A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF ROBERT TRACHE FROM THE CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE

WHEREAS, ROBERT TRACHE was appointed a member of the Citizens Housing & Community Development Committee on July 22, 2003, and

WHEREAS, ROBERT TRACHE has tendered his resignation from the aforementioned committee, and

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

NOW, THEREFORE, BE IT RESOLVED that the resignation of ROBERT TRACHE from the Citizens Housing & Community Development Committee hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to ROBERT TRACHE for his outstanding service to the community.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

Michael D. Milich, City Attorney

ATTEST: ________________

Jean Zahr, City Clerk

2004-126
WHEREAS, an owner of not less than 10 percent of the area of land proposed to be included within the community facilities district herein described has filed with the City Clerk of this City (the "City") a petition requesting that this Council (the "Council") form a community facilities district 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") in order to: (i) finance certain public facilities having a useful life of 5 years or longer (the "Facilities") more particularly described in Exhibit B, including expenses incidental thereto; and (ii) finance certain services (the "Services") more particularly described in Exhibit C; and

WHEREAS, upon receipt of the petition, this Council is, pursuant to Section 53320 of the California Government Code, required to adopt a resolution of intention to establish the community facilities district; and

WHEREAS, in the event the community facilities district is established, it is the intention of this Council to: finance the Facilities through the authorization, issuance and sale of bonds to be approved at an election to be held within the boundaries of the district, (ii) pay debt service on the bonds through the levy of a special tax therein, and (iii) finance the Services through the levy of a special tax therein; and

WHEREAS, this Council has adopted local goals and policies concerning the use of the Act;
NOW, THEREFORE, BE IT RESOLVED, ORDERED, AND FOUND by the City Council of the City of Modesto that:

SECTION 1. The above recitals are true and correct.

SECTION 2. A community facilities district is proposed to be established under the terms of the Act. The name proposed for the community facilities district is "City of Modesto Community Facilities District No. 2004-1" and is referred to in this Resolution as the "District."

SECTION 3. The boundaries of the District are shown on a map, hereby approved, entitled "Proposed Boundaries of City of Modesto Community Facilities District No. 2004-1 (Village One #2) of the City of Modesto, County of Stanislaus, State of California," a copy of which is on file in the office of the City Clerk. Pursuant to Sections 3110 and 3111 of the California Streets and Highways Code, the City Clerk shall certify on the original and one copy of the map evidencing the date and adoption of this Resolution, file the original in the City Clerk's office and, within 15 days after the adoption of this Resolution and in no event later than 15 days prior to the date of the public hearing referred to in Section 8, file a copy of the map with the County Recorder of the County of Stanislaus.

The Council finds that no land proposed to be included in the District is devoted primarily to agricultural, timber, or livestock uses and being used for the commercial production of agricultural, timber or livestock products.

SECTION 4. The Facilities proposed to be provided by the District are public facilities authorized to be acquired or constructed under the Act that have a useful life of five (5) years or longer. The Facilities are governmental facilities which the Council is authorized by law to contribute revenue to, or construct, own or operate; or which a local public agency is authorized by law to provide. The Council further determines that such...
Facilities are necessary to meet increased demands placed upon the City and other local agencies as a result of development occurring within the boundaries of the District.

The Facilities are proposed to include any and all incidental expenses related thereto, as authorized by the Act, including the payment in full of all amounts necessary to eliminate any fixed special assessment liens or to pay, repay, or defease any obligation to pay or any indebtedness secured by any tax, fee, charge, or assessment levied within the area of the District or to pay debt service on that indebtedness.

The Services proposed to be provided by the District are in addition to those provided in the District before its creation, since none of the Services have been or will be provided in the District before its creation.

SECTION 5. The Council determines that the public interest will not be served by allowing the owner(s) of property within the proposed District to enter into a contract pursuant to Section 53329.5(a) of the Act.

SECTION 6. (a) It is the intention of the Council that, except where funds are otherwise available to pay for the Facilities to be financed by the District and/or the principal and interest as it becomes due on bonds issued to finance such Facilities, the incidental expenses related thereto, and the Services, special taxes sufficient to pay the costs thereof, secured by recordation of a continuing lien against all nonexempt real property in the District, will be levied annually within the boundaries of the District. The rate, method of apportionment and manner of collection of the proposed special taxes is set forth in Exhibit A. Exhibit A provides sufficient detail to allow each landowner or resident within the District to estimate the maximum amount that such person will have to pay for the Facilities and the Services.

(b) In the case of the special tax to pay for the Facilities that is to be levied against any parcel of land used for private residential purposes (as defined and provided
in the Act), (1) the maximum special tax has been specified as a dollar amount which will be calculated and thereby established not later than the date of which any such parcel of land is first subject to the special tax because of its use for private residential purposes, and which amount will not be increased over time by an amount exceeding two per cent (2%) per year, (2) after Fiscal Year 2060-2061, the special tax will no longer be levied or collected against any such parcel of land, and (3) under no circumstances will the special tax be increased as a consequence of delinquency or default by the owner of any other parcel or parcels of land within the District by more than ten per cent (10%). The special tax to pay for the Facilities may, however, establish different tax rates for different categories of residential property, and may provide for a change in the dollar amount of the special tax for the parcel if the size of the residence is increased or if the size or use of the parcel is changed.

(c) The obligation to pay the special tax to pay for the Facilities may be prepaid and permanently satisfied, and the lien of the special tax to pay for the Facilities discharged pursuant to the procedures set forth in EXHIBIT A.

(d) If the special tax to pay for the Facilities is prepaid and permanently satisfied as to a particular parcel of land, this Council shall cause to be prepared and recorded in the office of the County Recorder of the County of Stanislaus, which shall accept for recordation, a Notice of Cancellation of Special Tax Lien as to that parcel. The Notice of Cancellation of Special Tax Lien shall identify with particularity the special tax to pay for the Facilities which has been prepaid and permanently satisfied, state the book and page number in the records of the County Recorder where the Notice of Special Tax Lien being cancelled is recorded, contain the legal description and assessor's parcel number of the particular parcel of land subject to the lien, and contain the name of the owner of record of the parcel. The County Recorder shall mail the
original Notice of Cancellation of Special Tax Lien to the owner of the property after recording the document. This Council may specify a charge for the preparation and recordation of the Notice.

SECTION 7. Pursuant to Section 53314.9 of the Act, this Council may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or that work-in-kind for any authorized purpose, including, but not limited to, paying any cost incurred by the City in creating the District.

SECTION 8. A public hearing on the establishment of the District and the proposed rate, method of apportionment, and manner of collection of the special taxes shall be held at 5:30 p.m., or as soon thereafter as practicable, on Tuesday, April 6, 2004, at the regular meeting place of the City Council, City Council Chambers, Basement Level, 1010 Tenth Street, Modesto, California 95353, such time being not less than 30 or more than 60 days following the adoption hereof.

SECTION 9. The Public Works & Transportation Director, as the officer of the City who will be responsible for providing the proposed Facilities and Services to be financed by the District, if it is established, is directed to study the proposed District, and, at or before the time of the hearing, cause to be prepared and filed with the Council a report containing: (a) a brief description of the Facilities and Services by type which will in such officer’s opinion be required to adequately meet the needs of the District; (b) an estimate of: (i) the cost of providing the Facilities and Services; (ii) the fair and reasonable cost of any of the Facilities to be purchased; and (iii) the fair and reasonable cost of incidental expenses to be incurred in connection therewith, including the costs of the proposed bond financing and other related costs as provided in Section 53345.3 of the Act.
The report shall be made a part of the record of the hearing.

SECTION 10. At the time and place set forth in this Resolution for the hearing, any interested persons, including taxpayers, property owners and registered voters residing within the boundaries of the proposed District, may appear and be heard, and the testimony of all interested persons for or against the establishment of the District, the extent of the District, the furnishing of the Facilities and Services, or the proposed rate, method of apportionment and manner of collection of the special taxes will be heard and considered. Any protest may be made orally or in writing. However, any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and clearly set forth the irregularities and defects to which the objection is made. All written protests shall be filed with the City Clerk on or before the time fixed for the public hearing. Written protests may be withdrawn in writing at any time before the conclusion of the hearing.

