expansion

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

March 31, 2004
City of Modesto  
Master EIR Initial Study Checklist

I. PURPOSE

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

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

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

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

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

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

II. PROJECT DESCRIPTION

A. Title: Rezone to Planned Development for Signature Theatres Expansion

B. Address or Location: 3969 McHenry Avenue

C. Applicant: Signature Theatres  
1600 Broadway, Suite 150  
Oakland CA 94612

D. City Contact Person:

Project Manager: Brad Wall  
Department: Community & Economic Development  
Phone Number: (209) 577-5282  
E-mail address: bwall@modestogov.com

E. Current General Plan Designation: C – Commercial
F. Current Zoning Classification(s): C-3, Highway Commercial

G. Surrounding Land Uses: North: Mobile home park
   South: Mini-storage
   East: McHenry Avenue / Commercial
   West: Single-family residential

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

   The applicant seeks plot plan approval for a four-screen, 12,328 square-foot, addition to an existing ten-screen movie theater complex. The project site is in an urbanized area, surrounded by a mixture of residential and commercial uses.

I. Other Public Agencies Whose Approval is Required: None

III. FINDINGS / DETERMINATION

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

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

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

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

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

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

   Project Manager

   ASSOCIATE PLANNER 3/31/04
   Title
   Date
4. Within the Scope Analysis of this Document:

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

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

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

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

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

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

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

5. Currency of the Master EIR Document

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

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

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

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

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

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

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

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

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

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

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

c. Project-Specific Effects

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

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

YES NO

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

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

YES NO

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

(3) Result in inadequate emergency access.

(4) Result in inadequate parking capacity.
Discussion:

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

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

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

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

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

These are also cumulative impacts on air quality.

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

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

c. Project-Specific Effects

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

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

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

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

The project would expose sensitive receptors to substantial pollutant concentrations.
(5) The project would create objectionable odors affecting a substantial number of people.  

Discussion:

The proposed project would not result in long-term air quality-related impacts, as it is simply an addition to an existing office building. However, in order to minimize any short-term air quality-related impacts associated with construction, the appropriate mitigation measures will be applied from the MEIR.

3. NOISE

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

c. Project-Specific Effects

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

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

YES NO

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

(2) The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.
(3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? □ X

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

Discussion:

The proposed project will not result in any substantial increase in noise levels that exist without the project, and construction-related noise is limited per the City of Modesto Municipal Code. The appropriate mitigation measures will be applied from the MEIR.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

c. Project-Specific Effects

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

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

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. □ X
(2) The project will directly result in the development of land outside the March 2003 planning area boundaries. ☑ X

(3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract. ☑ X

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

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

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

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

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

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<tr>
<th>Threshold</th>
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Discussion:

Water supplies are available to serve the proposed development.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>(1)</td>
<td>X</td>
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<tr>
<td>(2)</td>
<td>X</td>
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</table>

Discussion:

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

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

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

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

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.
b. Master EIR and/or New Mitigation Measures Applied to the Project

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

c. Project-Specific Effects

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

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

YES NO

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

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

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

Discussion:

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

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

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

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

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.
The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

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

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

c. Project-Specific Effects

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

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

YES NO

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

Discussion:

The proposed office building expansion would have absolutely no impact whatsoever on archaeological / historical sites.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

c. Project-Specific Effects

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

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

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<th>YES</th>
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<tbody>
<tr>
<td>1</td>
<td>The project is inconsistent with the Modesto Urban Area General Plan.</td>
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<tr>
<td>2</td>
<td>The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.</td>
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</tr>
<tr>
<td>3</td>
<td>Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.</td>
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Discussion:

The proposed office building addition would not substantially increase the rate nor amount of surface runoff. Furthermore, the storm water drainage system will accommodate all on-site runoff.
10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

c. Project-Specific Effects

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

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

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

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

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

Discussion:

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

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

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

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<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
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12. SCHOOLS

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

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

1. The project is inconsistent with the Modesto Urban Area General Plan. ☐ X
2. The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures, which provide that compliance results in less-than-significant impacts on schools.

Discussion:
The proposed office expansion would have no impact to schools.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

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

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

Discussion:

The proposed project would have no effect relative to provision of police services.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

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

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

YES NO

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

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

Discussion:

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

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

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

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

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

2. The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.

**Discussion:**

The proposed project will have not impact relative to solid waste.

16. **HAZARDOUS MATERIALS**

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

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

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

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

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

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

c. **Project-Specific Effects**

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

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

(2) The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. X

(3) The project contains a contaminated site not identified as of March 2003. X

(4) The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. X

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

Discussion:
The proposed project would have no impacts relative to hazardous materials.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

c. Project-Specific Effects

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

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

YES  NO

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

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

Discussion:
The proposed office addition would have no potential to increase risks associated with landslides or seismic activity.

18. ENERGY

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

c. Project-Specific Effects

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

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

YES NO

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

19. PLANNING AND LAND USE

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

a. Project-Specific Effects

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

YES NO

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

(2) The project includes a substantive amendment to the Modesto Urban Area General Plan. □ X

(3) The project would physically divide an established community. □ X

Discussion:

The proposed office addition is consistent with the Modesto Urban Area General Plan, and would not physically divide an established community.

20. AESTHETICS

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

a. Project-Specific Effects

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

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

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

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

Traffic and Circulation Measures: N/A

Air Quality Measures:

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

B. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by prescaking.
**Noise Measures:**

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

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

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

**Agricultural Land Measures:** N/A

**Water Supply Measures:** N/A

**Sanitary Sewer Service Measures:** N/A
Sensitive Wildlife and Plant Habitat Measures: N/A

Archaeological or Historic Sites Measures:

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

Storm Drainage Measures: N/A

Flooding and Water Quality Measures: N/A

Parks and Open Space Measures: N/A

Schools Measures: N/A

Police Services: N/A

Fire Services: N/A

Generation of Solid Waste: N/A

Generation of Hazardous Materials: N/A

Potential for Landslides and Seismic Activity: N/A

Energy: N/A

Planning and Land Use: N/A

Aesthetics: N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: None.
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-325

A RESOLUTION DENYING THE APPEAL OF ANTHONY LANGFORD TO A
PLANNING COMMISSION DECISION APPROVING THE PAPILLON PARK
VESTING TENTATIVE SUBDIVISION MAP

WHEREAS, Modesto Municipal Code Section 4-4.404 authorizes the Planning Commission to take action on proposed subdivision maps, and

WHEREAS, on February 9, 2004, Marilyn Shroyer submitted an application for a vesting tentative subdivision map entitled Papillon Park, and

WHEREAS, the Planning Commission considered the application at its regularly scheduled meeting on April 19, 2004, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which meeting evidence both oral and documentary was received and considered, and

WHEREAS, the Planning Commission continued the hearing to May 17, 2004, in order to allow the applicant an opportunity to discuss design alternatives with his client, and

WHEREAS, the continued Planning Commission hearing was held on May 17, 2004, in Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which meeting evidence both oral and documentary was received and considered, and

WHEREAS, the Planning Commission approved the vesting tentative subdivision map entitled Papillon Park, because the proposed subdivision map, together with the provisions for design and improvements, was deemed consistent with the Modesto Urban Area General Plan, the City of Modesto Municipal Code and State of California Subdivision Map Act, and

WHEREAS, an appeal to the Planning Commission’s approval of the Papillon Park vesting tentative subdivision map was filed with the Office of the City Clerk by
Anthony Langford, together with other residents of the Havenbrook neighborhood, on May 25, 2004, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council at its regular meeting place located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at 5:30 p.m. on June 22, 2004, and

WHEREAS, after said public hearing the Council of the City of Modesto found and determined that the appeal to the decision of the Planning Commission should be denied and the decision of the Planning Commission should be affirmed for the following reason:

The proposed vesting tentative subdivision map entitled Papillon Park, together with the provisions for its design and improvements, is consistent with the Modesto Urban Area General Plan, the City of Modesto Municipal Code, and the State of California Subdivision Map Act.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of Anthony Langford, and the other residents of the Havebrook neighborhood to the decision of the Planning Commission approving the Papillon Park vesting tentative subdivision map is denied and the decision of the Planning Commission is hereby affirmed for the reasons set forth in Planning Commission Resolution No. 2004-27 and quoted above.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June 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. 2004-326

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

WHEREAS, this Council did, on May 11, 2004, adopt its Resolution No. 2004-249 (the “Resolution of Intention to Annex”) to indicate its intention to annex certain territory to the City’s Community Facilities District No. 2004-1 (Village One #2) (the “District”) and authorize the levy of the District special taxes within the territory proposed to be annexed (the “Annexed Territory”), pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”), and set a hearing thereon; and

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

WHEREAS, a map of the Annexed Territory, entitled “Annexation Map No. 2 of Community Facilities District No. 2004-1 (“Village One #2) of the City of Modesto, County of Stanislaus, State of California,” was recorded on May 21, 2004, in the Office of the County Recorder of the County of Stanislaus, in Book 3 of Maps of Assessment and Community Facilities Districts, at page 91; and
WHEREAS, at the time and date set for the hearing (June 22, 2004) pursuant to the Resolution of Intention to Annex, this Council held the public hearing, as required by the Act, related to the proposed annexation and the levy of the District special taxes within the Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex; and

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

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

WHEREAS, written protests against the proposed annexation and the levy of the District special taxes within the Annexed Territory have not been filed with the City Clerk by fifty percent or more of the registered voters or six registered voters, whichever is more, residing within the District or residing within the District or residing within the Annexed Territory, or the owners of one-half or more of the land in the District, or in the Annexed Territory; and
WHEREAS, the Stanislaus County Registrar of Voters has certified there are less than 12 registered voters residing in the Annexed Territory; accordingly, the qualified electors are the landowners; and

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

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

SECTION 1. The foregoing recitals are true and correct.

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

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

SECTION 4. As stated in the Resolution of Intention to Annex, it is the intention of this Council, subject to the approval of the qualified electors of the Annexed Territory, to annex the Annexed Territory to the District and levy the District special taxes within the Annexed Territory. Upon such approval the Council will be authorized to levy the District special taxes within the Annexed Territory.
SECTION 5. A special election is hereby called at which the question of levying the District special taxes within the Annexed Territory shall be submitted to the qualified electors of the Annexed Territory. The election shall be held in accordance with and subject to the Act, all of the terms of which shall, unless waived as herein provided, be applicable to such election. The ballot measure shall be substantially in the form attached hereto as Exhibit A.

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

Since the City Clerk has received appropriate waivers of time limits and other requirements pertaining to the conduct of the election by each of the owners of land in the Annexed Territory (collectively, the "Landowners"), the election shall be held on the 22nd day of June 2004. The election shall be conducted by the City Clerk in the manner required by this resolution, the Act and applicable laws.

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

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

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

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

SECTION 11. The City Clerk shall canvass the returns and certify the results of the election to this Council. If two-thirds or more of the votes cast are in favor of levying the District special taxes in the Annexed Territory, this Council may thereafter, order the annexation of the Annexed Territory to the District and levy the District special taxes in the Annexed Territory in the amount and for the purposes specified in Resolution No. 2004-199 adopted by this Council on April 6, 2004 (the “Resolution of Formation”). The Special Tax will be levied only at the rate and apportioned only in the manner specified in the Resolution of Formation.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June 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

(SEAL)

APPROVED AS TO FORM:

By:  

MICHAEL D. MILICH, City Attorney
SAMPLE

OFFICIAL BALLOT

BALLOT NO. ___

CITY OF MODESTO
COMMUNITIES FACILITIES DISTRICT NO. 2004-1
(VILLAGE ONE #2)
ANNEXATION NO. 2
SPECIAL TAX ELECTION
June 22, 2004

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

........................................................................................................

INSTRUCTIONS TO VOTERS

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

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

MARK YOUR CHOICE IN THIS MANNER ONLY: ☐

MEASURE SUBMITTED TO VOTE OF VOTERS

Proposition A. Shall special taxes, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City’s Resolution No. 2004-199, entitled “A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 2004-1 (Village One #2), Authorizing the Levy of Special Taxes within the District, Preliminarily Establishing an Appropriations Limit for the District, and Calling an Election for the Purpose of Submitting the Levy of the Special Taxes and the Establishment of the Appropriations Limit to the Qualified Electors of the District” (the “Resolution of Formation”), adopted by the City Council of the City of Modesto on April 6, 2004, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to City of Modesto Community Facilities District No. 2004-1 (Village One #2) pursuant to the City’s Resolution No. 2004-249, entitled “A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special Taxes therein (Annexation No. 2)” (the “Resolution of Intention to Annex”) adopted by the City Council of the City of Modesto on May 11, 2004, for the purposes set forth in the Resolution of Formation?

BALLOT NO. ___

___% of land in territory proposed to be annexed to District

THIS BALLOT HAS A VALUE OF ___ VOTES

WHEREAS, this Council is conducting proceedings pertaining to the annexation of certain territory to the City’s Community Facilities District No. 2004-1 (Village One #2) (the “District”) and the levy of the District special taxes (the “District Special Taxes”) within such territory, as described in its Resolution No. 2004-249, entitled “A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special Taxes therein [Annexation No. 2]” adopted on May 11, 2004, pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”); and

WHEREAS, the owners of all the property within the territory proposed to be annexed to the District waived those provisions related to the timing and conduct of the election referenced in Sections 5, 6, 7 and 8 of this Council’s Resolution No. 2004-326, adopted on June 22, 2004, and, as a result, this Council called an election within the territory proposed to be annexed to the District (the “Election”) for June 22, 2004, relative to the foregoing; and

WHEREAS, on June 22, 2004, the Election was held; and

WHEREAS, the City Clerk has certified that at the Election the proposition of levying the District Special Taxes within the territory proposed to be annexed to the District was approved by more than two-thirds (2/3) of the votes cast at the Election;
NOW, THEREFORE, BE IT RESOLVED, ORDERED AND FOUND by the City Council of the City of Modesto that:

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

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

SECTION 3. Pursuant to Section 5339.8 of the Act, it is hereby ordered that the territory proposed to be annexed to the District pursuant to Resolution No. 2004-249 be annexed to and be a part of the District with full legal effect, and that the District Special Taxes be levied within the territory so annexed.

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

SECTION 5. The City Clerk is further authorized and directed to record an amendment to the Notice of Special Tax Lien with the County Recorder of the County of Stanislaus, within 15 days from the date hereof, in accordance with the provisions of Sections 3114.5 and 3117.7 of the California Streets and Highways Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers:  None

ABSENT: Councilmembers:  None

ATTEST:  
JEAN ZAHR, City Clerk

(Seal)

APPROVED AS TO FORM

By:  
Michael D. Milich, City Attorney
CERTIFICATE OF CITY CLERK

I, JEAN ZAHR, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2004-326, A Resolution of the City Council of the City of Modesto Calling an Election for the Purpose of Submitting the Levy of the City of Modesto Community Facilities District No. 2004-1 (Village One #2) Special Taxes to the Qualified Electors of the Territory Proposed to be Annexed to the District (Annexation No. 2) adopted on June 22, 2004, by the City Council of the City of Modesto, I did conduct the Special Tax Election on June 22, 2004, and that the election was conducted by mail or in person at the City Hall of the City of Modesto.