SECTION 11. The City Clerk is directed to publish a notice of the hearing, in the form required by the Act, not later than seven (7) days prior thereto, in a newspaper of general circulation published in the area of the District, being The Modesto Bee, and otherwise in accordance with Section 6061 of the California Government Code.

SECTION 12. (a) If fifty percent (50%) or more of the registered voters, or six (6) registered voters, whichever is more, residing within the territory proposed to be included in the District, or the owners of one-half (1/2) or more of the area of the land in the territory proposed to be included in the District and not exempt from the special taxes, file written protests against the establishment of the District, and the protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to create the District or to levy the special taxes will be taken for a period of one year from the date of the decision of the Council.
(b) If the majority protests of the registered voters or the landowners are only against the furnishing of a specified type or types of the Facilities or Services within the District, or against levying a specified special tax, those types of Facilities or Services or the specified special tax will be eliminated from the District proceedings.

(c) At the conclusion of the hearing, if the Council determines to establish the District, it will adopt a resolution of formation and then submit the levy of the special taxes to the qualified electors of the District in a special election.

SECTION 13. (a) If, after the hearing, the Council adopts a resolution of formation establishing the District and submits the levy of the special taxes to the qualified electors of the District in a special election, such election will be held at least ninety (90) days, but not more than one hundred eighty (180) days following the adoption of the resolution of formation. The City Clerk shall, within three business days after the adoption of the resolution of formation, provide a copy of the resolution of formation, a certified map of sufficient scale and clarity to show the boundaries of the District, and a sufficient description to allow the election official to determine the boundaries of the District, to the official conducting the election. Assessor’s parcel numbers for the land within the District shall be included if it is a landowner election or the District does not conform to an existing district’s boundaries and if requested by the official conducting the election.

(b) If the election is to be held less than one hundred twenty-five (125) days after the adoption of the resolution of formation, the concurrence of the election official conducting the election shall be required.

(c) Such time limits, or requirement pertaining to the conduct of the election, may be waived with the unanimous consent of the qualified electors of the District and the concurrence of the election official conducting the election.
(d) The special election on (i) the proposition of the District incurring a bonded indebtedness in an amount not to exceed $75,000,000, (ii) the proposition with respect to the levy of special taxes on the land within the District, and (iii) the proposition with respect to the establishment of an appropriations limit for the District in the amount of $75,000,000, per fiscal year, if the District is established, will be consolidated.

(e) If at least twelve (12) persons, who need not necessarily be the same twelve (12) persons, have been registered to vote within the territory of the proposed District for each of the ninety (90) days preceding the close of the hearing, the vote will be by the registered voters of the proposed District, with each voter having one vote. Otherwise, the vote will be by the landowners of the proposed District and each landowner who is the owner of record at the close of the hearing, or the authorized representative thereof, will have one (1) vote for each acre or portion of an acre of land that such landowner owns within the proposed District. The number of votes to be voted by a particular landowner will be specified on the ballot provided to that landowner.

(f) Ballots for the special election authorized may be distributed to qualified electors by mail with return postage prepaid or by personal service by the election official. The official conducting the election may certify the proper mailing or personal delivery of ballots by an affidavit, which shall constitute conclusive proof of such mailing or personal delivery in the absence of fraud. The voted ballots shall be returned to the election officer conducting the election not later than the hour specified in the resolution calling the election. However, if all the qualified voters have voted, the election shall be closed.

(g) Except as otherwise provided in the Act, the provisions of law regulating elections of the City, insofar as they may be applicable, will govern the election. Except as provided in the next sentence, there will be prepared and included in the ballot material
provided to each voter an impartial analysis and arguments and rebuttals, if any, as provided in the California Elections Code. If the vote is to be by the landowners of the proposed District, analysis and arguments may be waived with the unanimous consent of all the landowners.

If the election is to be conducted by mail ballot, the election official conducting the election shall provide ballots and election materials, together with all supplies and instructions necessary for the use and return of the ballot. The identification envelope for return of mail ballots used in a landowner election shall contain the following: (1) the name of the landowner; (2) the address of the landowner; (3) a declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope; (4) the printed name and signature of the voter; (5) the address of the voter; (6) the date of signing and the place of execution of the declaration described in (3) above; and (7) a notice that the envelope contains an official ballot and will be opened only by the canvassing board.

(h) The procedures set forth in this Section for conducting the consolidated special election may be modified as the Council may determine to be necessary or desirable by a resolution subsequently adopted by the Council.

SECTION 14. This Council may, by ordinance, authorize contributions by the City from any sources of revenue not otherwise prohibited by law, of any specified amount, portion or percentage of such revenue for any of the following: (1) acquiring or constructing any of the Facilities; (2) the acquisition of interests in real property; (3) paying debt service with respect to the financing of any such acquisition or construction; (4) providing the authorized Services; and (5) the payment of expenses incidental to any of the foregoing.
SECTION 15. This Council reserves to itself the right and authority to allow any interested owner of property within the District, subject to the provisions of Section 53344.1 of the Act and to those conditions it may impose, and any applicable prepayment penalties as described in the bond indenture or comparable instrument or document, to tender in full payment or part payment of any installment of the special tax levied to pay for the Facilities or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 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”

Rate and Method of Apportionment
Special Taxes applicable to each Assessor’s Parcel in Community Facilities District No. 2004-1 (Village One #2) [herein “CFD No. 2004-1” or “the CFD”] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2004-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2004-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Acre” or “Acreage” means the land area of an Assessor’s Parcel as shown on an Assessor’s Parcel Map, or if the land area is not shown on an Assessor’s Parcel Map, the land area shown on the applicable Final Map or other Development Plan.

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

“Administrative Expenses” means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2004-1 and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the County Auditor’s Office, Tax Collector’s Office, and/or Treasurer’s Office, costs related to annexing property into the CFD, costs related to property owner inquiries regarding the Special Taxes, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Tax.
"Annual Facilities Special Tax" means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.

"Annual Facilities Special Tax Requirement" means the amount necessary in any Fiscal Year (i) to pay principal and interest, including scheduled sinking fund payments, on Bonds, (ii) pay administrative expenses of CFD No. 2004-1 that have not been included in the Annual Maintenance Special Tax Requirement for the Fiscal Year, (iii) to create or replenish reserve funds, (iv) to cure any delinquencies in the payment of principal or interest on indebtedness of CFD No. 2004-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (v) to construct or acquire Authorized Facilities. The amounts referred to in clauses (i) and (iii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2004-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

"Annual Maintenance Special Tax" means a special tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement, as defined below.

"Annual Maintenance Special Tax Requirement" means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay administrative expenses of CFD No. 2004-1 that have not been included in the Annual Facilities Special Tax Requirement for the Fiscal Year, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

"Assessor's Parcel" or "Parcel" means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor designating parcels by Assessor’s Parcel number.

"Authorized Facilities" means those facilities that are authorized to be funded by CFD No. 2004-1.

"Authorized Services" means those services that are authorized to be funded by CFD No. 2004-1.

"Bonds" means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured or assumed by CFD No. 2004-1 related to Authorized Facilities.

"Capitalized Interest" means funds in any capitalized interest account available to pay debt service on Bonds.
"CFD Formation" means the date on which the Resolution of Formation to form CFD No. 2004-1 was adopted by the City Council.

"City" means the City of Modesto.

"City Council" means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2004-1.

"Commercial Property" means all Parcels in CFD No. 2004-1 for which building permits have been or may be issued for construction of a commercial building based on reference to the Village One Specific Plan and/or the Parcel’s zoning designation.

"County" means the County of Stanislaus.

"Developed Property" means, in any Fiscal Year, the following:

For purposes of levying the Annual Maintenance Special Tax, “Developed Property” means:

- for Low Density Residential Property and Village Residential Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2002,

- for Multi-Family Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year, and

- for Commercial Property and Industrial Property, all Parcels for which a building permit for construction, reconstruction or expansion of a building structure was issued prior to June 30 of the preceding Fiscal Year. Notwithstanding the foregoing, Parcels of Commercial Property or Industrial Property on which a vacant building is located that cannot be occupied without demolition or reconstruction of the building shall not be categorized as Developed Property until a permit is issued for construction of a new building or reconstruction of the existing building.