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

Proposition A. Shall special taxes, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City’s Resolution No. 2004-199, entitled “A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 2004-1 (Village One #2), Authorizing the Levy of Special Taxes within the District, Preliminarily Establishing an Appropriations Limit for the District, and Calling an Election for the Purpose of Submitting the Levy of the Special Taxes and the Establishment of the Appropriations Limit to the Qualified Electors of the District” (the “Resolution of Formation”), adopted by the City Council of the City of Modesto on April 6, 2004, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to City of Modesto Community Facilities District No. 2004-1 (Village One #2) pursuant to the City’s Resolution No. 2004-249, entitled “A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special Taxes therein (Annexation No. 2)” (the “Resolution of Intention to Annex”) adopted by the City Council of the City of Modesto on May 11, 2004, for the purposes set forth in the Resolution of Formation?

TOTAL VOTES CAST: YES 125  NO 0

Jean Zahr
City Clerk of the City of Modesto
Dated: June 25, 2004
A RESOLUTION APPROVING AN ACQUISITION AND SHORTFALL AGREEMENT WITH DEL VALLE HOMES, A CALIFORNIA CORPORATION

WHEREAS, the City Council has conducted proceedings pursuant to Mello-Roos Community Facilities Act of 1985 to form City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "District"); and

WHEREAS, in connection therewith there has been presented to this City Council the form of an Acquisition and Shortfall Agreement (the "Agreement") by and between the District and Del Valle Homes, a California Corporation (the "Developer") for the construction and acquisition of authorized facilities; and

WHEREAS, the maximum reimbursement amount of the Agreement is $1,055,136.05;

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Council of the City of Modesto that the Acquisition and Shortfall Agreement between City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and Del Valle Homes, a California Corporation, be hereby approved, that the District Administrator is hereby authorized to execute the Acquisition and Shortfall Agreement and that the maximum reimbursement amount shall not exceed $1,055,136.05.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June 2004, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES:    Councilmembers:  None

ABSENT:  Councilmembers:  None

ATTEST:  

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney
A RESOLUTION APPROVING AN ACQUISITION AND SHORTFALL AGREEMENT WITH DEL VALLE HOMES, A CALIFORNIA CORPORATION

WHEREAS, the City Council has conducted proceedings pursuant to Mello-Roos Community Facilities Act of 1985 to form City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the “District”); and

WHEREAS, in connection therewith there has been presented to this City Council the form of an Acquisition and Shortfall Agreement (the “Agreement”) by and between the District and Del Valle Homes, a California Corporation (the “Developer”) for the construction and acquisition of authorized facilities; and

WHEREAS, the maximum reimbursement amount of the Agreement is $8,732,972.72;

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Council of the City of Modesto that the Acquisition and Shortfall Agreement between City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and Del Valle Homes, a California Corporation, be hereby approved, that the District Administrator is hereby authorized to execute the Acquisition and Shortfall Agreement and that the maximum reimbursement amount shall not exceed $8,732,972.72.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June 2004, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By  
MICHAEL D. MILICH, City Attorney
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO, ACTING AS THE LEGISLATIVE BODY OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE), AUTHORIZING THE SALE AND ISSUANCE OF SPECIAL TAX BONDS OF SAID COMMUNITY FACILITIES DISTRICT, APPROVING DOCUMENTS RELATING THERETO AND AUTHORIZING AND DIRECTING CERTAIN RELATED ACTIONS

WHEREAS, the City Council of the City of Modesto acting as the legislative body of City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (hereinafter sometimes referred to as the “legislative body of the Community Facilities District” or the “City Council”) has heretofore undertaken proceedings and declared the necessity to issue bonds on behalf of City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the “Community Facilities District”) pursuant to the terms and provisions of the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Part 1, Division 2, Title 5, of the Government Code of the State of California (the “Act”); and

WHEREAS, based upon a resolution adopted by the legislative body of the Community Facilities District on December 11, 2003 and an election held on December 11, 2003 authorizing the issuance of bonds by the Community Facilities District, the Community Facilities District is now authorized to issue bonds in one or more series, pursuant to the Act, in an aggregate principal amount not to exceed $25,000,000; and
WHEREAS, the legislative body of the Community Facilities District intends to accomplish the financing of the purchasing, constructing, expanding, improving or rehabilitating certain public improvements and appurtenances and appurtenant work in connection with the foregoing (the "Facilities") and the incidental expenses incurred and to be incurred in connection with financing the facilities, including costs associated with the creation of the Community Facilities District and the issuance of bonds and the establishment of a bond reserve fund (the “Incidental Expenses”) through the issuance of bonds designated as the “City of Modesto Community Facilities District No. 2003-1 (Fairview Village) Special Tax Bonds Series 2004” (the “Bonds”); and

WHEREAS, the Community Facilities District has determined all requirements of the Act for the issuance of the Bonds have been satisfied; and

WHEREAS, in connection with the authorization, sale and issuance of the Bonds and the acquisition and construction of the facilities, forms of the following documents have been presented to this City Council for approval:

1. the Trust Indenture, dated as of July 1, 2004, by and between BNY Western Trust Company, as trustee (the “Trustee”), and the Community Facilities District (the “Indenture”);

2. the Continuing Disclosure Agreement, dated as of July 1, 2004 by and between BNY Western Trust Company as dissemination agent (the “Dissemination Agent”), and the Community Facilities District (the “Continuing Disclosure Agreement”);

3. the Preliminary Official Statement relating to the Bonds (the “Preliminary Official Statement”); and

4. the Bond Purchase Agreement relating to the Bonds (the “Bond Purchase Agreement”) by and between the Community Facilities District and UBS Financial Services Inc. (the “Underwriter”); and
WHEREAS, the rate and method of apportionment of special tax heretofore approved for the Community Facilities District (the "Rate and Method of Apportionment") is unclear with respect to the includability of amounts to pay "Administrative Expenses" in the "Annual Facilities Special Tax Requirement" (as each such term is defined in the Rate and Method of Apportionment), and the City Council wishes to make it clear that such amounts are includable therein;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO, ACTING AS THE LEGISLATIVE BODY OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE), DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. The above recitals, and each of them, are true and correct.

SECTION 2. The proposed forms of the Indenture and the Continuing Disclosure Agreement are hereby approved; and the District Administrator and the City Clerk are hereby authorized and directed for and in the name and on behalf of the Community Facilities District to execute, acknowledge and deliver to the respective other parties, the Indenture and the Continuing Disclosure Agreement in substantially said forms, with such additions thereto, completions thereof and/or changes therein as the officers executing the same may approve as necessary or desirable (consistent with the provisions of this Resolution and with form of the Bond Purchase Agreement approved pursuant hereto), such approval to be conclusively evidenced by the execution and delivery thereof.
SECTION 3. The issuance of the Bonds pursuant to the Indenture in an aggregate principal amount (not in excess of $5,000,000) approved by the District Administrator or his or her designee (the "District Administrator") as being necessary and appropriate in order to provide financing for the Facilities and the Incidental Expenses and to fund the various funds and accounts created by the Indenture in the amounts described in the Preliminary Official Statement (or as determined by the District Administrator), is hereby authorized. The Bonds shall mature on the dates and in the amounts, and bear interest at the rates, set forth in the Bond Purchase Agreement to be executed on behalf of the Community Facilities District in accordance with Section 8 hereof. The sum of (i) the aggregate principal amount of the Bonds so authorized plus (ii) the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Act on property within the Community Facilities District or a special assessment levied on such property (as shown in the Preliminary Official Statement under the caption "THE COMMUNITY FACILITIES DISTRICT – Direct and Overlapping Debt") does not exceed one-third of the value of the property within the Community Facilities District that will be subject to the Special Tax, as such value is estimated in an appraisal prepared for the Community Facilities District by Bender Rosenthal, Inc. of Sacramento, California (a copy of which is set forth in Appendix B to the Preliminary Official Statement).

SECTION 4. In connection with the issuance of the Bonds, the District Administrator is hereby authorized and directed for and in the name and on behalf of the Community Facilities District to execute, acknowledge and deliver to the respective other parties such additional agreements, as the officer executing the same may approve.
(including, but not limited to an Investment Agreement, as defined in the Indenture) as necessary or desirable to provide reductions in the yields of Bonds or additional debt service relief or cash flow savings or increased payments to the Community Facilities District, such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 5. The form of the Bonds, as set forth in the form of the Indenture (as the Indenture may be modified pursuant to Section 2 hereof), is hereby approved; and the Mayor and the City Clerk are hereby authorized and directed to execute them by manual or facsimile signature in the name and on behalf of the Community Facilities District.

SECTION 6. The proposed form of the Preliminary Official Statement is hereby approved with such changes thereto as may be approved by the District Administrator in order to make such Preliminary Official Statement final as of its date, except for the omission of certain information, as permitted by Section 240.15c2-12(b)(1) of Title 17 of the Code of Federal Regulations (the “Rule”); and the distribution of the Preliminary Official Statement in connection with the sale of the Bonds, with such changes included, is hereby authorized. The District Administrator is authorized and directed to execute and deliver a certificate relating to compliance with the Rule. The Mayor and the District Administrator are each authorized and directed, jointly and severally, to execute and deliver to the Underwriters a final Official Statement in substantially the form of the Preliminary Official Statement hereby approved with such changes as may be approved by the officer executing said document as necessary or desirable, such approval to be conclusively evidenced by the execution and delivery thereof; and the distribution of such final Official Statement in connection with the sale of the Bonds is hereby authorized.
SECTION 7. In accordance with the provisions of Section 53360.4 of the Act, the City Council hereby finds and determines that a negotiated sale of the Bonds to the Underwriters in accordance with the terms of the Bond Purchase Agreement will result in a lower overall cost to the Community Facilities District than a sale conducted pursuant to Section 53360 of the Act.

SECTION 8. The proposed form of the Bond Purchase Agreement and the sale of the Bonds pursuant thereto are hereby approved, provided that (a) the aggregate purchase price of the Bonds (exclusive of any original issue discount) shall not be less than ninety-eight percent (98%) of the original aggregate principal amount of the Bonds, (b) any original issue discount shall conform to the City’s policies with respect thereto, (c) the true interest cost of the Bonds shall not exceed six and three quarters percent (6.75%), (d) the final maturity of the Bonds shall be not later than September 1, 2034 and (e) the maturity dates and purchase price of and interest rates and original issue discount applicable to the Bonds shall have been approved by the District Administrator; and, subject to such approval, the District Administrator is hereby authorized and directed to evidence the Community Facilities District’s acceptance of the offer made by said Bond Purchase Agreement by executing and delivering to the Underwriters said Bond Purchase Agreement in said form with such changes therein as the officer executing the same may approve as necessary or desirable, such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 9. In voting to approve the Rate and Method of Apportionment, the City Council intended that the Rate and Method of Apportionment should provide for the payment of “Administrative Expenses” in the same manner as is provided for the
payment of administrative expenses in the rate and method of apportionment of special
tax applicable to City of Modesto Community Facilities District No. 2004-1 (Village One
#2). That rate and method of apportionment of special tax permits the proceeds of the
annual tax for facilities to be used to pay for administrative expenses. Del Valle Capital
Corporation, Inc., the owner of all of the taxable property within the Community
Facilities District (the "Owner"), which cast all of the votes at the election that approved
the Rate and Method of Apportionment, has advised the City Council that it intended a
similar result in voting for the Rate and Method of Apportionment. Moreover, the last
paragraph of Section F of the Rate and Method of Apportionment clearly contemplates
that the "Annual Facilities Special Tax" may be used to pay for "Administrative
Expenses;" and all of the analysis of the financing capacity of the Community Facilities
District that were presented to the Owner on behalf of the Community Facilities District
included "Administrative Expenses" in the calculation of the maximum "Annual
Facilities Special Tax." In order to make it clear that the "Annual Facilities Special Tax"
may be used to pay for "Administrative Expenses," the phrase "Annual Facilities Special
Tax Requirement" should be interpreted to include amounts necessary to pay
"Administrative Expenses," and the City Council hereby adopts that interpretation and
authorizes and directs the District Administrator and all other officers, employees and
agents of the Community Facilities District to apply and administer the Rate and Method
of Apportionment consistently therewith. Terms in this Section that appear in quotation
marks shall have the respective meanings ascribed to them in the Rate and Method of
Apportionment.
SECTION 10. In the event the Mayor is unavailable to execute and deliver any of the documents that the Mayor is authorized and directed to execute and deliver pursuant to the terms of this Resolution, then any other member of this City Council is hereby authorized and directed to do so. In the event that the District Administrator is unavailable to execute and deliver any of the documents that the District Administrator is authorized to execute and deliver pursuant to the terms of this Resolution, then each of the City Manager and the designee of the District Administrator is hereby authorized and directed to do so.

SECTION 11. The Mayor and the District Administrator and other officers of the City of Modesto are hereby authorized and directed, jointly and severally, to execute and sign any and all approvals, certificates, statements, requests, requisitions and orders of the Community Facilities District in connection with the issuance of the Bonds; and any action specifically authorized or directed by this Resolution to be undertaken by any of such officers may be undertaken by either of the others with the same force and effect as if it had been undertaken by the officer specifically authorized or directed to do so.

SECTION 12. If and to the extent that any provision of this Resolution or of any of the documents approved pursuant hereto is inconsistent with the City’s policies and procedures for the formation, annexation and administration of community facilities districts, said policies and procedures are hereby waived.

SECTION 13. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of
such section, paragraph or provision shall not affect any remaining provisions of this Resolution.

SECTION 14. This Resolution shall take effect from and after its adoption.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June 2004, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-331

A RESOLUTION RECOGNIZING
“JULY IS RECREATION AND PARKS MONTH”

WHEREAS, July is the month nationwide that kicks off the summer season; whether playing sports, visiting our local parks, participating in recreation programs or just spending time outdoors, July is a great time for families and friends to enjoy all of the park and recreation amenities Modesto has to offer, and

WHEREAS, that is why the Modesto City Council has joined forces with the National Recreation and Park Association, the California Park and Recreation Society and cities nationwide to designate July as “Recreation and Parks Month”, and

WHEREAS, the National Recreation and Park Association, the California Park and Recreation Society and City of Modesto are creating community and enhancing neighborhoods through people, parks, programs and facilities, and

WHEREAS, parks and recreation activities and leisure experiences in Modesto provide opportunities for young people to live, grow and develop into contributing members of society, and

WHEREAS, parks and recreation in Modesto creates lifelines and continues life experiences for older members of our community, and

WHEREAS, parks and recreation generate opportunities for residents of Modesto to come together and experience a sense of community through fun recreational pursuits, and

WHEREAS, park and recreation agencies provide outlets for physical activities, socialization and stress-reducing experiences, and

WHEREAS, parks, playgrounds, ball fields, non-motorized trails, open spaces, community and cultural events, and historic sites make a community attractive and a
desirable place to live, work, play and visit and contribute to Modesto’s ongoing economic vitality, and

WHEREAS, parks, greenways and open spaces provide a welcome respite from our fast-paced, high-tech lifestyles while protecting and preserving our natural environment, and

WHEREAS, parks and recreation agencies touch the lives of individuals, families, groups and the entire community, which positively impacts upon the social, economic, health and environmental quality of our community,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby encourages all residents to enjoy Modesto’s parks and recreation amenities by participating in their choice of pleasurable activities to experience refreshment from their leisure time.