For purposes of levying the Annual Facilities Special Tax, “Developed Property” means:

- for Low Density Residential Property and Village Residential Property, all Parcels for which a building permit for construction, or reconstruction of a unit was issued prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2002,

- for Multi-Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year, and
for Commercial Property and Industrial Property, all Parcels for which a building permit for construction, reconstruction or expansion of a building structure was issued prior to June 30 of the preceding Fiscal Year. Notwithstanding the foregoing, Parcels of Commercial Property or Industrial Property on which a vacant building is located that cannot be occupied without demolition or reconstruction of the building shall not be categorized as Developed Property until a permit is issued for construction of a new building or reconstruction of the existing building.

"Expected Land Uses" means the Net Taxable Acreage of each Land Use Class expected on an Original Parcel in CFD No. 2004-1 based on reference to the Expected Land Use Map. The Expected Land Uses for each Original Parcel in the CFD at the time of CFD Formation, and the corresponding Maximum Special Tax for each Parcel, are reflected in Attachment 2, which will be updated with each annexation of property into CFD No. 2004-1.

"Expected Land Use Map" means the map entitled "Village One Zoning of Unvested Properties" which is on file with the CFD Administrator at the City and the City Clerk and which identifies the Expected Land Uses on all Parcels within the Village One Specific Plan that either (i) are in CFD No. 2004-1 at CFD Formation, or (ii) may be annexed into the CFD in future Fiscal Years. The Expected Land Use Map may be updated in future years to add property within the Village One Specific Plan that was vested to develop when the map was prepared and, therefore, was not included in the map but subsequently has its vesting expire or for any other reason becomes subject to a condition of development that requires formation of, or annexation into, a CFD.

"Final Map" means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure. The term "Final Map" shall not include any Assessor's Parcel Map or subdivision map or portion thereof, that does not create lots that are in their final configuration, including Assessor's Parcels that are designated as remainder parcels.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Improvement Area" means a geographic area that, upon annexation into CFD No. 2004-1, is identified as an improvement area as defined in the Act instead of a Tax Zone, as defined below. Special Taxes collected within an Improvement Area will be the sole security for Bonds issued for that Improvement Area.

"Industrial Property" means all Parcels in CFD No. 2004-1 for which building permits have been or may be issued for construction of an industrial building based on reference to the Village One Specific Plan and/or the Parcel’s zoning designation.
“Land Use Class” means one of the five mutually-exclusive land use classes identified in Table 1 in Section C below and defined in this Section A. The City shall, in its sole discretion, determine the appropriate Land Use Class for Parcels on which a structure was built prior to CFD Formation.

“Low Density Residential Property” means all Parcels in CFD No. 2004-1 for which a building permit has been or may be issued for construction of a residential unit on a Parcel with a maximum density of two or less dwelling units per gross acre based on reference to the Village One Specific Plan and/or the Parcel’s zoning designation.

“Maximum Annual Facilities Special Tax” means the greatest amount of Annual Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

“Maximum Annual Maintenance Special Tax” means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

“Maximum One-Time Facilities Special Tax” means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

“Maximum Special Taxes” means, collectively, the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

“Multi-Family Property” means all Parcels in CFD No. 2004-1 for which building permits have been or may be issued for construction of a residential structure consisting of two or more residential units that share common walls, including but not limited to, townhomes, condominiums, duplexes, triplexes, fourplexes, and apartment units. If a building permit has not yet been issued on the Parcel, the Administrator shall reference the Village One Specific Plan and/or the Parcel’s zoning designation to determine whether the Parcel is Multi-Family Property.

“Net Taxable Acreage” or “Net Taxable Acre” means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by the subdivision, the Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

“One-Time Facilities Special Tax” means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.
"Original Parcel" means an Assessor's Parcel in CFD No. 2004-1 at the time of CFD Formation or added to the CFD upon annexation, as identified in Attachment 2 (which shall be updated after each annexation). A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C below.

"Per-Acre Special Taxes" means the per-acre Special Taxes identified in Table 1 in Section C below.

"Proportionately" means, for Developed Property, that the ratio of the actual Annual Facilities Special Tax and Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor's Parcels of Developed Property, respectively. In addition, for Undeveloped Property, "Proportionately" means that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Facilities Special Tax to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax is equal for all Assessor's Parcels of Undeveloped Property, respectively.

"Public Property" means any property within the boundaries of CFD No. 2004-1 that is owned by the federal government, State of California, County, City, or other public agency.

"Single Family Detached Lot" means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached unit.

"Special Taxes" means, collectively, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

"Special Tax Category" means, individually, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

"Subdivision Map" means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

"Successor Parcel" means an Assessor's Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a residential or non-residential structure is permitted.

"Taxable Property" means all of the Assessor's Parcels within the boundaries of CFD No. 2004-1 which are not exempt from the Special Tax pursuant to law or Section G below.

"Taxable Public Property" means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2004-1 that, (i) based on the Village One Specific Plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year.
“Tax Zone” means a mutually exclusive geographic area within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Tax. Attachment 1 identifies the Tax Zone in CFD No. 2004-1 at CFD Formation; additional Tax Zones may be created when property is annexed into the CFD. Alternatively, additional Original Parcels may be added to a Tax Zone with assigned Maximum Special Taxes based on the Expected Land Uses on each Original Parcel.

“Tax Zone #1” means the geographic area that is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #1. Tax Zone #1 may be expanded to include additional Original Parcels that annex to CFD No. 2004-1; Attachments 1 and 2 will be updated each time such an annexation takes place.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2004-1 that are not Developed Property or, in the discretion of the City, any portion of a Parcel of Developed Property on which an additional structure will be constructed pursuant to issuance on an additional building permit.

“Village One Specific Plan” means the specific plan for development within the Village One project in the City of Modesto adopted by the City Council on April 1, 2003, as amended from time to time.

“Village Residential Property” means, in any Fiscal Year, all Parcels in CFD No. 2004-1 for which a building permit has been or may be issued for construction of a residential unit on a Parcel with a maximum density greater than two dwelling units per gross acre based on reference to the Village One Specific Plan and/or the Parcel’s zoning designation.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property in CFD No. 2004-1. The Administrator shall also determine: (i) the Tax Zone within which each Parcel of Taxable Property is located, (ii) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, (iii) which Parcels are Commercial Property, Industrial Property, Multi-Family Property, Low Density Residential Property, and Village Residential Property (the City shall, in its sole discretion, determine the appropriate Land Use Class for Parcels on which a structure was built prior to CFD Formation), (iv) the Net Taxable Acreage of each Parcel, and (v) the Annual Facilities Special Tax Requirement and the Annual Maintenance Special Tax Requirement.

If, in any Fiscal Year, an Assessor’s Parcel includes both Developed Property and Undeveloped Property, the Administrator shall determine the Net Taxable Acreage of Developed Property, subtract this Net Taxable Acreage from the total Net Taxable Acreage of the Assessor’s Parcel, and use the remaining Net Taxable Acreage to calculate the Special Taxes that will apply to Undeveloped
Property within the Assessor’s Parcel. The Special Taxes shall then be calculated for the Developed Property on the Parcel, and the total Special Taxes levied on the Assessor’s Parcel shall be the sum of the Special Taxes determined separately for the Undeveloped Property and Developed Property on the Parcel.