BE IT FURTHER RESOLVED that the Council of the City of Modesto hereby recognizes July as “Recreation and Parks Month.”

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2004, by Councilmember Jackman who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

APPROVED AS TO FORM:

By: [Signature]

MICHAEL D. MILICH, City Attorney

Attest: [Signature]

JEAN ZAHN, City Clerk

07/06/04/PR&N/1, Niskanen/Item 02

2004-331
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-332

A RESOLUTION APPOINTING MAYOR JIM RIDENOUR TO REPLACE COUNCILMEMBER HAWN AS A MEMBER OF THE CITY-COUNTY CAPITAL IMPROVEMENTS AND FINANCING AGENCY.

WHEREAS, Councilmember Brad Hawn has requested to be replaced as a member of the City-County Capital Improvements and Financing Agency (JPA).

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby appoints Mayor Jim Ridenour to replace Councilmember Brad Hawn as a member of the Commission of the City-County Capital Improvements And Financing Agency.

BE IT FURTHER RESOLVED that the Council hereby appoints Vice-Mayor Janice Keating to serve as an alternate commissioner.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2004, by Councilmember Jackman who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: _____________________________
JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _________________________________
MICHAEL D. MILICH, City Attorney

07/06/04/City Attorney/M Milich/Item 03 1 2004-332
WHEREAS, Article 10 of Chapter 2 of Title 3 of the Modesto Municipal Code authorizes the City Council, by resolution, to establish angle parking in the City of Modesto, and

WHEREAS, the Downtown Redevelopment Committee and representatives from the City, have requested angle parking on the east side of 8th Street between L and Jefferson Streets to supplement the parking supply from downtown Modesto and the City Corporation Yard, and

WHEREAS, City staff has reviewed the geometrics and traffic flow at this location and has concluded that angled parking can be accommodated on the east side as requested without creating a hazard and without impeding traffic flow, and

WHEREAS, the Economic Development Committee considered the additional angle parking on 8th Street at its June 7, 2004, meeting and supported staff’s recommendation,

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

SECTION 1. ANGLE PARKING. Angle parking in the City of Modesto is hereby established at the following locations:

- Portions of 10th Street, between I & K Streets (west side) (diagonal)
- 18th Street, between G and H Streets (west side) (diagonal)
- F Street, between 10th and 11th Streets (south side) (diagonal)
- I Street, between 9th and 12th Streets (both sides) (diagonal)
- P Street, between 9th and Needham Streets (both sides) (diagonal)
- Coldwell Avenue, between Tully Road and College Avenue
- 4th Street, between E Street and G Street (west side)
- 16th Street, between I Street and J Street (east side)
• Elm Street, between Jefferson and Washington Streets (diagonal)
• Jefferson Street, between 8th and Laurel Streets (diagonal)
• 13th Street, between H and L Streets (east side)
• J Street, between 7th Street and 8th Street (north side)
• 10th Street, between G Street and F Street (east side) (diagonal)
• F Street, between 10th Street and 11th Street (north side) (diagonal)
• 15th Street, between K Street and H Street (east side) (diagonal)
• F Street, between 9th Street and 10th Street (north side) (diagonal)
• 8th Street, between J Street and K Street (east side) (diagonal)
• 8th Street, between K Street and L Street (east side) (diagonal)
• Sierra Drive between F Street and 4th Street (north side)
• 8th Street between L Street and Jefferson Street (east side) (diagonal)

SECTION 2. The Engineering and Transportation Director is hereby directed to implement the provisions of this resolution.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 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, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST:  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:  
MICHAEL D. MILICH, CITY ATTORNEY
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-334

A RESOLUTION ACCEPTING IMPROVEMENTS IN FERNWOOD PHASE 2 SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION AND AUTHORIZING RELEASE OF BONDS

WHEREAS, FERNWOOD PROPERTIES LLC, a California Limited Liability Company, but its Manager Member, BENNETT DEVELOPMENT, INC., a California Corporation, is the subdivider of the Fernwood Phase 2 Subdivision, and

WHEREAS, FERNWOOD PROPERTIES LLC, a California Limited Liability Company, but its Manager Member, BENNETT DEVELOPMENT, INC., a California Corporation, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $1,001,600.00 and $500,800.00, respectively, and

WHEREAS, FERNWOOD PROPERTIES LLC, a California Limited Liability Company, but its Manager Member, BENNETT DEVELOPMENT, INC., a California Corporation, has filed a warranty bond in the amount of $100,160.00 to guarantee improvements in the Fernwood Phase 2 Subdivision, and

WHEREAS, the Engineering & Transportation Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Engineering & Transportation Department, and

WHEREAS, the Engineering & Transportation Director has indicated that it would be in order for the City Council to accept the improvements in said subdivision as complete, and authorize the City Clerk to file a Notice of Completion and release the bonds upon expiration of the statutory periods,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The improvements in the Fernwood Phase 2 Subdivision are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements.

2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $1,001,600.00 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $500,800.00 sixty (60) days after the recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee improvements in the amount of $100,160.00 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 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, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:
By
ALISON BARRATT-GREEN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-335

A RESOLUTION ACCEPTING IMPROVEMENTS IN FERNWOOD PHASE 3
SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING
THE CITY CLERK TO RECORD A NOTICE OF COMPLETION AND
AUTHORIZING RELEASE OF BONDS

WHEREAS, FERNWOOD PROPERTIES LLC, a California Limited Liability
Company, but its Manager Member, BENNETT DEVELOPMENT, INC., a California
Corporation, is the subdivider of the Fernwood Phase 3 Subdivision, and

WHEREAS, FERNWOOD PROPERTIES LLC, a California Limited Liability
Company, but its Manager Member, BENNETT DEVELOPMENT, INC., a California
Corporation, has filed irrevocable subdivision bonds to secure faithful performance and
payment for labor and materials in the amounts of $467,500.00 and $234,000.00,
respectively, and

WHEREAS, FERNWOOD PROPERTIES LLC, a California Limited Liability
Company, but its Manager Member, BENNETT DEVELOPMENT, INC., a California
Corporation, has filed a warranty bond in the amount of $46,750.00 to guarantee
improvements in the Fernwood Phase 3 Subdivision, and

WHEREAS, the Engineering & Transportation Director; in a memorandum to
Council, indicates that all work required by the Subdivision Agreement has been
completed to the satisfaction of the Engineering & Transportation Department, and

WHEREAS, the Engineering & Transportation Director has indicated that it
would be in order for the City Council to accept the improvements in said subdivision as
complete, and authorize the City Clerk to file a Notice of Completion and release the
bonds upon expiration of the statutory periods,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The improvements in the Fernwood Phase 3 Subdivision are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $467,500.00 upon recordation of the Notice of Completion.
3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $234,000.00 sixty (60) days after the recordation of the Notice of Completion, provided no claim is made thereon.
4. The City Clerk is hereby authorized to release the warranty bond to guarantee improvements in the amount of $46,750.00 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 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, Marsh, O'Bryant, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr

APPROVED AS TO FORM:

By: Alison Barratt-Green, City Attorney

07/06/04/E&T/D Leamon/Item 07 2 2004-335
RESOLUTION NO. 2004-336

A RESOLUTION ACCEPTING IMPROVEMENTS IN VILLAGE HIGHLANDS NO. 7 SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION AND AUTHORIZING RELEASE OF BONDS

WHEREAS, INLAND VILLAGE, a California General Partnership, is the subdivider of the Village Highlands No. 7 Subdivision, and

WHEREAS, INLAND VILLAGE, a California General Partnership, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $772,488.00 and $386,244.00, respectively, and

WHEREAS, INLAND VILLAGE, a California General Partnership, has filed a warranty bond in the amount of $77,248.80 to guarantee improvements in the Village Highlands No. 7 Subdivision, and

WHEREAS, the Engineering & Transportation Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Engineering & Transportation Department, and

WHEREAS, the Engineering & Transportation Director has indicated that it would be in order for the City Council to accept the improvements in said subdivision as complete, and authorize the City Clerk to file a Notice of Completion and release the bonds upon expiration of the statutory periods,

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

1. The improvements in the Village Highlands No. 7 Subdivision are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $772,488.00 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $386,244.00 sixty (60) days after the recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee improvements in the amount of $77,248.80 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 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, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By ALISON BARRATT-GREEN, City Attorney

07/06/04/E&T/D Leamon/Item 08
MODESTO CITY COUNCIL  
RESOLUTION NO. 2004-337  

A RESOLUTION ACCEPTING IMPROVEMENTS IN VILLAGE HIGHLANDS NO. 8 SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION AND AUTHORIZING RELEASE OF BONDS  

WHEREAS, INLAND VILLAGE, a California General Partnership, is the subdivider of the Village Highlands No. 8 Subdivision, and  

WHEREAS, INLAND VILLAGE, a California General Partnership, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $217,665.80 and $108,892.90, respectively, and  

WHEREAS, INLAND VILLAGE, a California General Partnership, has filed a warranty bond in the amount of $21,766.58 to guarantee improvements in the Village Highlands No. 8 Subdivision, and  

WHEREAS, the Engineering & Transportation Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Engineering & Transportation Department, and  

WHEREAS, the Engineering & Transportation Director has indicated that it would be in order for the City Council to accept the improvements in said subdivision as complete, and authorize the City Clerk to file a Notice of Completion and release the bonds upon expiration of the statutory periods,  

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

1. The improvements in the Village Highlands No. 8 Subdivision are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $217,665.80 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $108,832.90 sixty (60) days after the recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee improvements in the amount of $21,766.58 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 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, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By ALISON BARRATT-GREEN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-338

A RESOLUTION GRANTING APPROVAL FOR THE FLOYD/LINCOLN OAK INTERSECTION CONTROL TO BE CHANGED FROM A ROUNDABOUT TO A TRAFFIC SIGNAL. FUNDS ARE BUDGETED IN ACCOUNT NO. 1410-160-M194, “GROWTH RELATED NEW TRAFFIC SIGNALS.”

WHEREAS, on July 1, 2003, the City Council approved a roundabout as the traffic control device for the Floyd/Lincoln Oak intersection, and

WHEREAS, the City’s consultant, Alternate Street Design, has found that a multi-lane roundabout will need to be configured for said intersection such that it will significantly encroach upon property to the north in order to fit within existing confines of the already developed south side of Floyd Avenue, and

WHEREAS, use of a roundabout would necessitate a larger property take on the north side of Floyd Avenue as well as create access issues for the residents on the south side, while creating additional unusable pavement on the south side, and

WHEREAS, Floyd Avenue has been designated a minor collector street, four lanes wide, in the General Plan, Village One Specific and Village One Precise Plans, so a multi-lane roundabout would be required, and

WHEREAS, the capacity analysis also suggests that a traffic signal would not significantly impact traffic flow on Floyd Avenue and would yield a Level of Service B at this location, and that a single lane roundabout would fit at this intersection, but would require redesignating Floyd Avenue as a two-lane rather than a four-lane street, and

WHEREAS, a signalized intersection is equivalent in cost to a roundabout and funds are budgeted in Account No. 1410-160-M194, “Growth Related New Traffic Signals,” and
WHEREAS, the Economic Development Committee at its June 7, 2004, meeting reviewed this item and concurs with staff's recommendation that the Floyd/Lincoln Oak intersection control be changed from a roundabout to a traffic signal,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby grants approval for the Floyd/Lincoln Oak intersection control to be changed from a roundabout to a traffic signal.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July 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, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, CITY ATTORNEY
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-339

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 and revenues 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 6th day of July, 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, Marsh, O’Bryant,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: [Signature]

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]

MIKE MILICH, City Attorney
## Schedule A

### Community Facilities District FY 04-05 Operating Budgets

<table>
<thead>
<tr>
<th>Expense Fund</th>
<th>Appropriation Amount</th>
<th>Revenue Amount</th>
<th>Increase or (Use of Reserve)</th>
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<td>Fairview Village</td>
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<td>North Beyer</td>
<td>32,500</td>
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<tr>
<td>Enterprise Park</td>
<td>20,000</td>
<td>20,000</td>
<td>0</td>
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<tr>
<td>Carver/Bangs</td>
<td>235,000</td>
<td>684,000</td>
<td>449,000</td>
</tr>
<tr>
<td>Pelandale/Snyder</td>
<td>415,000</td>
<td>250,000</td>
<td>(165,000)</td>
</tr>
<tr>
<td>Village One #2</td>
<td>146,600</td>
<td>2,146,600</td>
<td>2,000,000</td>
</tr>
<tr>
<td>Northpointe Village</td>
<td>87,000</td>
<td>87,000</td>
<td>0</td>
</tr>
<tr>
<td>Coffee-Claratina</td>
<td>180,900</td>
<td>180,900</td>
<td>0</td>
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<tr>
<td><strong>Expense Fund Total</strong></td>
<td><strong>2,703,335</strong></td>
<td><strong>5,079,335</strong></td>
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<td><strong>Recommended Expense Fund Total</strong></td>
<td><strong>2,703,335</strong></td>
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MODESTO CITY COUNCIL
RESOLUTION NO. 2004-340

A RESOLUTION APPROVING A THIRD AMENDMENT TO AGREEMENT WITH RRM DESIGN GROUP TO PROVIDE ADDITIONAL SERVICES RELATED TO THE PREPARATION OF THE CONSTRUCTION DOCUMENTS FOR MADDUX YOUTH CENTER IMPROVEMENTS AT A COST NOT TO EXCEED $17,720 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT.

WHEREAS, the City of Modesto owns the Maddux Youth Center located at 619 Sierra Drive in César Chávez Park, and

WHEREAS, on August 14, 2001, by Resolution No. 2001-425, the City Council approved an agreement with RRM Design Group ("RRM") to provide a Schematic Design Report and Construction Documents for the Maddux Youth Center for a total contract amount of $58,200, and

WHEREAS, on February 26, 2002, by Resolution No. 2002-87, the City Council authorized an amendment to the agreement to expand the project scope from a 2,000 square foot addition to 6,000 square feet to include a Police Activities League (PAL) boxing arena, a multi-purpose room, a computer classroom, restroom and entry lobby, at a total contract amount of $112,626, and

Whereas, on September 23, 2003, by Resolution No. 2003-154, the City Council approved a second amended contract with RRM Design Group, Inc., to provide additional services related to the preparation of the construction documents for the Maddux Youth Center at a cost not to exceed $40,374 plus a $2,000 contingency, bringing the total cost for architectural services to a not to exceed figure of $155,000, and

WHEREAS, at the request of City staff, the scope of work of this project has increased to include a City-initiated change in structural engineer of record for the design and construction administration of the Maddux Youth Center at the additional not-to-
exceed cost of $16,720, plus associated reimbursable expenses of not-to-exceed $1,000, and

WHEREAS, the Third Amendment provides for a total contract cost of $172,720, 

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Third Amendment to Agreement with RRM Design Group to include a City-initiated change in structural engineer of record for the design and construction administration of the Maddux Youth Center at the additional not-to-exceed cost of $16,720, plus associated reimbursable expenses of not-to-exceed $1,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 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, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Keating

Attest: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

07/06/04/PR&N/Robert Ford/Item 13  2  2004-340
A RESOLUTION AUTHORIZING SEVERANCE PAY, HEALTH BENEFITS AND INTERVIEW LEAVE FOR EMPLOYEES SUBJECT TO AN AUTHORIZED REDUCTION IN FORCE

WHEREAS, the City of Modesto is facing a budget crisis which may result in employee layoffs, and

WHEREAS, current Personnel Rules and Memoranda of Understanding provide that employees who are laid off receive only those benefits to which any departing employee would be entitled, and

WHEREAS, City staff is recommending to the Council that laid off employees should receive Severance Pay equivalent to a minimum of four (4) weeks of the employee’s salary and City health contribution upon the effective date of the layoff and thereby provide a limited cash payment to assist the laid off employee who is faced with loss of job and income, and

WHEREAS, City staff is also recommending that employees who are notified of pending lay off should receive Interview Leave which would provide paid leave time for employees to seek other employment prior to their date of layoff, and

WHEREAS, City staff is recommending that where an employee volunteers to be laid off and is in the classification or the approved bumping chain of a position authorized for layoff, the City manager may authorize said employee to be laid off, with all rights to receive severance benefits, and

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:
SECTION 1. **Eligibility for Benefits**: City employees who are laid off due to an authorized reduction in force shall be eligible to receive severance benefits subject to the terms and conditions as set forth below. All severance benefit entitlements shall be in addition to any other benefits to which the employee would otherwise be entitled pursuant to the City’s Personnel Rules or appropriate Memorandum of Understanding. The City Manager is authorized to postpone an employee’s date of layoff or demotion for up to ninety (90) days, at his discretion, if deemed necessary to meet the needs of the City.

SECTION 2. **Eligibility for One Hundred and Sixty (160) Work Hours of Severance Pay**: All non-sworn employees in regular positions in the classified service who are laid off due to a reduction in force shall be entitled to receive upon separation from service, severance pay equivalent to One Hundred Sixty (160) work hours. Severance pay shall be calculated based upon the employee’s regular base pay, excluding acting pay, assignment pay, shift differential, or other special pays.

SECTION 3. **Eligibility for Additional Severance Pay**: All non-sworn employees in regular positions in the classified service who are laid off due to a reduction in force and who have six (6) or more complete years of continuous service are eligible for additional severance pay as follows:

A. Severance pay equivalent to forty (40) work hours of salary for each completed year of service in excess of five (5) completed years of service, up to a maximum of one hundred and sixty (160) work hours. Additional severance pay shall be calculated based upon the employee’s regular base pay, excluding acting pay, assignment pay, shift differential, or other special pays.
SECTION 4. Severance Pay Options: At the time of separation, an employee may elect to receive severance pay in a lump sum payment or in the form of a contribution to the employee’s deferred compensation plan or a combination thereof subject to all appropriate IRS regulations and limitations.

SECTION 5. Eligibility for Health Contribution: Employees who receive severance pay shall also be eligible to receive the City’s contribution to health, dental and vision premiums for a period of four (4) to eight (8) weeks following layoff. The amount of this contribution shall be the same as that provided to active employees, except that the amount shall not include the equivalent of any in-lieu deferred compensation. The duration of the premium contributions shall be for the same number of weeks as the severance pay provision (4-8 weeks depending on years of service). The contribution shall be paid directly to the insurance carriers.

SECTION 6. Eligibility for Interview Leave: All non-sworn employees in regular positions in the classified service who are provided notice by his/her Department Director that the employee may be laid off due to a reduction in force shall be entitled, prior to separation, to a maximum of fifteen (15) work hours of paid leave time for purposes of participating in employment interviews or examinations with any other employer.

Authorized interview leave shall be subject to prior written approval of the employee’s supervisor and with consideration for the needs of the City. Written verification of scheduled interviews or examinations may be required by the employee’s supervisor. Interview leave in excess of fifteen (15) work hours may be granted with the prior written approval of the employee’s Department Director. Interview leave shall not be subject to cashout or conversion to any other benefit.
SECTION 7. **Voluntary Layoff**: The City Manager may authorize any non-sworn employee in a regular position in the classified service who volunteers to be laid off, and is in the classification or the approved bumping chain of a position authorized for layoff, to be laid off, with all rights to receive severance pay, health contributions and interview leave as provided herein.

SECTION 8. **Term**: Severance benefits, as set forth in this Resolution shall terminate effective June 30, 2005, unless extended by resolution of the Modesto City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 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, Marsh, Jackman, Mayor Ridenour

**NOES:** Councilmembers: O'Bryant

**ABSENT:** Councilmembers: Keating

**APPROVED AS TO FORM:**

Approved:

Michael D. Milich, City Attorney

**ATTEST:**

JEAN ZAHN, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2004 - 342

A RESOLUTION APPROVING THE CONTRACT WITH EDAW, INC. FOR THE PROJECT TITLED "UPDATE TO THE REDEVELOPMENT AGENCY MASTER PLAN AND ENVIRONMENTAL IMPACT REPORT", AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT FOR SAID PROJECT

WHEREAS, in November 1991, the Redevelopment Agency of the City of Modesto ("Agency") adopted the Amended Project Area and the Redevelopment Plan for a Project Area of approximately 2000 acres encompassing the downtown, a portion of the West side, as well as a smaller portion along Scenic Drive, and

WHEREAS, as a part of this Project Area adoption, an Environmental Impact Report ("EIR") was approved in accordance with California State law, and

WHEREAS, subsequent to said actions, in 1994, a Redevelopment Master Plan ("RDA Master Plan"), which is attached hereto and made a part hereof by this reference, was adopted to implement the goals and objectives of the Redevelopment Plan, and

WHEREAS, the purpose of said RDA Master Plan is to provide a policy guideline document to identify specific types of land uses that the City should encourage and promote within the Redevelopment Project Area, and

WHEREAS, as a continuation of the overall downtown renovation, the Agency has determined that both the RDA EIR and RDA Master Plan should be updated in order to reflect the current developments and to set forth future development goals for the RDA Project Area (the "Project Update"), and

WHEREAS, to complete said Project Update, the firm of EDAW, Inc. has been selected from the approved Qualifications-based list of outside service providers for planning and environmental services and a Project scope and budget has been agreed upon in the amount of

07/06/04/Fire/J Miguel/Item 17

2004-342
$482,619, and

WHEREAS, said Project Scope also includes the preparation of a Safety Campus Concept Master Plan for which the City of Modesto will be providing funds in the amount of $77,254, with the remaining Project Update cost of $405,365 being at the expense of the Redevelopment Agency as follows:

FY 2004-05 budget in the amount of $482,619 in the following accounts:

**Redevelopment Agency:**

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<th>Amount</th>
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<td>9080-140-1493-0235 - RDA Master Plan</td>
<td>$285,365</td>
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<tr>
<td>9080-140-K871-6010 - CIP - Update RDA EIR</td>
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**Fire:**

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<tr>
<td>1300-180-N412-6040 - Fire Station #1- Seismic Imprv</td>
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</tr>
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</table>

, and

WHEREAS, the following City Council Committees have received a staff report on said Project Update on the following dates and have recommended said Project Update to the full Council for approval:

1. Safety and Communities Committee – March 1, 2004
2. Economic Development Committee – March 8, 2004
3. Finance Committee – March 22, 2004
4. Finance Committee – May 26, 2004

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a professional services contract with EDAW, Inc. in the amount of $77,254 for completion of said Safety Campus Concept Master Plan in conjunction with the Modesto
Redevelopment Agency’s Project Update pursuant to the agreed-upon Project scope and budget as stated above.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized and directed to execute said contract for the completion of the Safety Campus Concept Master Plan in conjunction with the Modesto Redevelopment Agency’s Project Update.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2004, by Councilmember Hawn, 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, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-343


WHEREAS, as part of the proposed Fiscal Year 2004-05 budget reductions, the City Manager has proposed consolidation of three operating departments (Parks, Recreation and Neighborhoods, Operations and Maintenance, and Engineering and Transportation) into two (Parks, Recreation and Neighborhoods, and Public Works), and

WHEREAS, the proposed Parks, Recreation and Neighborhoods Department will have six divisions; the current four (Administration, Recreation and Neighborhood Services, Park Planning and Development Services and Cultural and Enterprise Services), and the two new divisions of Park Services and Building and Parking Services being moved from the Operations and Maintenance Department, and

WHEREAS, the new Public Works Department will have nine Divisions (Administration, Transit, Airport, Solid Waste, Water/Forestry/Fleet, Wastewater Collections/Treatment, Transportation/Development Services, Capital Planning/Projects and Tenth Street Place), and

WHEREAS, in order to provide for appropriate staffing and allocation of resources, several specific steps are necessary, which include:

1. Approval of the structure of the Parks, Recreation and Neighborhoods Department and the Public Works Department.
2. Approval of the transfer of an Administrative Analyst II position from Public Works to the Parks, Recreation and Neighborhoods Department.
3. Approval of the reallocation of an existing Management Analyst position in the Administration division of the Parks, Recreation and Neighborhoods Department to an Administrative Services Officer classification.
4. Approval of the reallocation of a new Housing Program Supervisor in the Parks, Recreation and Neighborhoods Department to a HUD Programs Superintendent.
5. Approval of increasing the range for compensation of the Parks, Recreation and Neighborhoods Director and the Public Works Director.
6. Approval of the reallocation of an Office Supervisor position in the Public Works Department to Executive Secretary.
7. Approval of the elimination of one Senior Administrative Office Assistant position in the Public Works Department, already reflected in the Proposed Budget.
8. Establishment of the assignment of City Engineer in the Public Works Department.
9. Direction to staff to prepare changes to the Modesto Municipal Code, which will reflect the reorganization changes approved by the City Council.

and

WHEREAS, the City Council will be asked to consider separately Items 5 and 8 above, and

WHEREAS, the Finance Committee met on June 21, 2004, and supported the recommended reorganization plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the structure of the Parks, Recreation and Neighborhoods Department and the Public Works Department.

BE IT FURTHER RESOLVED that the Council approves the transfer of an Administrative Analyst II position from Public Works to the Parks, Recreation and Neighborhoods Department.

BE IT FURTHER RESOLVED that the Council approves the reallocation of an existing Management Analyst position in the Administration division of the Parks, Recreation and Neighborhoods Department to an Administrative Services Officer classification.
BE IT FURTHER RESOLVED that the Council approves the reallocation of a new Housing Program Supervisor in the Parks, Recreation and Neighborhoods Department to a HUD Programs Superintendent.

BE IT FURTHER RESOLVED that the Council approves the reallocation of an Office Supervisor position in the Public Works Department to Executive Secretary.

BE IT FURTHER RESOLVED that the Council approves the elimination of one Senior Administrative Office Assistant position in the Public Works Department, already reflected in the Proposed Budget.

BE IT FURTHER RESOLVED that the Council hereby directs staff to prepare changes to the Modesto Municipal Code, which will reflect the reorganization changes approved by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 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, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

Attest: ____________________________
JEAN ZAHR, 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. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classification:

Public Works Director

The job specification for this classification is being created as a result of the reorganization of the Parks, Recreation and Neighborhoods, Operations and Maintenance and Engineering and Transportation Departments. The specification for the classification of Public Works Director Range 1422), assigned to Executive Management, as shown on the attached Exhibit “A”, which is hereby made a part of this resolution by reference, is
hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the following classification:

Parks, Recreation and Neighborhoods Director

The job specification for this Executive Management classification is being amended to reflect the changes in responsibilities as a result of the reorganization of the Parks, Recreation and Neighborhoods Department and Operations and Maintenance Department. The specification for the classification of Parks, Recreation and Neighborhoods Director, as shown on the attached Exhibit “B”, which is hereby made a part of this resolution by reference, is hereby approved and made a part of the Position Classification Plan of the City of Modesto.

SECTION 3. CLASSIFICATIONS DELETED. The Position Classification Plan of the City of Modesto is hereby amended to delete the following classifications.

Engineering and Transportation Director
Operations and Maintenance Director

SECTION 4. EFFECTIVE DATE. This resolution shall become effective on and after July 13, 2004.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 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, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
PUBLIC WORKS DIRECTOR

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

DEFINITION

To plan, direct and review the functions of the Public Works Department including but not limited to: fleet, streets, water, waste water collection and treatment, stormwater, solid waste, airport forestry, electrical service, engineering, capital projects and utility planning, traffic and transit divisions; to coordinate assigned activities with other City departments and outside agencies; and to provide highly responsible and complex administrative support to the City Manager.

SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the City Manager.

Exercises direct supervision over professional, technical, maintenance and clerical administrative support staff.

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

Essential Functions:

Develop, plan, and implement Department goals and objectives; recommend and administer policies and procedures.

Direct, oversee and participate in the development of the Department's annual work plan as approved by the City Manager; assign work activities, projects and programs; monitor work flow; review and evaluate work products, methods and procedures.

Plan, organize, direct and evaluate all operations relating to streets, water, solid waste, and sewer including the design, operation, construction, maintenance and repair of utility facilities.
Essential Functions: (Continued)

Plan, organize, direct, evaluate and schedule the construction, maintenance and operation of City-owned electrical facilities including street lights and electrical systems associated with City buildings.

Plan, organize, direct, evaluate forestry related activities including the planting, maintenance and preservation of street and park trees.

Prepare and implement long-range planning for public works systems and improvements; prepare public works conditions to be placed on new and redeveloped parcels.

Direct the installation of all public improvements in subdivisions and developments.

Direct the development, implementation and administration of the City's capital improvement program as it relates to City-owned utilities and electrical facilities.

Direct the City's parking, traffic, transit, airport, and solid waste activities.

Confer with and advise supervisory assistants and outside consultants on problems related to the operation, construction and maintenance of City utility and electrical facilities.

Supervise and participate in the development and administration of the department budget; direct the forecast of additional funds needed for staffing, equipment, materials and supplies; monitor and approve expenditures; implement mid-year adjustments.

Prepare resolutions, ordinances, reports and correspondence.