C. CALCULATING MAXIMUM SPECIAL TAXES

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2004-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax. A separate method of calculating the Maximum Special Taxes may be identified for Tax Zones or Improvement Areas added to CFD No. 2004-1 as a result of future annexations. The Per-Acre Special Taxes set forth in Table 1 below shall be used for purposes of Sections C.1 and C.2 below:

<table>
<thead>
<tr>
<th>Land Use Class</th>
<th>Per-Acre Special Tax: One-Time Facilities Special Tax</th>
<th>Per-Acre Special Tax: Annual Facilities Special Tax</th>
<th>Per-Acre Special Tax: Annual Maintenance Special Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Density Residential Property</td>
<td>$13,342 per Net Taxable Acre</td>
<td>$3,517 per Net Taxable Acre</td>
<td>$525 per Net Taxable Acre</td>
</tr>
<tr>
<td>Village Residential Property</td>
<td>$30,281 per Net Taxable Acre</td>
<td>$6,405 per Net Taxable Acre</td>
<td>$1,233 per Net Taxable Acre</td>
</tr>
<tr>
<td>Multi-Family Property</td>
<td>$101,437 per Net Taxable Acre</td>
<td>$7,222 per Net Taxable Acre</td>
<td>$4,020 per Net Taxable Acre</td>
</tr>
<tr>
<td>Commercial Property</td>
<td>$52,102 per Net Taxable Acre</td>
<td>$3,570 per Net Taxable Acre</td>
<td>$920 per Net Taxable Acre</td>
</tr>
<tr>
<td>Industrial Property</td>
<td>$13,103 per Net Taxable Acre</td>
<td>$2,550 per Net Taxable Acre</td>
<td>$920 per Net Taxable Acre</td>
</tr>
</tbody>
</table>

*All Per-Acre Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below.

1. Original Parcels

The Maximum Special Taxes for each Land Use Class in the Original Parcel in CFD No. 2004-1 as of CFD Formation is identified in Attachment 2. Attachment 2 will be updated by the Administrator as needed to reflect Original Parcels added to the CFD due to annexations. Until an Original Parcel is subdivided, the Maximum Special Taxes shown in Attachment 2...
(escalated as set forth herein) shall be the Maximum Special Taxes for the Parcel unless the zoning on the Original Parcel changes to a Land Use Class that has higher Per-Acre Special Taxes, as shown in Table 1 above. Upon approval of such change in zoning by the City Council, the Administrator shall multiply the applicable Per-Acre Special Taxes by the Net Taxable Acreage of each Land Use Class that is expected on the Parcel based on the rezone. The Administrator shall then update Attachment 2 to reflect the higher Maximum Special Taxes for the Parcel. If a rezone results in a Land Use Class that has a lower Per-Acre Special Tax than the previous Expected Land Uses, there shall be no corresponding reduction in the Maximum Special Taxes for the Parcel. The potential reduction in Maximum Special Tax revenues must be considered separately for each Special Tax Category. If the rezone would cause a reduction in the Maximum Special Tax revenues in any Special Tax Category, the Maximum Special Tax identified for that Special Tax Category shall remain the same as originally assigned to the Original Parcel.

2. Successor Parcels

a. All Successor Parcels are Single Family Detached Lots

If the Parcels created by a recorded Subdivision Map are all Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes for the Original Parcel to each of the Successor Parcels created by the subdivision:

Step 1: Determine the greater of (i) the Maximum Special Taxes assigned to each Expected Land Use for the Original Parcel, or (ii) the Net Taxable Acreage of Low Density Residential Property and/or Village Residential Property within the Subdivision Map multiplied by the Per-Acre Special Taxes for such Land Use Classes from Table 1 above. If the Subdivision Map includes both Low Density Residential Property and Village Residential Property, separately calculate the amount that applies to each Land Use Class.

Step 2: Separately for any Low Density Residential Property and Village Residential Property created by the Subdivision Map, divide the Maximum Special Taxes from Step 1 by the number of Successor Parcels to determine the Maximum Special Taxes for each Single Family Detached Lot.

b. No Successor Parcels are Single Family Detached Lots

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:
Step 1: Identify the Expected Land Uses for the Original Parcel.

Step 2: Determine the Net Taxable Acreage within each Land Use Class created by the Subdivision Map.

Step 3: If the Net Taxable Acreage of each Land Use Class from Step 2 is the same as the Expected Land Uses, the Maximum Special Taxes assigned to each of the Expected Land Uses on the Original Parcel shall be allocated to the Successor Parcels based on the Acreage of each Land Use Class that occurs on each Successor Parcel.

Step 4: If the Net Taxable Acreage within each Land Use Class from Step 2 is different than the Expected Land Uses for the Original Parcel, the Administrator shall apply the following steps separately for each Special Tax Category:

Step 4a. Multiply the applicable Per-Acre Special Tax by the Net Taxable Acreage of each Land Use Class created by the Subdivision Map.

Step 4b. If the amount calculated in Step 4a is greater than the Maximum Special Tax assigned to the Original Parcel, multiply the Net Taxable Acreage of each Land Use Class on each Successor Parcel by the applicable Per-Acre Special Tax from Table 1 above to determine the Maximum Special Tax for each Successor Parcel.

Step 4c. If the amount calculated in Step 4a is less than the Maximum Special Tax assigned to the Original Parcel: (i) identify the Maximum Special Tax that was assigned to each of the Expected Land Uses on the Parcel, (ii) divide the Maximum Special Tax for each Land Use Class by the Net Taxable Acreage of each Land Use Class actually created by the Subdivision Map, and (iii) multiply the per-acre Maximum Special Tax calculated in (ii) by the Net Taxable Acreage of each Land Use Class on each Successor Parcel to determine the Maximum Special Tax for each Parcel.

If the Land Use Classes on a Successor Parcel or Parcels are different than the Expected Land Uses for that Parcel(s) and such difference would result in a reduction in the Maximum Special Tax assigned to the Original Parcel for any Special Tax Category, the Maximum Special Tax assigned to the
Original Parcel shall either be distributed equally on a per-acre basis to the Successor Parcels or, if multiple Land Use Classes are created by the Subdivision Map, the Maximum Special Tax from the Original Parcel shall be distributed to each Land Use Class so that the per-acre tax for each Land Use Class has the same proportional relationship as the Per-Acre Special Taxes in Table 1 above.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

c. Some, But Not All, Successor Parcels are Single Family Detached Lots

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall (i) break out the Net Taxable Acreage of Low Density Residential Property and/or Village Residential Property separately from the Net Taxable Acreage of other Land Use Classes, (ii) for the Low Density Residential Property and/or Village Residential Property created by the Subdivision Map, apply the steps in Section C.2a to determine the Maximum Special Taxes for each Single Family Detached Lot, and (iii) apply the steps in Section C.2b above to determine the Maximum Special Taxes for Land Use Classes other than Low Density Residential Property and Village Residential Property.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less, but may be more, than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

D. ESCALATION OF MAXIMUM SPECIAL TAXES

1. One-Time Facilities Special Tax

Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel and the Per-Acre Special Tax shown in Table 1 above shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four
percent (4.0%). Each annual adjustment of the One-Time Facilities Special Tax shall become effective on the subsequent July 1.

2. Annual Facilities Special Tax

Beginning in Fiscal Year 2005-06, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax assigned to each Parcel and the Per-Acre Special Tax shown in Table 1 above shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

3. Annual Maintenance Special Tax

Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax assigned to each Parcel and the Per-Acre Special Tax shown in Table 1 above shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. METHOD OF LEVY OF THE SPECIAL TAX

1. One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2004-1 and shall be collected as set forth in Section F below.

2. Annual Facilities Special Tax

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for the Fiscal Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property in CFD No. 2004-1 as follows:

**Step 1:** The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year;

**Step 2:** If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor’s Parcel of Undeveloped Property within the CFD, up to 100% of the
Maximum Annual Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

Step 3: If additional revenue is needed after applying the first two steps, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor’s Parcel of Taxable Public Property, up to 100% of the Maximum Annual Facilities Special Tax assigned to each Parcel of Taxable Public Property.

3. Annual Maintenance Special Tax

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Maintenance Special Tax Requirement for the Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

Step 1: The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year;

Step 2: If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor’s Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

Step 3: If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor’s Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

F. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2004-1, and shall be immediately delinquent if not so paid.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2004-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that prepayments are permitted as set forth in Section H below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.
The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring Authorized Facilities from Annual Facilities Special Tax proceeds have been paid, and all Administrative Expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2060-61. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services of the CFD and all Administrative Expenses have been reimbursed. Under no circumstances may the Special Taxes on one Parcel in the CFD be increased by more than ten percent (10%) as a consequence of delinquency or default in payment of the Special Taxes levied on another Parcel or Parcels in the CFD.

G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Public Property, except Taxable Public Property, as defined herein.

H. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section H:

“Outstanding Bonds” means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

“Previously Issued Bonds” means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

“Public Facilities Requirements” means either $1,327,000 in 2004 dollars, which shall increase on January 1, 2005, and on each January 1 thereafter by the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or such other number as shall be determined by the City as sufficient to fund Authorized Facilities. The Public Facilities Requirements shown above shall be adjusted or a separate Public Facilities Requirements identified each time property annexes into CFD No. 2004-1; at no time shall the added Public Facilities Requirement for the annexation area exceed the amount of public...
improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax generated within that annexation area.

“Remaining Facilities Costs” means the Public Facilities Requirements (as defined above), minus costs of Authorized Facilities funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Annual Facilities Special Tax obligation applicable to an Assessor’s Parcel in the CFD may be prepaid and the obligation of the Assessor’s Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor’s Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor’s Parcel intending to prepay the Annual Facilities Special Tax obligation shall provide the City with written notice of intent to prepay. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Assessor’s Parcel. Prepayment must be made not less than 75 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Annual Facilities Special Taxes. The Prepayment Amount shall be calculated as follows: (capitalized terms as defined below):

\[
\text{Prepayment Amount} = \text{Bond Redemption Amount} + \text{Remaining Facilities Amount} + \text{Redemption Premium} + \text{Defeasance Requirement} + \text{Administrative Fees and Expenses} - \text{Reserve Fund Credit}
\]

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

**Step 1.** Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor’s Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.

**Step 2.** Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD.

**Step 3.** Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").

**Step 4.** Compute the current Remaining Facilities Costs (if any).
Step 5. Multiply the quotient computed pursuant to Step 2 by the amount determined pursuant to Step 4 to compute the amount of Remaining Facilities Costs to be prepaid (the "Remaining Facilities Amount").

Step 6. Multiply the Bond Redemption Amount computed pursuant to Step 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").

Step 7. Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.

Step 8: Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.

Step 9: Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (the "Defeasance Requirement").

Step 10. Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the "Administrative Fees and Expenses").

Step 11. If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the "Reserve Fund Credit").

Step 12. The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (the "Prepayment Amount").

If an owner that has prepaid the Annual Facilities Special Tax obligation assigned to a Parcel subsequently rezones the Parcel to a Land Use Class that has a higher Per-Acre Annual Facilities Special Tax, the City may in its sole discretion and as a condition of approval of the rezoning, collect the additional Annual Facilities Special Tax prepayment that would have applied had the Parcel been rezoned at the time of the original prepayment for the Parcel.
I. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that does not materially affect the Rate and Method of Apportionment of Special Tax. In addition, the interpretation and application of any section of this document shall be left to the City’s discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Tax.
ATTACHMENT 1

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT No. 2004-1
(VILLAGE ONE #2)

IDENTIFICATION OF TAX ZONES

Tax Zone #1
includes APN's
077-033-007
077-033-009
085-034-080
## ATTACHMENT 2

**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2004-1**  
**(VILLAGE ONE)**

### Maximum Special Taxes Assigned to Expected Land Uses Within Each Original Parcel in Each Tax Zone

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
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<td>1</td>
<td>77-33-07</td>
<td>Village Residential</td>
<td>16.23</td>
<td>$491,461</td>
<td>$103,953</td>
<td>$20,012</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Commercial</td>
<td>3.24</td>
<td>$168,810</td>
<td>$11,567</td>
<td>$2,981</td>
</tr>
<tr>
<td>1</td>
<td>77-33-09</td>
<td>Commercial</td>
<td>0.93</td>
<td>$48,455</td>
<td>$3,320</td>
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<td>85-34-80</td>
<td>Village Residential</td>
<td>1.0</td>
<td>$30,281</td>
<td>$6,405</td>
<td>$1,233</td>
</tr>
</tbody>
</table>

1. Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the *Engineering News Record* or other comparable source if the *Engineering News Record* is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum One-Time Facilities Special Tax shall become effective on the subsequent July 1.

2. Beginning in Fiscal Year 2005-06 and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax shall escalate by 2.0% of the amount in effect in the prior Fiscal Year.

3. Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the *Engineering News Record* or other comparable source if the *Engineering News Record* is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.
LIST OF FACILITIES

Description of Facilities

All facilities described herein are as presented in the Village One Facilities Master Plan (‘FMP’) update dated May 2003. Said master plan is incorporated herein by reference. The following descriptions summarize the facilities to be funded within CFD 2004-1.

A. Arterial Roads:

Included in the FMP are improvements to four arterial roads that will be funded by the CFD. They include Roselle Ave., from Briggsmore to the northern boundary of Village One (north of Sylvan), Floyd Ave. from Oakdale Rd. to Claus Rd., Oakdale Rd. from Briggsmore to Sylvan Ave., and Sylvan Ave. from Oakdale Rd. to Claus Rd. Also included in the CFD is partial funding for a pedestrian overcrossing on Sylvan Ave. to serve the new high school.

B. Storm Drain System:

The storm drainage system for Village One contains three detention basins:

1. West Basin: Dual-use basin that pumps water to the Central Basin.

2. Central Basin: Percolation/detention basin that pumps water to the MID Lateral #3 and may pump to Dry Creek via Claus Rd. at some time in the future.

3. East Basin: Dual-use basin that pumps water to Dry Creek via Claus Rd.

The facilities to be funded by the CFD include: basin property, trunk pipelines, force mains, pump stations, and other necessary appurtenances.

C. Parks:

Three neighborhood parks and one community park will be developed within the Village One Specific Plan area. The development of the parks will include the acquisition of land, park improvements and street frontage improvements for the Grogan Community Park, the Roselle Neighborhood Park, the Claus Neighborhood Park and the Merle Neighborhood Park.

In addition, buffer land for the community park is to be acquired, a bike trail is to be developed along MID Lateral No. 3, and a trail is to be developed along Claus Rd.

D. Public Facilities:

An area office for police is proposed within Village One. Funds are provided within the CFD for tenant improvements necessary to set up an area office.

E. Other:

Other costs associated with Village One include reimbursement to the City of Modesto for engineering of the Facilities Master Plan and planning related to the Village One Specific Plan, future annual administration costs for the CFD, and community signage for Village One.
LIST OF SERVICES

Included in this CFD is the maintenance of the Grogan Community Park, Roselle Neighborhood Park, Merle Neighborhood Park, Claus Neighborhood Park, arterial road parkway, median and roundabout landscaping, connector street parkway, median and roundabout landscaping, bike trails and storm drain facilities.
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-128

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO OF INTENTION TO INCUR A BONDED INDEBTEDNESS IN AN AMOUNT NOT TO EXCEED $75,000,000 WITHIN PROPOSED CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)

WHEREAS, this Council (the "Council") has adopted its Resolution No. 2004-127 (the "Resolution of Intention to Establish the District") stating its intention to establish City of Modesto Community Facilities District No. 2004-1 (Village One #2) (the "District") pursuant to Chapter 2.5 of Part 1 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"), for the purpose of financing certain public facilities (the "Facilities") described in the Resolution of Intention to Establish the District, and the incidental expenses thereof, and certain services (the "Services") as therein described; and

WHEREAS, in order to finance the Facilities and incidental expenses, it is necessary to incur bonded indebtedness in an amount not to exceed $75,000,000, the repayment of which is to be secured by a special tax levied in accordance with Section 53328 of the Act, and the rate, method of apportionment and manner of collection described in the Resolution of Intention to Establish the District;

NOW, THEREFORE, BE IT RESOLVED, ORDERED AND FOUND by the City Council of the City of Modesto that:
SECTION 1. The above recitals are true and correct.

SECTION 2. It is necessary to incur bonded indebtedness within the boundaries of the proposed District for the purpose of financing the Facilities described in the Resolution of Intention to Establish the District, and the incidental expenses thereof.

SECTION 3. The bonded indebtedness is proposed to be incurred in order to finance the Facilities, including acquisition and construction costs, and all costs incidental to, or connected with the accomplishment of such purpose and the financing thereof, as permitted by Section 53345.3 of the Act.

SECTION 4. The whole of the proposed District will pay for the bonded indebtedness according to the rate and method of apportionment of the special tax as provided in the Resolution of Intention to Establish the District.

SECTION 5. The bonded indebtedness will be in an aggregate principal amount not to exceed $75,000,000.