Review plans, engineering reports and budget estimates prepared by subordinates, outside consultants and other City departments.

Perform utility rate structure analysis and make recommendations on utility rates.

Evaluate and recommend professional engineering consultants and contracts.

Represent the City before citizens, elected officials and community groups on a variety of matters; participate on a variety of boards and commissions; attend and participate in professional groups and committees.
Coordinate Department activities with those of other departments and outside agencies and organizations; provide staff assistance to the City Manager and City Council; prepare and present staff reports and other necessary correspondence.

**Essential Functions: (Continued)**

Select, train, motivate and evaluate personnel; provide a high level of leadership; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline and termination procedures.

**Marginal Functions:**

Perform related duties as assigned.

Respond to and resolve difficult and sensitive citizen inquiries and complaints.

**QUALIFICATIONS**

**Knowledge of:**

Methods, materials, techniques and equipment used in the construction, operation and maintenance of fleet, water, sewer, streets, forestry, telecommunications and electrical systems, solid waste systems and waste-to-energy facilities.

Applicable laws and regulatory codes related to utility and solid waste operations.

Principles and practices of civil engineering administration and parking and traffic program development and administration.

Organizational and management practices as applied to the analysis and evaluation of programs, policies and operational needs.

Recent developments, current literature and sources of information regarding water, sewer, solid waste and waste-to-energy facility engineering and operation.

Principles and practices of budget preparation and administration.

Principles and practices of organization, administration and personnel management.
Principles of supervision, training and performance evaluation.

Pertinent Federal, State, and local laws, codes and regulations.

Ability to:

Organize, direct and coordinate the activities of the Department in a manner conducive to full performance and high morale.

Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals.

Prepare and administer a budget.

Analyze organization system issues and select proper courses of action.

Interpret and apply City policies, procedures, rules and regulations.

Communicate clearly and concisely, both orally and in writing.

Select, lead, supervise, train and evaluate professional and technical subordinates.

Represent the City's interests before boards and commissions of local agencies and special water and sewer districts as directed by the City Manager.

Identify and respond to public and City Council issues and concerns.

Build consensus and develop a team approach; gain cooperation through discussion and persuasion.

Maintain physical condition appropriate to the performance of assigned duties and responsibilities.

Experience and Training

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:

Eight years of increasingly responsible public works type experience including five years of administrative and supervisory responsibility.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in civil engineering, public or business administration, or a related field.

License or Certificate

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

Possession of a Certificate of Registration as a professional civil engineer in the State of California is highly desirable.

WORKING CONDITIONS

Environmental Conditions:

Office and field environment; exposure to computers.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time and traveling to and from job sites in a vehicle.
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 plan, direct and review the activities and operations of the Parks, Recreation and Neighborhoods Department, including the construction, maintenance, and acquisition of all parks and related facilities, leisure and community services programming and activities, human services program administration, and community and neighborhood outreach and improvement; to coordinate assigned activities with other City departments and outside agencies; and to provide highly responsible and complex administrative support to the City Manager.

SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the Deputy City Manager and City Manager.

Exercises direct supervision over professional, technical, maintenance and clerical staff.

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

Essential Functions:

Develop, plan, and implement division goals and objectives; recommend and administer policies and procedures.

Direct, oversee and participate in the development of the department's annual work plan; assign work activities, projects and programs; monitor workflow; review and evaluate work products, methods and procedures.

Plan, organize, direct, evaluate, and schedule the work and programs of the department divisions, programs and the administrative office staff.

Plan and direct the development of community and neighborhood improvement initiatives and programs.
Administer Housing and Urban Development programs and services.

Essential Functions (continued):

Plan, direct, and/or facilitate leisure services programs and activities, parks operations, building services, city-owned parking facilities, golf operations, and community-wide programs or activities.

Negotiate and resolve significant and controversial neighborhood and community issues.

Prepare and submit reports and recommendations and provide technical advice to the City Manager, City Council, and related boards and commissions.

Coordinate department activities with those of other departments and outside agencies and organizations; provide staff assistance to the City Manager and City Council; prepare and present staff reports and other necessary correspondence.

Develop and implement citizen based problem-solving models.

Respond to and resolve difficult and sensitive citizen inquiries and complaints.

Participate on a variety of boards and commissions; attend and participate in professional groups and committees.

Prepare long-range plans to meet community needs based on studies of local conditions and projections of the future composition of the community; recommend additional, altered or expanded public parks and recreation facilities.

Supervise and participate in the development and administration of the department budget; direct the forecast of additional funds needed for staffing, equipment, materials and supplies; monitor and approve expenditures; implement mid-year adjustments.

Select, train, motivate and evaluate personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline and termination procedures.

Coordinate and direct fund-raising activities.

Direct the establishment and maintenance of files and records of departmental activities.
Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles, practices and methods used in community and leisure services administration and management, and program and facility acquisitions and maintenance.

Modern and highly complex principles and practices of housing and community development programs, redevelopment and financing programs.

Recreational, cultural, human, and social needs of all age, ethnic and economic groups.

Organizational and management practices as applied to the analysis and evaluation of programs, policies and operational needs.

Record keeping and reporting procedures.

Principles and practices of budget preparation and administration.

Principles of supervision, training and performance evaluation.

Group problem-solving techniques and partnerships with individuals and community groups.

Pertinent Federal, State, and local laws, codes and regulations.

Principles and practices of organization, administration and personnel management.

Grants and administration of funds obtained from external agencies.

Ability to:

Organize, direct and coordinate the activities of the department in a manner conducive to full performance and high morale.
Understand and implement the community, social and leisure services needs of the community and recommend additional areas, facilities and programs to meet those needs.

Ability to (continued):

Formulate substantive recommendations for community development and financing programs.

Prepare and present complex reports.

Work through complex community and neighborhood issues.

Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals.

Identify and respond to public and City Council issues and concerns.

Interpret and apply Federal, State and local policies, procedures, laws and regulations.

Maintain liaison with various private and public agencies and deal successfully with the public and other interested groups.

Prepare and administer a budget.

Select, lead, supervise, train and evaluate assigned staff.

Communicate clearly and concisely, both orally and in writing.

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

Build consensus and develop a team approach; gain cooperation through discussion and persuasion.

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:

Eight years of increasingly responsible supervisory or administrative experience in community, leisure or human service programs.

Training:

A Bachelor's degree from an accredited college or university with major course work in public administration, recreation, or a related field.

License or Certificate:

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

WORKING CONDITIONS

Environmental Conditions:

Office environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time.

WHEREAS, Resolution No. 2003-330 granted salary and benefit changes to Unrepresented Management and Confidential Employees including Charter Officers and Executives, effective July 1, 2003, and

WHEREAS, the City Council desires to increase the Salary Range for Parks, Recreation and Neighborhoods Director from Range 1420 to Range 1422, and

WHEREAS, the City Council desires to establish the Salary Range for Public Works Director at Range 1422,

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


Exhibit "N" entitled "City of Modesto Class Range Table, Executive Management Effective July 1, 2003," attached to Resolution No. 2003-330, is hereby amended as shown on the amended Exhibit "N" entitled, "City of Modesto Class Range Table Executive Management Effective July 13, 2004," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "N" changes the Salary Range for Parks, Recreation and Neighborhoods Director from Range 1420 to Range 1422 and establishes the Salary Range for Public Works Director at Range 1422.
SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after July 13, 2004.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 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, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich, City Attorney
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MODESTO CITY COUNCIL
RESOLUTION NO. 2004-346

A RESOLUTION CREATING A SPECIAL ASSIGNMENT DESIGNATION OF CITY ENGINEER AND ESTABLISHING A 5% PAY DIFFERENTIAL FOR THE INDIVIDUAL ASSIGNED THIS RESPONSIBILITY.

WHEREAS, the City Manager has proposed the consolidation of the Operations and Maintenance Department and the Engineering and Transportation Department, and

WHEREAS, this consolidation results in the creation of a Public Works Department, and

WHEREAS, the Public Works Department is responsible to perform statutory duties of City Engineer as prescribed by state law and the Municipal Code, and

WHEREAS, by agenda report dated June 22, 2004, the Deputy City Manager is recommending that the Public Works Director delegate the responsibility of City Engineer to an employee in possession of a Certificate of Registration as a Professional Civil Engineer in the State of California, and

WHEREAS, the duties and responsibility of the City Engineer shall be established by way of a special assignment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves creation of the Special Assignment of City Engineer and hereby establishes a 5% special assignment pay differential for the individual assigned as City Engineer.

BE IT FURTHER RESOLVED that this resolution shall become effective on an after July 13, 2004.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 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, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST:  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-347

A RESOLUTION APPROVING A TAX SHARING AGREEMENT BETWEEN
THE CITY OF MODESTO AND THE COUNTY OF STANISLAUS FOR THE
KAISER MEDICAL CENTER/CORNERSTONE BUSINESS PARK PROJECT,
AND AUTHORIZING THE CITY MANAGER TO SIGN SAID AGREEMENT.

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the Tax
Sharing Agreement between the City of Modesto and the County of Stanislaus for the
Kaiser Medical Center/Cornerstone Business Park Project is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement by the
designated City officials is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 13th day of July, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-348

A RESOLUTION DENYING THE PARENT RESOURCE CENTER’S REQUEST FOR A CAPITAL FACILITIES FEE WAIVER AND UPHOLDING THE REQUIREMENT FOR PAYMENT OF CAPITAL FACILITIES FEES.

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

WHEREAS, the City’s CFF are set forth in City Council Resolution 88-649, as amended by Resolution Nos. 89-373, 89-986, 89-1132, 90-36, 91-90, 91-703, 91-780, 92-176, 92-507, 94-409, 95-393, 97-122, 98-654, 99-237 and 2003-309, and

WHEREAS, the Parent Resource Center (PRC) a non-profit child abuse prevention program, has requested a waiver of $5,343 capital facility fees for the expansion of their building to include a modular unit, and

WHEREAS, said request for waiver is based in part on PRC’s financial status and upon the temporary nature of a modular building and

WHEREAS, said request for waiver of CFF fees was denied by the CFF Steering Committee, and

WHEREAS, on April 6, 2004, the Parent Resource Center appealed the decision of the CFF Steering Committee to require the payment of CFF for a modular building to be installed at PRC’s facility, and

WHEREAS, the City Council referred the matter back to the Economic Development Committee for their review, and also requested that the impacts created by said building be reviewed, and
WHEREAS, the referral by Council was reviewed by the CFF steering Committee which is comprised of staff from the Planning, Building, Engineering, Fire, City Manager and City Attorney’s departments who recommended that payment of the CFF fee be upheld and

WHEREAS, while the PRC is a non-profit group serving the needs of in need families, its existence creates an impact on the City of Modesto’s infrastructure, and

WHEREAS, the establishment of the City’s capital facilities fees (CFF) is independent of the costs relating to the construction of new buildings and are developed based on the cost of capital infrastructure to support development’s associated impacts, and

WHEREAS, a temporary building still creates the same impacts as a permanent building, resulting in the same necessary fees to support infrastructure development, and

WHEREAS, upon further review the Economic Development Committee recommended that the Council uphold the requirement of paying Capital Facilities Fees,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby denies the Parent Resource Center’s request for a waiver of Capital Facilities Fees and upholds the requirement for payment of Capital Facilities Fees.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-349

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND JONES AND STOKES FOR WORK ON AN ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED COMMERCIAL/OFFICE PROJECT, THE PROMENADE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT IN AN AMOUNT NOT TO EXCEED $173,552.00

WHEREAS, Setrok Limited Partnership has applied for a general plan amendment and rezoning to a planned development zone to allow 202,225 square feet of specialty retail shops and restaurants, a 73,000 square foot multi-screen theater, 98,050 square feet of offices and a 108-room, three-story hotel on property located on the west side of Dale Road, north of the Vintage Faire Mall (The Promenade), and

WHEREAS, Section 21080.1 of the California Public Resources Code requires the City of Modesto, as lead agency, to make a determination of whether an environmental impact report is required for projects, and

WHEREAS, the City has determined that an environmental impact report is required for the proposed Promenade project, and

WHEREAS, on December 10, 2002, the City Council approved a list of environmental service providers, including the firm of Jones and Stokes, to assist with the preparation of environmental impact reports and other environmental documents, and

WHEREAS, City staff selected Jones and Stokes to prepare the environmental impact report for The Promenade because they had an organized project team at the time of the selection interviews and the sub-consultant they had selected to do the traffic analysis had just completed work in this quadrant of the City for the Kaiser Medical Center project.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and Jones and Stokes for work on an environmental impact report for the proposed Promenade Project in an amount not to exceed $173,552, is, hereby approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST

Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-350

A RESOLUTION AUTHORIZING AN APPLICATION TO THE HOUSING AND
COMMUNITY DEVELOPMENT DEPARTMENT OF THE STATE OF
CALIFORNIA FOR AN ENTERPRISE ZONE DESIGNATION THAT
INCLUDES THE CITY OF MODESTO.

WHEREAS, the Housing & Community Development Department of the State of
California ("HCD") oversees an Enterprise Zone Program with the goal of stimulating
growth in economically depressed areas of the State, and

WHEREAS, there are forty-two (42) California Enterprise Zones authorized by
HCD, with only thirty-nine (39) Zones approved to date, and

WHEREAS, in order to complete the Enterprise Zone designations, HCD has
issued a competitive Request for Proposals ("RFP") to identify and designate three (3)
additional Enterprise Zones, and

WHEREAS, in response to said RFP, the City of Modesto, City of Turlock, City
of Ceres, and Stanislaus County ("Applicants") have formed a partnership and have
determined that certain territories within said cities and the County do meet the criteria
for an Enterprise Zone designation based on certain census tracts demonstrating
depressed business activity, high unemployment levels and low income levels, with a mix
of commercial and industrial zoned areas, and

WHEREAS, based on this determination, the Applicants have produced an
application to HCD for a California Enterprise Zone designation and wish to be
designated as such, and

WHEREAS, the qualifying census tracts within the Modesto Sphere of Influence
are identified as: 16.01, 16.03, 16.04, 17.00, 18.00, 19.00, 20.02, 20.04, 21.00, 22.00,
23.01, 24.00, 25.01, and 31.00 which Tracts encompass, in general: (1) Downtown
Modesto, and the contiguous and adjacent industrial area just northwest up to Blue Gum Ave along Highway 99; (2) West Modesto, out to the southwestern most boundaries of the Sphere of Influence; (3) the area around and including the Lamatis Business Park; (4) Commercial land use along Yosemite Boulevard; and (5) Beard Industrial District, and

WHEREAS, the City has jurisdiction over a portion of the application area as outlined above, and is adopting this resolution for the territories described herein, and

WHEREAS, in the event HCD grants a conditional Enterprise Zone designation, the City agrees to complete all actions that apply to the City pursuant to the Preliminary and Final Applications, and

WHEREAS, the application area is a depressed area and designation of the application area as an Enterprise Zone is necessary in order to attract private sector investment to the application area, and

WHEREAS, the California Enterprise Zone area will be referred to as the “Stanislaus County/Highway 99 Corridor Enterprise Zone”.

WHEREAS, the City acknowledges that the Stanislaus Economic Development and Workforce Alliance (The Alliance) shall be designated as the agency responsible for the implementation and oversight of the application area, in cooperation with member cities and the County.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that the boundary of the proposed Enterprise Zone is hereby approved as described in attached “Exhibit A”, which is incorporated herein by this reference.

BE IT FURTHER RESOLVED that a finding has been made that the application area is a depressed area and designation of the application area as an Enterprise Zone is necessary in order to attract private sector investment to the application area.
BE IT FURTHER RESOLVED that, should the Final Application be awarded a Conditional Designation as an Enterprise Zone, the City agrees to complete all actions stated within the Preliminary and Final Applications that apply to the City.

BE IT FURTHER RESOLVED that the City, as a member of said partnership, shall work cooperatively to obtain the approval of the Enterprise Zone designation for all areas described in attached "Exhibit A".

BE IT FURTHER RESOLVED that the City understands and acknowledges that there are other qualifying territories within Stanislaus County that are not currently described, and that inclusion of these territories in the Stanislaus County/Highway 99 Corridor Enterprise Zone would provide significant economic benefit to all communities within Stanislaus County, and therefore the City agrees to working cooperatively and expeditiously with other members of the partnership to obtain approval of future expansion requests immediately following approval of the initial Enterprise Zone application.

BE IT FURTHER RESOLVED that Brad Kilger, Director of Community & Economic Development, is hereby authorized and directed to execute and submit all required documentation, including the application, memorandum of understanding, and other necessary documents, on behalf of the City Modesto, subject to any minor conforming technical or clarifying changes approved by the City Attorney, to the California Housing & Community Development Department for review and approval of the preliminary application and Enterprise Zone boundary as described in Exhibit A.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 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
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr, City Clerk
(SEAL)

APPROVED AS TO FORM:
By Michael D. Milich, City Attorney
Enterprise Zone Application Map
(Modesto Sphere of Influence - only)
July 7, 2004
Stanislaus County
Highway 99 Corridor
Enterprise Zone
July 7, 2004
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-351

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF BULK FUEL RED DYED #2 DIESEL, TO W.H. BRESHEARS, INC., MODESTO, CA, FOR A THREE (3) YEAR AGREEMENT, AT AN ESTIMATED ANNUAL COST OF $72,963

WHEREAS, the Operations and Maintenance Department, Waste Water Division and Water Division use red dyed #2 diesel fuel to fuel non-public roadway diesel powered equipment, and standby diesel powered generators that supply backup power to municipal potable water wells, and

WHEREAS, currently, these divisions purchase red dyed #2 diesel fuel in bulk, by issuing request for quotations on an “as needed basis”, and

WHEREAS, although competitive pricing has been obtained, this is not an efficient or effective way of bidding this commodity, and

WHEREAS, by soliciting formal Request for Bids, the City will achieve the best price possible by combining the volume of both divisions for an annual agreement, and

WHEREAS, on April 6, 2004, Council approved Resolution No. 2004-182, authorizing the Purchasing Supervisor to formally solicit bids for the furnishing of bulk fuel red dyed #2 diesel, for a three (3) year agreement, and

WHEREAS, by bidding a three (3) year agreement, red dyed #2 diesel fuel would be up for re-bid on the same time line as the City’s current agreement for bulk fuel, which expires December 3, 2007, and

WHEREAS, going forward, these commodities would then be bid together to obtain a greater volume discount for the City, based on economies of scale, and
WHEREAS, the Purchasing Division issued Request for Bid No. 0304-10, for the furnishing of bulk fuel red dyed #2 diesel to thirty (30) companies, posted the bid on the City’s web site and formally advertised as required by law, and

WHEREAS, of the thirty (30) companies solicited, only one (1) company chose to respond, and

WHEREAS, the Purchasing Division received letters from two (2) companies declining to bid due to delivery requirements, and

WHEREAS, City staff recommends the award of Bid No. 0304-10 and contract for the furnishing of bulk fuel red dyed #2 diesel, to W.H. Breshears, Inc., Modesto, CA, for a three (3) year agreement, at an estimated annual cost of $72,963,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Bid No. 0304-10 and contract for the furnishing of bulk fuel red dyed #2 diesel, to W.H. Breshears, Inc., Modesto, CA, for a three (3) year agreement, at an estimated annual cost of $72,963.

BE IT FURTHER RESOLVED that following Council approval, the Purchasing Supervisor will issue a purchase agreement to W.H. Breshears, Inc., Modesto, CA, for the furnishing of bulk fuel red dyed #2 diesel.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-352

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF HEATING, VENTILATION AND AIR CONDITIONING (HVAC) SERVICE AND REPAIRS AT THE MODESTO CENTRE PLAZA, TO AMERICAN CHILLER SERVICE INC., MODESTO, CA, FOR A THREE (3) YEAR AGREEMENT, WITH TWO (2) ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL COST OF $23,442

WHEREAS, the Parks, Recreation and Neighborhoods Department has requested the furnishing of heating, ventilation and air conditioning (HVAC) service and repairs at the Modesto Centre Plaza, and

WHEREAS, HVAC services consist of scheduled preventative maintenance and emergency service repairs, on an “as required” basis, to ensure top performance of the HVAC system in order to provide comfort to the patrons of the Centre Plaza, and

WHEREAS, on January 6, 2004, Council approved Resolution No. 2004-014, authorizing the Purchasing Supervisor to formally solicit bids for the furnishing of HVAC service and repairs at the Modesto Centre Plaza, and

WHEREAS, the Purchasing Division solicited Request for Bid No. 0304-13, for the furnishing of HVAC service and repairs to thirty-three (33) companies, plus posted the bid on the City’s web site. In addition, the bid was formally advertised by the City Clerk’s office, and

WHEREAS, of the thirty-three (33) companies solicited, sixteen (16) reside in the city of Modesto, and

WHEREAS, out of thirty-three (33) companies solicited, only one (1) company chose to submit a bid, and
WHEREAS, City staff recommends the award of Bid No. 0304-13 and contract for the furnishing of HVAC service and repairs at the Modesto Centre Plaza, to American Chiller Service Inc., Modesto, CA, for a three (3) year agreement, with two (2) one-year extension options, for an estimated annual cost of $23,442,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Bid No. 0304-13 and contract for the furnishing of HVAC service and repairs at the Modesto Centre Plaza, to American Chiller Service Inc., Modesto, CA, for a three (3) year agreement, with two (2) one-year extension options, for an estimated annual cost of $23,442.

BE IT FURTHER RESOLVED that the City Manager 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 13th day of July, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:
By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-353

A RESOLUTION AUTHORIZING THE FIRE CHIEF TO PURCHASE A PIERCE TYPE I ENGINE (VIN #4PICA0ZD4MA000830) FROM THE INDUSTRIAL FIRE DISTRICT FOR THE PURCHASE PRICE OF ONE DOLLAR AND APPROVING AN AMENDMENT TO AGREEMENT FOR FIRE PROTECTION SERVICES WITH THE INDUSTRIAL FIRE PROTECTION DISTRICT.

WHEREAS, in 1993 the City of Modesto entered into a contract to provide fire protection for a portion of the Industrial Fire Protection District, and

WHEREAS, as part of the contract, the City of Modesto Fire Department agreed to lease the Industrial Fire Station (148 Imperial Avenue) for one dollar a year, and

WHEREAS, the City of Modesto Fire Department also agreed to lease the 1991 Pierce Type I Engine from Industrial Fire District for one dollar, and

WHEREAS, due to the high maintenance costs for the engine, it needs to be replaced, and

WHEREAS, the Industrial Fire District Board of Directors has agreed to sell the City of Modesto Fire Department the engine for one dollar, and

WHEREAS, the City of Modesto Fire Department will in turn trade in the engine for a trade in value of approximately $48,000, which will be used toward the purchase of a new engine that will be assigned to Station 10 for the remainder of the contract, and

WHEREAS, the City desires to enter into an Amendment To Agreement for Fire Protection Services with the Industrial Fire Protection District, a copy of which is on file in the office of the City Clerk,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Fire Chief to purchase a 1991 Pierce Type I Engine (VIN #4PICA0ZD4MA000830) from the Industrial Fire District for the purchase price of one dollar.

BE IT FURTHER RESOLVED that the Amendment To Agreement For Fire Protection Services with the Industrial Fire Protection District is hereby approved.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-354

CONSIDER AUTHORIZING THE PURCHASE OF ONE PIERCE QUANTUM FIRE ENGINE FROM GOLDEN STATE FIRE APPARATUS, FOR A TOTAL COST OF $311,906.67 AND AUTHORIZING THE CITY MANAGER TO ACCEPT THE SUM OF $48,150.00 AS TRADE-IN VALUE FOR ONE 1991 PIERCE ARROW ENGINE TOWARD THE PURCHASE OF THE NEW PIERCE QUANTUM FIRE ENGINE.

WHEREAS, the Modesto Fire Department uses fifteen engine companies and two truck companies in its current fire/life safety delivery system, and

WHEREAS, front line apparatus consists of twelve engine companies and two truck companies, and

WHEREAS, three reserve engines are utilized when front line apparatus are out-of-service for repairs and/or when additional apparatus is needed to maintain our system delivery, and

WHEREAS, an engine company’s useful lifespan is projected at fifteen years in front line service and five in reserve status, and

WHEREAS, in 1989 the Modesto Fire Department established an apparatus committee consisting of our Senior Fire Mechanic and representation from all suppression ranks, and

WHEREAS, their charge was to develop apparatus specifications and to review the capabilities of fire apparatus manufacturing facilities, and

WHEREAS, Finance Department and Fire Department representatives worked together through the bid process to award of contract, and

WHEREAS, Pierce Manufacturing (Pierce) was declared low bidder and awarded the contract, and
WHEREAS, Modesto Fire Department received its first Pierce fire engine in 1989 and a second in 1990, and
WHEREAS, since that time, we have purchased ten (10) additional engines and two (2) trucks from Pierce, and
WHEREAS, the City desires to purchase a new engine, and
WHEREAS, purchasing the fire engine from Pierce will maintain our operational costs and system reliability, and
WHEREAS, pricing provided to the City will be effective through July 14, 2004, and
WHEREAS, after July 14, 2004 Pierce will increase pricing to cover a metal surcharge of $14,900.00 that became effective on June 1, 2004, and
WHEREAS, the total cost of the engine is $311,906.67, and
WHEREAS, purchase of a new engine will remove a 1991 Pierce Arrow fire engine from City’s fleet, and
WHEREAS, Pierce has offered the City $48,150.00 in trade-in allowance for the 1991 Pierce Arrow engine, and
WHEREAS, Safety and Communities Committee approved this request on July 7, 2004,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the purchase of one Pierce Quantum fire engine from Golden State Fire Apparatus, for the sum of $311,906.67 is hereby approved.
BE IT FURTHER RESOLVED that the City Manager is hereby authorized to accept the sum of $48,150.00 as trade-in value for one 1991 Pierce Arrow engine toward the purchase of the new Pierce Quantum fire engine.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-355

WAS NOT USED
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-356

A RESOLUTION AUTHORIZING THE CHIEF INFORMATION OFFICER TO ISSUE A REQUEST FOR QUALIFIED ORGANIZATIONS/GROUPS (RFQ) TO CONSIDERED CAPABLE OF MANAGING THE PUBLIC, EDUCATION AND GOVERNMENT (P-E&G) STUDIO AND BROADCASTING OF MUNICIPAL MEETINGS ON THE COMCAST CABLE SYSTEM

WHEREAS, on July 23, 2002, by Resolution No. 2002-306, Council approved a two-year agreement with Final Cut Media for the management of daily operations of the Master Control Room Studio for the purposes of airing Public, Education and Government (P-E&G) television programming and broadcasting municipal meetings, and

WHEREAS, the agreement between the City of Modesto and Final Cut Media expires on July 23, 2004, and

WHEREAS, the City must find a qualified applicant to manage the P-E&G and broadcasting of municipal meetings, and

WHEREAS, this RFQ has been approved by the Finance Committee to go to Council for full review.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Chief Information Officer to issue a RFQ to qualified organization/groups for the management of P-E&G and broadcasting of municipal meetings.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: ________________
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: ______________________
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2004-357

A RESOLUTION APPROVING STAFF’S RECOMMENDED CHANGES TO  
THE TENANT BASED RENTAL ASSISTANCE (TBRA) PROGRAM  

WHEREAS, the Tenant Based Rental Assistance Program (TBRA) provides a  
one-time financial grant of $1,200 for the applicant’s first month’s rent and security  
deposit; the funds are paid directly to the landlord after the unit has passed an inspection  
and met the criteria of HUD’s Quality Housing Standards, and

WHEREAS, this program has been in existence for approximately four years;  
during the initial years, the program was used extensively for displaced tenants of  
Prescott Estates, a housing complex determined to be sub-standard by the Building  
Inspection Division of the City, and

WHEREAS, during the past year, the program was opened to homeless  
households as a small solution to this growing problem; there has been an overwhelming  
interest and response from the homeless community and $45,000 was used to assist 42  
households during fiscal year 2003-2004, and

WHEREAS, at this time, staff has reviewed the program in detail and is  
recommending program changes to better meet the challenges of the target audience, as  
set forth in the Director of Parks, Recreation and Neighborhoods’ report to Council dated  
June 28, 2004, and

WHEREAS, significant changes are:

- Eligibility limited to homeless households or households being displaced  
  through the City’s code enforcement effort,
- Expand the definition of homelessness to meet HUD guidelines,
• Household's income cannot exceed 70% of the Median Area Income, decreased from 80% used during fiscal year 2003-2004,

• Households must contribute 10% of first month's rent,

• Rent must not exceed HUD guidelines for Fair Market Rent for the area, and tentatively, require applicants to attend Housing Counseling/Budget Workshop, and

WHEREAS, homeless, as defined by HUD, is any household lacking a regular, fixed, adequate nighttime residence; it can include those persons not having a roof over their head, living in a dwelling not considered a home (shed), living in a shelter, transitional housing, supportive housing, living in an institution for 30 days, or those facing imminent eviction, and

WHEREAS, homeless means those persons or households “not having the resources or support to obtain access to housing, and proof of homelessness will be obtained through the various types of documentation, and

WHEREAS, additionally, staff is working with a local agency that can offer housing counseling to assisted households prior to move-in; this will help the households to have the budget and social skills to remain in the selected housing, and

WHEREAS, staff is also working with the City Attorney’s Office to create a condition that requires the landlord to return any unearned security deposit to the City if the tenant moves out within six months of receiving assistance from the City; this money would be re-programmed for more TBRA assistance, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) recommended support of this item at its June 28, 2004 meeting,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves staff’s recommended changes to the Tenant Based Rental
Assistance (TBRA) program beginning fiscal year 2004-2005, as set forth herein and
mad a part hereof.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 13th day of July, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: ____________

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: ____________

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-358

A RESOLUTION APPROVING A ONE-YEAR LEASE RENEWAL WITH
STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION
(STANCO) FOR THE USE OF CITY OWNED HOUSE AT 308 LOCUST
STREET BY STANCO's TRANSITIONAL HOUSING PROGRAM, AT THE
COST OF $1.00.