SECTION 6. A public hearing on the proposed bonded indebtedness will be held at 5:30 p.m., or as soon thereafter as practicable, on Tuesday, April 6, 2004, at the regular meeting place of the City Council, City Council Chambers, Basement Level, 1010 Tenth Street, Modesto, California 95353.

SECTION 7. At the time and place set forth above for the hearing, any person interested, including all persons owning property in the area, may appear and be heard on the proposed debt issuance.
The City Clerk is directed to publish a notice of the hearing, in the form required by the Act, one time, pursuant to Section 6061 of the Government Code, in a newspaper of general circulation published in the area of the proposed District, being *The Modesto Bee*. Such publication shall be completed at least seven (7) days prior to the date set for the hearing.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 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: [Signature]

MICHAEL D. MILICH, City Attorney

APPROVED AS TO FORM:

[Signature]

MICHAEL D. MILICH, City Attorney
A RESOLUTION APPROVING AN ADVANCED FUNDING AGREEMENT FOR CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)

WHEREAS, B&G Development, LLC (the "Developer") has filed with this City Council a petition requesting the formation of a community facilities district and the issuance of bonds to finance and maintain certain infrastructure; and

WHEREAS, in connection therewith there has been presented to this City Council the form of an Advanced Funding Agreement by and between the City and the Developer relating to advances made and to be made by the Developer to the City (the "Advanced Funding Agreement");

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Council of the City of Modesto that the Advanced Funding Agreement between the City of Modesto and B&G Development LLC be hereby approved and that the City Manager is hereby authorized to execute the Advanced Funding Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2\textsuperscript{nd} day of March, 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

\[\text{ATTEST:} \quad \text{JEAN ZAHR, City Clerk}\]

\[\text{APPROVED AS TO FORM:} \quad \text{MICHAEL D. MILICH, City Attorney}\]
A RESOLUTION AMENDING THE FY97 CAPITAL IMPROVEMENT BUDGET TO TRANSFER $125,000.00 FROM 7200-480-J879 FLEET MAINTENANCE FACILITY TO 0700-480-L116 ELM STREET BUILDINGS FY00

WHEREAS, the bids received for the Elm Street Buildings project, were opened at 11:00 a.m. on February 10, 2004, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended in a separate resolution that the bid of $295,012 be accepted as the lowest responsible bid and Finance has determined that there is $125,000.00 available for this project in FY97 Capital Improvement Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY97 and FY00 Capital Improvement Budgets to transfer $125,000 from 7200-480-J879 to 0700-480-L116 and appropriate $125,000.00 from 7200-480-J879 to 0700-480-L116.

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to take the steps necessary to amend the FY97 and FY00 Capital Improvement Budgets.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2004 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By 

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2004-131  

A RESOLUTION AWARDING THE BID AND APPROVING A $295,012 CONTRACT WITH TCB INDUSTRIAL, INC., FOR THE PROJECT TITLED “ELM STREET BUILDINGS,” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT  

WHEREAS, the bids received for the Elm Street Buildings project were opened at 11:00 a.m. on February 10, 2004, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and  

WHEREAS, the Engineering and Transportation Director has recommended that the bid of $295,012 received from TCB Industrial, Inc., be accepted as the lowest responsible bid and the contract be awarded to TCB Industrial, Inc.,  

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of TCB Industrial, Inc., in the amount of $295,012, and hereby awards TCB Industrial, Inc., the contract titled “Elm Street Buildings” for $295,012.  

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 2\textsuperscript{nd} day of March, 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: \underline{Jean Zahr}
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By \underline{Michael D. Milich}
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-132

A RESOLUTION AUTHORIZING THE PURCHASE OF A JOHN DEERE 304H WHEEL LOADER UNDER THE STATE OF CALIFORNIA, DEPARTMENT OF GENERAL SERVICES, CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS) CONTRACT FROM NORTREX WEST OF FRENCH CAMP, CA. FOR A TOTAL ESTIMATED COST OF $75,002.

WHEREAS, the Operations and Maintenance Department-Fleet Services has requested the purchase of a John Deere 304H wheel loader, and

WHEREAS, this unit will replace a loader which has met its life expectancy and has become unreliable and costly to keep operational, and

WHEREAS, this unit is fully funded for replacement from funds set aside out of the Fleet Replacement Fund, and

WHEREAS, the estimated cost of a new John Deere 304H loader purchased under a California Multiple Award Schedule (CMAS), General Services Administration Statewide pricing contract is $75,002, and

WHEREAS, the estimated State Service Charge for using the CMAS contract is $1,349, and

WHEREAS, purchasing the equipment from Nortrex West under the CMAS contract will allow the City to receive the lowest possible price for this piece of industrial equipment, and

WHEREAS, Nortrax West, French Camp, CA. is the closest authorized dealer for this equipment, and there are no local vendors authorized to sell this piece of industrial equipment, and
WHEREAS, the Modesto Municipal Code (MMC) generally requires all purchases exceeding $50,000 for materials and equipment of this type to be formally bid, and

WHEREAS, per MMC Section 8-3.204 (d) the Purchasing Supervisor may determine that a process other than the formal bid procedure set forth in Section 8-3.203 will result in a procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, on August 26, 2002 the Finance Committee recommended that Fleet Services bring critical equipment and vehicles needs to Council for approval on an as needed basis, and

WHEREAS, at its meeting on February 23, 2003, the Finance Committee authorized City staff to take this same piece of equipment to full Council for approval,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the purchase of a John Deere 304H wheel loader from Nortrex West under the CMAS statewide pricing contract for a total estimated cost of $75,002.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 2nd day of March, 2004 by Councilmember Jackman,

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

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-133

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR BIDS FOR PERSONAL PROTECTIVE EQUIPMENT FOR FIRE DEPARTMENT PERSONNEL AT AN ESTIMATED ANNUAL COST OF $150,000.00.

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

WHEREAS, this equipment includes turnout pants and jackets, structure boots, hoods, helmets, gloves, self-contained breather equipment, EMS gloves, etc., and

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the issuance of request for bids for personal protective equipment for Fire Department personnel at an estimated annual cost of $150,000.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2\textsuperscript{nd} day of March, 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:

\begin{itemize}
  \item **AYES:** Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh, O'Bryant Mayor Ridenour
  \item **NOES:** Councilmembers: None
  \item **ABSENT:** Councilmembers: None
\end{itemize}

\textbf{ATTEST:} \hspace{1cm} \textit{Jean Zahr, City Clerk}

\textbf{APPROVED AS TO FORM:} \\
\begin{flushright}
By: \hspace{1cm} \textit{Michael D. Milich, City Attorney}
\end{flushright}
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-134

A RESOLUTION DECLARING AS SURPLUS ONE 1978 INTERNATIONAL TYPE III APPARATUS AND AUTHORIZING THE SALE OF THIS UNIT THROUGH THE AUCTION PARK AT AN ESTIMATED VALUE OF $2,000.00.

WHEREAS, the City purchased a new International cab and chassis in 1978, and
WHEREAS, a utility bed was added to the cab and chassis and it was equipped as a rescue vehicle, and
WHEREAS, the International was used as a rescue vehicle until 1993, and
WHEREAS, in 1993, due to a change in philosophy and equipment, the rescue equipment was moved to the ladder trucks, and
WHEREAS, the International was then converted to a quasi-Type III engine, and
WHEREAS, the conversion posed several problems which intensified with age and Department of Transportation regulation changes, and
WHEREAS, in 2002 the Council approved the purchase of a new Type III (wildland) apparatus, and
WHEREAS, the 1978 International has reached the end of fire fighting service life and has been replaced with new equipment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby declares as surplus the 1978 International Type III apparatus at an estimated value of $2,000.

BE IT FURTHER RESOLVED that the sale of this unit through The Auction Park is hereby authorized.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 2nd day of March, 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: [Signature]
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]
Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-135

A RESOLUTION ACCEPTING $698,798 IN FUNDING FROM THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION BICYCLE TRANSPORTATION ACCOUNT PROGRAM FOR PHASE I CONSTRUCTION OF THE VIRGINIA CORRIDOR AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LOCAL AGENCY-STATE AGREEMENT.