WHEREAS, In 1988, the City received the property at 308 Locust Street during
the foreclosure process on a housing rehabilitation loan; this house was then used for
temporary relocations for households being required to move while their units were being
rehabilitated under the Housing Maintenance Program, and

WHEREAS, in 1997, the City began leasing the home to Stanislaus County
Affordable Housing Corporation (STANCO) at the cost of $1.00 per year; the house was
not needed for relocations at that time, and had been vacant, and

WHEREAS, STANCO has expressed their interest in renewing the lease which
expired on July 13, 2004; and

WHEREAS, City staff anticipates relatively few temporary relocations from the
Housing Maintenance Program during the next year and does not feel the home would be
used enough to deny STANCO's full-time use of the house, and

WHEREAS, the Citizens Housing and Community Development Committee
(CH&CDC) recommended support of this item at its June 25, 2004 meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves a one-year lease renewal with Stanislaus County Affordable
Housing Corporation (STANCO) for the use of a city-owned house at 308 Locust Street
by STANCO's transitional housing program, at the cost of $1.00.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the lease renewal.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 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
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-359

RESOLUTION ACCEPTING THE WORK BY COLLINS ELECTRICAL COMPANY, INC. FOR THE “STREET ILLUMINATIONS – 29 INTERSECTIONS” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $166,788.50 PER THE CONTRACT. TOTAL PROJECT COST IS $203,439.99

WHEREAS, a report has been filed by the Public Works Director that the project titled “Street Illumination – 29 Intersections” has been completed by Collins Electrical Company, Inc., in accordance with the contract agreement dated May 27, 2003.

NOW, THEREFORE, BE IT RESOLVED that the “Street Illumination – 29 Intersections” project be accepted from said contractor, Collins Electrical Company, Inc., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $166,788.50 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 13th day of July, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: JEN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
RESOLUTION ACCEPTING THE WORK BY FENCE SYSTEMS, INC., DBA THE YARD FOR THE “BRIGGSMORE SOUND WALL – WEST OF TULLY” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $61,790.50 PER THE CONTRACT. TOTAL PROJECT COST IS $80,261.47.

WHEREAS, a report has been filed by the Public Works Director that the project titled “Briggsmore Sound Wall – West of Tully” has been completed by Fence Systems, Inc., dba The Yard, in accordance with the contract agreement dated March 23, 2004.

NOW, THEREFORE, BE IT RESOLVED that the “Briggsmore Sound Wall – West of Tully” project be accepted from said contractor, Fence Systems, Inc., dba The Yard, that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $61,790.50 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 13th day of July, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-361

A RESOLUTION APPROVING AN AGREEMENT CONSENTING TO COMMON USE WITH MODESTO IRRIGATION DISTRICT (MID) AT MID LATERAL NO. 6 AT WELL 50, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto desires to construct a flush line from the GAC filters that are to be relocated to Well 50, and

WHEREAS, the flush line from the GAC filters at Well 50 will go along MID Lateral No. 6 to Tully Road, and

WHEREAS, installation of the flush line in MID’s Lateral No. 6, rather than the access easement to Well 50, avoids trenching about 500 feet of the paved entrance to the Big Valley Grace Church, and

WHEREAS, the Modesto Irrigation District (MID) has an interest in certain real property commonly known as MID Lateral No. 6, and

WHEREAS, staff at MID has approved an Agreement Consenting to Common Use for this property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement Consenting to Common Use with Modesto Irrigation District for installation of a flush line from Well 50 to Tully Road.

BE IT FURTHER RESOLVED that the City Manager 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 13th day of July, 2004, by Councilmember Jackman,
who moved its adoption, which motion being duly seconded by Councilmember
O‘Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney
A RESOLUTION APPROVING A PROPERTY LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE CALIFORNIA STATE LANDS COMMISSION FOR CONSTRUCTION, USE AND MAINTENANCE OF SANITARY SEWER PIPELINES ACROSS THE TUOLUMNE RIVER AT THE SHACKELFORD CROSSING, AND AUTHORIZING EXECUTION OF THE LEASE AGREEMENT BY THE CITY MANAGER

WHEREAS, an existing City sanitary sewer pipeline crosses the Tuolumne River at the Shackelford crossing and is under the jurisdiction of a California State Lands Commission Agreement, and

WHEREAS, said existing City sanitary sewer pipeline is operating satisfactorily but is nearing its useful life, and

WHEREAS, City desires to construct new pipeline construction across the Tuolumne River, which will be in the California State Lands Commission jurisdiction, and

WHEREAS, new pipeline construction across the Tuolumne River will require a new California State Lands Commission Lease Agreement, which does not require any monetary payment by City, other than an application fee of $1,775, which has been paid to the State for the State’s cost to process the application for the lease,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that the property lease agreement between the City of Modesto and the California State Lands Commission for construction, use and maintenance of sanitary sewer pipelines across the Tuolumne River at the Shackelford Crossing is hereby approved.
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 13th day of July, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004 - 363

A RESOLUTION APPROVING A TEN-YEAR WATER SERVICES AGREEMENT BETWEEN THE CITY OF MODESTO AND BASINWATER, INC. FOR SERVICES AND LEASE OF EQUIPMENT RELATED TO THE REMOVAL OF NITRATES AT WELL NO. 100 LOCATED WITHIN THE CITY OF MODESTO WATER SYSTEM AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Modesto is the potable water provider for Modesto, and

WHEREAS, Well No. 100 is owned by the City of Modesto and requires nitrate treatment to meet water quality standards, and

WHEREAS, an engineering contract was approved by the City Council on November 6, 2002, to evaluate treatment options for nitrate removal, and

WHEREAS, this engineering contract is complete with a recommendation that Ion Exchange treatment be utilized, and

WHEREAS, BasinWater, Inc. can provide the necessary service and equipment for removal of nitrates at Well 100, and

WHEREAS, it is the City’s obligation to provide and maintain an adequate water supply for public health and safety, and

WHEREAS, City staff has arranged for a long-term Water Services Agreement with BasinWater, Inc. for an Ion Exchange unit for nitrate treatment at Well No. 100, and

WHEREAS, costs for Fiscal Year 2004-2005 are estimated at $348,600, including $140,000 in one-time startup costs for installation and construction work to prepare the well site, and

WHEREAS, the Agreement terms are considered acceptable to the City,
NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Modesto hereby approves a ten-year Water Services Agreement with BasinWater, Inc. for services and lease of equipment related to the removal of nitrates at Well No. 100 at an estimated cost of $348,600 in Fiscal Year 2004-2005.

BE IT FURTHER RESOLVED that the City Manager or his authorized 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 13th day of July, 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
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 
JEAN ZAHR, City Clerk
(SEAL)

APPROVED AS TO FORM:
By MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-364

A RESOLUTION APPROVING THE FY 2004-2005 BUDGET FOR THE STANISLAUS RESOURCE RECOVERY ("WASTE-TO-ENERGY") FACILITY

WHEREAS, on December 17, 1985, the City of Modesto and County of Stanislaus entered into an agreement for administration of the City/County Service Agreement with the Stanislaus Waste Energy Company (now Covanta Stanislaus) for supply and acceptance of solid waste, and

WHEREAS, since that time, the City has been partners with Stanislaus County and Covanta Stanislaus in the Stanislaus Resource Recovery Facility (the "Waste-to-Energy" or "WTE" Facility), and

WHEREAS, the Agreement established a Solid Waste-to-Energy Executive Committee ("Executive Committee") to prepare an annual budget for each fiscal year, which Waste-to-Energy annual budget is to be submitted to the City Council and Board of Supervisors for approval, and

WHEREAS, at its April 29, 2004, meeting the Solid Waste-to-Energy Executive Committee considered the 2004/2005 budget as shown in the attached Exhibit "A", and the Executive Committee unanimously approved forwarding the 2004/2005 Waste-to-Energy budget to the Modesto City Council and the Stanislaus County Board of Supervisors for approval,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the FY 2004-2005 Waste-to-Energy Project Budget, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference, as recommended by the City/County Solid Waste-to-Energy Executive Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>FY 01-02 Budget</th>
<th>FY 01-02 Expenditures</th>
<th>FY 02-03 Budget</th>
<th>FY 02-03 Expenditures</th>
<th>FY 03-04 Budget</th>
<th>FY 03-04 Est. Actual Expenditures</th>
<th>FY 04-05 Proposed Budget</th>
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<td>60400 Communications</td>
<td>500.00</td>
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<td>62200 Memberships</td>
<td>12,000.00</td>
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<td>12,000.00</td>
<td>15,000.00</td>
<td>15,500.00</td>
<td>15,500.00</td>
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<td>62600 Office Supplies</td>
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<td>62780 Books &amp; Periodicals</td>
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<td>0.00</td>
<td>(7,367.00)</td>
<td>0.00</td>
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<td>174,000.00</td>
<td>26,387.50</td>
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<td>150,000.00</td>
<td>150,000.00</td>
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<td>52,727.00</td>
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<td>65000 Publications &amp; Legal Notices</td>
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<td>0.00</td>
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<tr>
<td>65100 Rents &amp; Leases-Equipment</td>
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<td>65300 Rent &amp; Leases-Struct &amp; Grnds</td>
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<td>65780 Education &amp; Training</td>
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<td>65920 Meeting Allowance</td>
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<td>(307.00)</td>
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<td>7,770,342.00</td>
<td>7,064,950.00</td>
<td>7,645,470.00</td>
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<td>5,850,000.00</td>
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<td>67040 Other Travel Expenses</td>
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<td>1,367.96</td>
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<td>23,000.00</td>
<td>10,211.00</td>
<td>17,308.00</td>
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<td>Total</td>
<td>11,558,000.00</td>
<td>7,861,266.59</td>
<td>9,340,000.00</td>
<td>8,566,886.00</td>
<td>9,205,000.00</td>
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<td>Amount</td>
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</tr>
<tr>
<td>60400</td>
<td>$0</td>
<td>Communications - provision for personal communications equipment</td>
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<td>61600</td>
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<td>Maintenance - equipment - provision for equipment maintenance contracts</td>
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<tr>
<td>62200</td>
<td>$15,500</td>
<td>Memberships -</td>
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<td>$15,000: Annual Membership in the Independent Energy Producers Association, which was</td>
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<tr>
<td></td>
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<td>formed to represent the interests of small energy producers.</td>
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<tr>
<td></td>
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<td>$500: Annual membership in the IWSA, a national organization representing the interest of</td>
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<tr>
<td></td>
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<td>waste-to-energy facilities.</td>
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<td>Office Supplies - WTE letterhead, envelopes, etc.</td>
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<td>Books/Periodicals - provision for WTE related publications</td>
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<td>63000</td>
<td>$166,000</td>
<td>Professional and Special Services</td>
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<td>$80,000: Financial Advisors - Ongoing Financial Advisor Services related to the</td>
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<tr>
<td></td>
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<td>administration of the project, such as disposal fee projections.</td>
<td></td>
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<tr>
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<td>$50,000: Energy Consultant - Energy expert to provide assistance in negotiations for energy</td>
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<tr>
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<td>contracts and to advise project on other energy market related matters.</td>
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<td>$36,000: Legislative Lobbyist - Lobbyist to represent the project=s interests with the</td>
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<td>Legislature, ISO, and other state agencies</td>
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<td>63280</td>
<td>$0</td>
<td>Contracts</td>
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<td>63400</td>
<td>$50,000</td>
<td>Engineering Services - Contingency for engineering services that may be required if there are</td>
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<td>any required modifications to the facility</td>
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<td>63410</td>
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<td>Administrative Services - Reimbursement to the City of Modesto for staff costs associated</td>
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<td>with the project, as follows;</td>
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<td>Engineering &amp; Transportation - $30,000</td>
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<td>City Attorney - $32,220</td>
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<td>Solid Waste - $115,140</td>
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<tr>
<td>63640</td>
<td>$150,000</td>
<td>Legal Services - Outside legal counsel to the project, Bond Counsel to the project, and other</td>
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<tr>
<td></td>
<td></td>
<td>necessary legal assistance.</td>
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</tr>
<tr>
<td>65000</td>
<td>$200</td>
<td>Public/legal notices - Provision for required legal notices</td>
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<tr>
<td>65100</td>
<td>$0</td>
<td>Rent/equipment - Provision for office equipment rental</td>
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<tr>
<td>65300</td>
<td>$0</td>
<td>Rent/structure - Provision for administration space rental</td>
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<td></td>
<td></td>
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<td></td>
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<tr>
<td>66710</td>
<td>$5,859,000</td>
<td>Service Charges - Annual total of payments of the monthly Service Fees to Ogden Martin, which</td>
<td></td>
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<tr>
<td></td>
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<td>includes Debt Service, O&amp;M costs, Pass Throughs and other costs.</td>
<td></td>
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</tr>
<tr>
<td>67040</td>
<td>$7,500</td>
<td>Travel Expenses - For project related travel.</td>
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<td>60</td>
<td>$6,440,960</td>
<td>Services &amp; Supplies</td>
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2004-2005 BUDGET DETAIL
## FY 2003-2004 Waste to Energy Project Budget
### Revenue Projections

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<th>Account</th>
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<td>17000</td>
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<td>Interest - Interest on pooled cash</td>
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<td>34400</td>
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<td>Sanitation Service - Disposal fee revenues</td>
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<td>36470</td>
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<td>Other - Service charge</td>
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<td>40590</td>
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<td>Donations &amp; contributions</td>
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<td>40860</td>
<td>$140,000</td>
<td>Miscellaneous reimbursement - supplemental waste revenue and service fee credits</td>
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<td>41450</td>
<td>$0</td>
<td>Prior period revenue</td>
</tr>
<tr>
<td></td>
<td>$7,381,530</td>
<td>Total Revenues for FY 2003-2004</td>
</tr>
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MODESTO CITY COUNCIL
RESOLUTION NO. 2004-365

A RESOLUTION ORDERING THE LEVY AND COLLECTION OF CHARGES WITHIN LANDSCAPE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1-6

WHEREAS, the City of Modesto has by Resolution No. 2004-266 adopted on May 25, 2004, declared its intent to levy charges or assessments for the purpose of administering the maintenance of landscaping in the public right of way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6 under the provisions of the Landscaping and Lighting Act of 1972, and

WHEREAS, the cost for Fiscal Year 2004-05 is $26.00 annual assessment per lot, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by City Engineering, and

WHEREAS, the City of Modesto has determined and certifies that the charges are either exempt from or in compliance with all the provisions of Proposition 218, which was passed by the voters in November 1996, and

WHEREAS, the City of Modesto has further determined the charges are in compliance with all laws pertaining to the levy of such charges,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby orders the levy and collection of $26.00 annual assessment per lot within Landscape Maintenance Assessment District No. 1 for Dry Creek Meadows Subdivisions Nos. 1-6 for the 2004-05 fiscal year, and that a certified copy of this resolution shall be
delivered to the Auditor–Controller of the County of Stanislaus for placement of such charges on the 2004-05 County Tax Roll.

BE IT FURTHER RESOLVED that the diagram of said assessment district and amount of levy thereon is hereby confirmed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr, City Clerk

(SEAL)
APPROVED AS TO FORM

By Michael D. Milich, City Attorney
A RESOLUTION ORDERING THE LEVY AND COLLECTION OF CHARGES WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION, AND YOSEMITE MEADOWS SUBDIVISION UNITS 1 & 2

WHEREAS, the City of Modesto has by Resolution No. 2004-267, adopted on May 25, 2004, declared its intent to levy charges or assessments for the purpose of administering the maintenance of landscaping in the public right of way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision and Yosemite Meadows Subdivision Units No. 1 & 2, under the provisions of the Landscaping and Lighting Act of 1972, and

WHEREAS, the cost for Fiscal Year 2004-05 is $101.30 per acre for commercial property and $19.94 for each residential property, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by City Engineering, and

WHEREAS, the City of Modesto has determined and certifies that the charges are either exempt from or in compliance with all the provisions of Proposition 218, which was passed by the voters in November 1996, and

WHEREAS the City of Modesto has further determined that the charges are in compliance with all laws pertaining to the levy of such charges.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby orders the levy and collection of $101.30 per acre for commercial property and $19.94 for each residential property within Landscape Maintenance Assessment District No. 2 for Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood
Meadows Subdivision and Yosemite Meadows Subdivision Units 1 & 2 for the 2004-05 fiscal year, and that a certified copy of this resolution shall be delivered to the Auditor – Controller of the County of Stanislaus for placement of such charges on the 2004-05 County Tax Roll.

BE IT FURTHER RESOLVED that the diagram of said assessment district and amount of levy thereon is hereby confirmed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 
JEAN ZAHR, City Clerk

(SEAL)
APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney
WHEREAS, the City of Modesto operates a compost facility, Modesto Composting, at the Secondary Wastewater Treatment facility on Jennings Road, and

WHEREAS, historically Modesto Composting has not charged a tip fee for green waste, pruned refuse, or biosolids from City sources, but has charged the entire cost of the composting operation to the Wastewater Fund because all of the materials were co-composted together as a strategy for recycling the biosolids, and

WHEREAS, the compost facility has therefore been operated as part of the Wastewater Fund, and

WHEREAS, due to changes in regulatory and market conditions, it is no longer practical to compost all of the green waste and pruned refuse with the biosolids, and the facility is now co-composting only a portion of the green waste and pruned refuse with the biosolids, and is composting the majority of the green waste separately, and

WHEREAS, it is therefore no longer equitable to charge the entire cost of the composting operation to the Wastewater Fund, and

WHEREAS, a fee based system at Modesto Composting would be the most equitable way to allocate the cost of operating the facility to the correct user group, and

WHEREAS, by an agenda report dated June 24, 2004, from the Acting Engineering and Transportation Director, City staff is recommending that the City’s Composting Facility
be established as a separate Enterprise Fund and that tip fees be established for facility users at the Compost Facility, and

WHEREAS, City staff recommends a tip fee of $18.35 per ton for green waste and pruned refuse, and a tip fee of $6.50 per ton for biosolids be established for users of the Compost Facility, effective August 1, 2004, and

WHEREAS, a combination of tip fees for green waste, pruned refuse, and biosolids, and revenues from the sale of the compost and co-compost products would offset all operations costs, and

WHEREAS, the Modesto City Council must approve the establishment of tip fees at Modesto Composting, and

WHEREAS, on June 7, 2004, the Economic Development Committee considered the proposal to establish tip fees at the facility and to create a separate Compost Enterprise Fund, and voted unanimously to forward staff’s recommendation to the full Council, and

WHEREAS, a duly noticed public hearing before the City Council to be held on the 13th day of July, 2004, at 5:30 p.m. in the Tenth Street Place Chambers, located at 1010 10th Street, Modesto, California, was set as the time and place to consider establishing tip fees for green waste, pruned refuse, and biosolids at the City’s compost Facility, and

WHEREAS, at said public hearing on July 13, 2004, evidence both oral and documentary was received and considered,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a tip fee of $18.35 per ton for green waste and pruned refuse, and a tip fee of $6.50 per ton for biosolids at the City’s compost facility, effective August 1, 2004.
BE IT FURTHER RESOLVED that the Council authorizes the establishment of a separate Compost Enterprise Fund.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [Signature]
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By [Signature]
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-368

A RESOLUTION AUTHORIZING NEGOTIATIONS WITH THE CITY’S SOLID WASTE COLLECTION COMPANIES FOR THE PROVISION OF PRUNED REFUSE COLLECTION SERVICES AND DIRECTING CITY STAFF TO BEGIN THE MEET AND CONFERENCE PROCESS WITH MCEA AND MCMA CONCERNING PRIVATIZATION OF PRUNED REFUSE COLLECTION SERVICES

WHEREAS, the City of Modesto provides residents with curbside or alley collection of large tree or shrub prunings during the months of February to November, and

WHEREAS, this program, referred to as “pruned refuse collection”, is performed by city crews, and

WHEREAS, this service has been funded by sewer ratepayers since 1994, and the annual cost of providing pruned refuse and leaf collection is approximately $1 million, and

WHEREAS, these same City crews collect leaves from City streets during the months of November and December, which services are paid for out of the Storm Drain Fund, and

WHEREAS, the City’s solid waste collection companies also provide containerized collection of green waste, which is made up of materials such as grass and small prunings that cannot be put in the street piles in large “toters”, and the cost of this collection program is included as part of the maximum garbage rates, and

WHEREAS, both green waste and pruned refuse are taken to the city’s co-compost facility on Jennings Road, where some of the material is combined with biosolids from the primary treatment processes, and is used to make biosolids co-compost, and
WHEREAS, composting operations have also historically been funded out of the Wastewater Fund, and

WHEREAS, due to unresolved regulatory issues and limited markets for the biosolids co-compost products, the composting facility has now changed its production methods, and has reduced the amount of co-compost it produces, and instead produces more green waste compost, and

WHEREAS, due to this shift in production, it is now appropriate for the City to charge the costs of both the collection and composting operations to the garbage ratepayers and reduce the charges to the Wastewater Fund, and

WHEREAS, in a separate public hearing held on July 13, 2004, the Council authorized charging tip fees for green waste, pruned refuse, and biosolids to properly allocate the cost of composting operations to the correct ratepayers, and

WHEREAS, staff has recommended that the Council authorize negotiations with the City’s solid waste collection companies to provide pruned refuse collection services, and

WHEREAS, if these negotiations are successful, the cost of the pruned refuse program would also become part of the maximum garbage rates, and

WHEREAS, a report dated July 13, 2004, from the Engineering and Transportation Department, a copy of which is on file in the office of the City Clerk, sets forth said recommendations, and

WHEREAS, July 13, 2004, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, was set as the date, time and place for consideration of said recommendations regarding pruned refuse collection services, and
WHEREAS, a duly noticed public hearing was held at said time and place, at which time evidence, both oral and documentary, was received and considered,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to negotiate with the City’s licensed solid waste collection companies to provide pruned refuse collection services, and to report back to the Council with the results of these negotiations.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby directs staff to begin the meet and confer process with MCEA and MCMA on the process and impacts of privatizing Pruned refuse collection services.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 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
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Ridenour

ATTEST:  
JAN ZAHN, City Clerk
(SEAL)

APPROVED AS TO FORM:

By  
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-369

A RESOLUTION CALLING FOR A SPECIAL ELECTION TO BE HELD ON NOVEMBER 2, 2004, AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS TO CONSOLIDATE THE SPECIAL ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THAT DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE FOR THE PURPOSE OF SUBMITTING TO THE VOTERS AN ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS “ROBERTSON ROAD INFILL AREA,” GENERALLY LOCATED SOUTH OF ROBERTSON ROAD, EAST OF CARPENTER ROAD, WEST OF HAYS STREET AND NORTH OF JOHN STREET CONTAINING 334 PARCELS ON 96.8 ACRES IN THE MODESTO URBAN AREA GENERAL PLAN, AND APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO (“CITY”) AND COUNTY OF STANISLAUS (“COUNTY”) TO RESOLVE POTENTIAL FISCAL IMPACTS OF UPGRADING EXISTING DEFICIENT INFRASTRUCTURE WITHIN THE ROBERTSON ROAD INFILL AREA OF THE MODESTO URBAN AREA GENERAL PLAN, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, on March 6, 1979, the voters enacted the Modesto Citizens’ Advisory Growth Management Act (Measure A) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for the extension of any sewer improvement without first holding an advisory election, and

WHEREAS, on November 4, 1997, the voters enacted the Modesto Citizens’ Advisory Growth Management Act of 1995 (Measure M) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for sewer improvements without first holding an advisory election, and

WHEREAS, in order to satisfy the requirements of Measure A and Measure M the City Council of the City of Modesto desires to submit to the qualified electors of the City of Modesto, at a special municipal election to be held on November 2, 2004, an advisory measure relating to the provision of sewer service to a certain area of the City with the understanding that
this action is not the first step leading to annexation, it is for the sole purpose of making sewer service available to that area and with the further understanding that no City funds will be expended to provide such sewer service, and

WHEREAS, the Measure M Policy further provides that a Measure M vote for substantial infill areas will not be scheduled until the City and County have addressed and reached agreement to resolve the potential fiscal impacts of upgrading existing deficient infrastructure, and

WHEREAS, the City and County have resolved the potential impacts of upgrading existing infrastructure on the terms and conditions as set forth in an agreement entitled Public Improvement Agreement ("Agreement") so that the City can schedule a Measure M vote for the Infill Area.

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

SECTION 1. BALLOT MEASURE.

That pursuant to Section 9603 of the Elections Code, the Council of the City of Modesto proposes to, and hereby does, on its own motion, submit to the qualified electors of the City of Modesto at a special election to be held on November 2, 2004, an advisory measure relating to the provision of sewer service to certain areas of the City as set forth below, and hereby designates the form of the ballot measure for use at said special election as follows:
MEASURE D

Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan?

"Robertson Road Infill Area"

The following unincorporated area generally located south of Robertson Road, east of Carpenter Road, west of Hays Street, and north of John Street containing 334 parcels on 96.8 acres.

SECTION 2. FORM OF BALLOT

On the ballots to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question relating to the proposal to extend sanitary sewer service:

MEASURE D City of Modesto Sewer Service Extension Advisory Measure.

Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan?  
Yes ☐  
No ☐

Robertson Road Infill Area

The following unincorporated area generally located south of Robertson Road, east of Carpenter Road, west of Hays Street, and north of John Street containing 334 parcels on 96.8 acres.

SECTION 3. CONSOLIDATION

Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of Stanislaus County is hereby requested to consent and agree to the consolidation of the special municipal election with the statewide general election on Tuesday, November 2, 2004, for the purpose of submitting the ballot measure described in Section 1.

SECTION 4. CONDUCT OF ELECTION
That the County Elections Department is hereby authorized to canvass the returns of the special municipal election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. That the Board of Supervisors is requested to issue instructions to the County Elections Department to take any and all such steps necessary for the holding of the consolidated election.

SECTION 5. ELECTION COSTS

Normally when the City of Modesto calls a special election to be consolidated with the statewide general election all additional costs associated with the special election incurred by the County are reimbursed to the County by the City. However, in this instance, pursuant to the terms of the Agreement, the County has agreed to pay for all such additional costs.

SECTION 6. CITY CLERK CERTIFICATION

That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Elections Department of the County of Stanislaus, and the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

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 13th day of July, 2004, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:  

JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  

MICHAEL D. MILICH, City Attorney
A RESOLUTION AUTHORIZING THE MEMBERS OF THE CITY COUNCIL, OR ANY OF THEM, TO FILE WRITTEN ARGUMENTS IN FAVOR OF OR IN OPPOSITION TO THE ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS “ROBERTSON ROAD INFILL AREA,” GENERALLY LOCATED SOUTH OF ROBERTSON ROAD, EAST OF CARPENTER ROAD, WEST OF HAYS STREET AND NORTH OF JOHN STREET CONTAINING 334 PARCELS ON 96.8 ACRES IN THE MODESTO URBAN AREA GENERAL PLAN.

WHEREAS, the City Council had directed the City Clerk to submit to the voters at a special municipal election to be held on November 2, 2004, an advisory measure concerning the unincorporated area referred to as “Robertson Road Infill Area,” the unincorporated area generally located south of Robertson Road, east of Carpenter Road, west of Hays Street and north of John Street containing 334 parcels on 96.8 acres in the Modesto Urban Area General Plan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that pursuant to California Elections Code Section 9282 the members of the City Council, or any of them, are hereby authorized to file written arguments in favor of or in opposition to said measure and to change such arguments until and including the date and time after which no argument may be filed with the City Clerk.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 13th day of July, 2004 by Councilmember Marsh, who
moved its adoption, which motion being duly seconded by Hawn, was upon roll call
carried and the resolution adopted by the following vote:

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

NOES:  Councilmembers:  None

ABSENT:  Councilmembers:  Mayor Ridenour

ATTEST:  

JEAN ZAHN, City Clerk
(SEAL)

APPROVED AS TO FORM:

By  

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-371

A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE ADVISORY MEASURE CONSIDERING THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS “ROBERTSON ROAD INFILL AREA,” GENERALLY LOCATED SOUTH OF ROBERTSON ROAD, EAST OF CARPENTER ROAD, WEST OF HAYS STREET AND NORTH OF JOHN STREET CONTAINING 334 PARCELS ON 96.8 ACRES IN THE MODESTO URBAN AREA GENERAL PLAN TO THE CITY ATTORNEY FOR THE PURPOSE OF PREPARING AN IMPARTIAL ANALYSIS OF SAID MEASURE.

WHEREAS, the Modesto City Council has directed the City Clerk to submit to the voters at a special municipal election to be held on November 2, 2004, an advisory measure concerning the unincorporated area referred to as “Robertson Road Infill Area,” the unincorporated area generally located south of Robertson Road, east of Carpenter Road, west of Hays Street and north of John Street containing 334 parcels on 96.8 acres, in the Modesto Urban Area General Plan to the City Attorney for the purpose of preparing an impartial analysis of said measure.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk is hereby directed pursuant to California Elections Code Section 9280 to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an Impartial Analysis of the measure showing the effect of the measure on existing law on the operation of the measure.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 2004 by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: [signature]
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By [signature]
MICHAEL D. MILICH, City Attorney