WHEREAS, staff has been notified by the State of California Department of Transportation that the City of Modesto has been awarded $698,798 in funding from the Bicycle Transportation Account Program for construction of Phase I of the Virginia Corridor, and

WHEREAS, said funding will allow construction south of the Rotary Centennial Project to proceed, and

WHEREAS, in order to accept the funding, the City Manager must be authorized to execute the Local Agency-State Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts $698,798 in funding from the Bicycle Transportation Account Program for construction of Phase I of the Virginia Corridor.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Local Agency-State Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2\textsuperscript{nd} day of March, 2004 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

**NOES:**
Councilmembers: None

**ABSENT:**
Councilmembers: None

Attest: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2004-136  

A RESOLUTION AMENDING THE FISCAL YEAR 2003-04 CAPITAL IMPROVEMENT PROGRAM TO APPROPRIATE A NEW CIP PROJECT “VIRGINIA CORRIDOR PHASE II & III CONSTRUCTION” (2300-310-A015-6040) WITH THE EXPENSE BUDGET OF $698,798 AND TO BUDGET THE STATE BICYCLE TRANSPORTATION ACCOUNT PROGRAM GRANT AS REVENUE FOR THIS CIP (2300-310-A015-3192) ..  

WHEREAS, staff was recently notified that the City of Modesto was awarded $698,798 in funding from the State of California Department of Transportation Bicycle Transportation Account Program for Phase I construction of the Virginia Corridor, and  

WHEREAS, said funding needs to be estimated and appropriated for budget purposes,  

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby amends the Fiscal Year 2003-04 Capital Improvement Program to appropriate a new CIP project “Virginia Corridor Phase II & III Construction” (2300-310-A015-6040) with the expense budget of $698,798 and to budget the State Bicycle Transportation Account Program grant as revenue for this CIP (2300-310-A015-3192).  

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 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

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

Attest: JEAN Zahr, City Clerk

03/02/04 PR&N/C Eubank/Item 09 2 2004-136
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-137

A RESOLUTION AWARDING THE BID AND APPROVING A $627,555.26 CONTRACT WITH GEORGE REED, INC., FOR THE PROJECT TITLED, "2002-2003 PAVEMENT MAINTENANCE PROGRAM – SCENIC DRIVE OVERLAY FROM ROSE AVENUE TO SONOMA AVENUE," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the bids received for the 2002-2003 Pavement Maintenance Program – Scenic Drive Overlay from Rose Avenue to Sonoma Avenue project were opened at 11:00 a.m. on February 10, 2004, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of $627,555.26 received from George Reed, Inc., be accepted as the lowest responsible bid and the contract be awarded to George Reed, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of $627,555.26, and hereby awards George Reed, Inc., the contract titled “2002-2003 Pavement Maintenance Program – Scenic Drive Overlay from Rose Avenue to Sonoma Avenue.”

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 9th day of March, 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

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004 - 138

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 9th day of March, 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
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:
By: Mike Milich, City Attorney

03/09/04/Finance/P Hetzler/Item 04 2004-138
### Budget Adjustments for the Month of February 2004

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### Justification

Appropriation transfer from General Fund Reserve to Graffiti Abatement operating accounts to fund the unexpected costs of removing graffiti incurred through recent increases in graffiti attributed to increased gang activity. Since graffiti, left unabated, leads to even more graffiti, timely abatement is critical. Expenses have been higher than budgeted for hiring temporary help and paying overtime for full-time employees to address the increased graffiti levels. In addition, we have experienced an increase in print prices. This adjustment is expected to cover expenses through the remainder of the fiscal year.
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-139

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO PURCHASE FIFTEEN (15) USED VEHICLES AT WHOLESALE AUCTION FOR AN ESTIMATED TOTAL COST OF $262,500.

WHEREAS, the Operations and Maintenance Department-Fleet Services Division has requested the purchase of fifteen (15) used vehicles, and

WHEREAS, the used vehicles will replace current vehicles budgeted for replacement, and

WHEREAS, twelve (12) of the used vehicles will be used by the Modesto Police Department for their investigation and administrative staff, and

WHEREAS, the remaining three (3) used vehicles will be used by Neighborhood Preservation, Motor Pool, and the Water Division, and

WHEREAS, Fleet Services staff will attend various wholesale auctions held throughout California, and make a recommendation to the Purchasing Supervisor to purchase fifteen (15) used vehicles by auction at a cost not to exceed $262,500, and

WHEREAS, by buying the used vehicles at auction the City will realize considerable savings, and

WHEREAS, based on direction from Council, the Purchasing Division issued a Request for Interest (RFI) to eighty-eight (88) local automobile dealers to see if it would be more cost effective to have a local automobile dealer perform the purchasing of used vehicles on behalf of the City, and

WHEREAS, six (6) responses were received to the RFI, and
WHEREAS, the Fleet Services Manager reviewed the responses received, and based on pricing submitted, determined that it would be more cost effective for the City to purchase the used vehicles at auction utilizing City staff, and

WHEREAS, Modesto Municipal Code Section (MMC) 8.3-204 (d) allows the Purchasing Supervisor discretion to determine that a process other than the formal bid procedures will result in a procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, the purchase of used vehicles at auction will conform to MMC Section 8.3-204 (d), and

WHEREAS, this item was presented to the Finance Committee at its February 25, 2004 meeting and received unanimous approval to move the matter forward to full Council for review,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is hereby authorized to purchase fifteen (15) used sedan vehicles at wholesale auction, utilizing City staff, for an estimated not to exceed total cost of $262,500.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of March, 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

APPROVED AS TO FORM:

BY: Michael D. Milich, City Attorney

JEAN ZAHRA, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-140

A RESOLUTION APPOINTING JAMES E. LEONARD AND JAMES DAVIS TO
THE AIRPORT ADVISORY COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the
City Council to appoint members to various Boards and Commissions, and
WHEREAS, the Economic Development Committee met on March 3, 2004 and
March 8, 2004, and recommended appointment of JAMES E. LEONARD (public at
large) and JAMES DAVIS (non-provider user/general aviation side) to the Airport
Advisory Committee.

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

SECTION 1. JAMES E. LEONARD, with term expiring January 1, 2007, and
JAMES DAVIS, with term expiring January 1, 2008, are hereby appointed to the Airport
Advisory Committee.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this
resolution to the newly appointed members of the Airport Advisory Committee, and the
Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of March, 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: Hawn, Jackman, Keating, Marsh, O’Bryant,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Michael D. Milich, City Attorney

ATTEST: ________________________
JEAN ZAHR, City Clerk
RESOLUTION APPOINTING TED BRANDVOLD AND MICHAEL NAVARRO TO THE BOARD OF ZONING ADJUSTMENT

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

WHEREAS, the Economic Development Committee met on February 24, 2004 and recommended appointment of TED BRANDVOLD and MICHAEL NAVARRO to the Board of Zoning Adjustment.

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

SECTION 1. TED BRANDVOLD, term expiring January 1, 2006, and MICHAEL NAVARRO, term expiring January 1, 2008, are hereby appointed to the Board of Zoning Adjustment.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the Board of Zoning Adjustment, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of March, 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: Hawn, Jackman, Keating, Marsh, O’Bryant,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

Michael D. Milich, City Attorney
A RESOLUTION APPOINTING CHARLES CHITURAS TO THE CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE

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

WHEREAS, the Economic Development Committee met on March 8, 2004, and recommended appointment of CHARLES CHITURAS to the Citizens Housing & Community Development Committee.

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

SECTION 1. CHARLES CHITURAS is hereby appointed to the Citizens Housing & Community Development Committee with a term expiration of January 1, 2005.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Citizens Housing & Community Development, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 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: Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: \underline{Jean Zahr}, City Clerk

APPROVED AS TO FORM:

Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-143

A RESOLUTION APPOINTING MEMBERS TO THE LOCAL CABLE PROGRAMMING COMMITTEE

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

WHEREAS, the Economic Development Committee met on March 3, 2004, and recommended appointment of ERNIE FOOTE, DAVE THOMAS, FLOYD HARRIS, ELLIE TEMPLE BAUMER and MARK LOOKER to the Local Cable Programming Committee.

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


SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the LOCAL CABLE PROGRAMMING Committee, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 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: Hawn, Jackman, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: ________________________
        JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-144

A RESOLUTION APPOINTING DAVID COGDILL, JR. AND KRISTIN OLSEN TO THE PLANNING COMMISSION

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

WHEREAS, the Economic Development Committee met on February 25, 2004, and recommended appointment of DAVID COGDILL, JR. and KRISTIN OLSEN to the Planning Commission.

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

SECTION 1. DAVID COGDILL, JR., term expiring January 1, 2006, and KRISTIN OLSEN, term expiring January 1, 2008, are hereby appointed to the Planning Commission.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Planning Commission, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 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: Hawn, Jackman, Keating, Marsh, O’Bryant, Mayor Ridenour

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: Dunbar

**APPROVED AS TO FORM:**

Michael D. Milich, City-Attorney

**ATTEST:**

JEAN ZAHN, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-145

A RESOLUTION APPROVING THE FIRST AMENDMENT TO THE MASTER PROPERTY TAX SHARING AGREEMENT BETWEEN THE CITY OF MODESTO AND THE COUNTY OF STANISLAUS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, the Modesto City School District recently acquired five single-family lots adjacent to the Bret Harte Elementary School for purposes of expansion of the school, and

WHEREAS, the expansion area lies just outside the Modesto city limits, and it is in the best interests of the City, the County and the School District to have all of the school area located in the Modesto city limits, and

WHEREAS, the School District proposes to annex the expansion area to the City of Modesto, and

WHEREAS, a legal prerequisite to the annexation is a Property Tax Sharing Agreement between the City and the County providing for the allocation of property tax revenues even though the School District property is exempt, and

WHEREAS, on April 9, 1996, by Resolution No. 96-170 the City of Modesto entered into a Master Property Tax Agreement with the County of Stanislaus, and

WHEREAS, amending the Master Property Tax Sharing Agreement would make the expansion area subject to the Master Property Tax Sharing Agreement so that the annexation can legally proceed, and

WHEREAS, the City Council considered this matter at its meeting of March 9, 2004,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the first amendment to the Master Property Tax Sharing Agreement and authorizes the City Manager or his authorized 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 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By, 

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-146

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 #1]

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

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-127, adopted on March 2, 2004 (the “Resolution of Intention to Establish the District”) declare its intention to establish the City’s Community Facilities District No. 2004-1 (Village One #2) (“the District”);

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

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

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

SECTION 1. The above recitals are true and correct.

SECTION 2. The boundaries of the District are shown on a map entitled “Proposed Boundaries of Community Facilities District No. 2004-1 (Village One #2) of
the City of Modesto, County of Stanislaus, State of California” on file with the County Recorder of the County of Stanislaus, at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 85.

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

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

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

SECTION 6. The special taxes to be levied in the District are also set forth in the Resolution of Intention to Establish the District. It is intended that the same special taxes be levied in the Territory.
SECTION 7. A public hearing on this Resolution will be held at 5:30 p.m., or as soon thereafter as practicable, on Tuesday, May 4, 2004, at the regular meeting place of the City Council, City Council Chambers, Basement Level, 1010 Tenth Street, Modesto, California 95353, such time being not less than 30 or more than 60 days following the adoption hereof.

SECTION 8. At the hearing, any interested persons for or against the annexation of the Territory to the District, and the levy of the special taxes therein, may appear and will be heard and considered. Any protest may be made orally or in writing. However, any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and clearly set forth the irregularities and defects to which the objection is made. All written protests shall be filed with the City Clerk on or before the time fixed for the public hearing. Written protests may be withdrawn in writing at any time before the conclusion of the hearing.

SECTION 9. The City Clerk is directed to publish, not later than seven (7) days prior thereto, a notice of the hearing, in the form required by the Act, in a newspaper of general circulation published in the area of the District, being The Modesto Bee, and otherwise in accordance with Section 6061 of the California Government Code, stating (a) the text or a summary of this Resolution, (b) the time and place of the hearing, and (c) that all interested persons for or against the annexation of the Territory to the District or the levying of the special taxes in the Territory will be heard.

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

SECTION 11. At the conclusion of the hearing, if the Council determines to annex the Territory to the District, it will submit the levy of the special taxes to the qualified electors of the Territory in a special election.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-147

A RESOLUTION ORDERING THE ENGINEERING AND TRANSPORTATION DIRECTOR TO PREPARE AND FILE AN ANNUAL REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISION NOS. 1-6.

WHEREAS, Resolution No. 88-935 adopted by the Council of the City of Modesto on December 13, 1988, initiated proceedings for the formation of Landscape Assessment District No. 1 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.

WHEREAS, said assessment district was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and order the engineer to prepare and to file a report accordingly,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there being no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivision Nos. 1-6 the Engineering and Transportation Director, the person designated by this Council as the Engineer of Work for Assessment District No. 1, is hereby directed to prepare and file an annual report in accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST:  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-148

A RESOLUTION ORDERING THE ENGINEERING AND TRANSPORTATION DIRECTOR TO PREPARE AND FILE AN ANNUAL REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISION NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION, AND YOSEMITE MEADOWS SUBDIVISION UNITS NO. 1 & 2.

WHEREAS, Resolution No. 89-460 adopted by the Council of the City of Modesto on April 4, 1989, initiated proceedings for the formation of Landscape Assessment District No. 2 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, and

WHEREAS, said assessment district was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and order the engineer to prepare and to file a report accordingly,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there being no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivision Nos. 7-10, Creekwood Meadows Subdivision, and Yosemite Meadows Subdivision Units No. 1 & 2, the Engineering and Transportation Director, the person designated by this Council as the Engineer of Work for Assessment District No. 2, is hereby directed to prepare and file an annual report in
accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Fabr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-149

A RESOLUTION APPROVING THE FINAL MAP AND ACCEPTING PUBLIC IMPROVEMENTS IN THE LORETELLI MANOR SUBDIVISION OF THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH WILLIAM T. LORETELLI AND VERONICA A. LORETELLI, TRUSTEES OF THE LORETELLI REVOCABLE TRUST AND MORRISON HOMES, INC., A DELAWARE CORPORATION

WHEREAS, WILLIAM T. LORETELLI and VERONICA A. LORETELLI, TRUSTEES OF THE LORETELLI REVOCABLE TRUST and MORRISON HOMES, INC., A DELAWARE CORPORATION, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 10.81 acres, known as the LORETELLI MANOR SUBDIVISION ("SUBDIVISION"), and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 16th day of December, 2002, and

WHEREAS, the Secretary of the Planning Commission of the City of Modesto has certified that the final map of said tract substantially conforms to the approved tentative map, and

WHEREAS, the City Engineer of the City of Modesto has certified that the final map of said SUBDIVISION meets all of the provisions of the California Subdivision Map Act and the provisions of the Modesto Municipal Code relating to subdivisions, and that the map is technically correct, and

WHEREAS, the Engineering and Transportation Director has certified that all public improvements required by the City of Modesto have been completed in said tract to the satisfaction of the Engineering and Transportation Director, and
WHEREAS, the Engineering and Transportation Director has indicated that it would be in order for the City Council to accept the public improvements in said subdivision as complete and authorize the City Clerk to file a Notice of Completion and release the bonds upon the expiration of the statutory periods,

WHEREAS, the subdivider has posted a warranty security in an amount equal to the estimated cost of the public improvements, as determined by the City Engineer, to guarantee and warranty the public improvements for a period of one year after acceptance.

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

1. The final map is hereby approved.

2. The dedications for streets and easements as shown thereon within the boundaries of said tract are hereby accepted on behalf of the public for public use.

3. The improvements completed in Loretelli Manor Subdivision are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements.

4. The City Clerk is hereby authorized to certify the map of said tract on behalf of the City of Modesto, after the fees and deposits required by the Modesto Municipal Code in amounts determined by the City Engineer have been paid.
5. The City Manager and the City Clerk are hereby authorized to execute and attest, respectively, an agreement with subdivider as required by Section 4-4.604(c) of the Municipal Code.

6. The City Clerk is further authorized to release the warranty security to guarantee improvements in the amount of $52,033.00 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 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

MICHAEL D. MILICH, City Attorney

By ALISON A. BARRATY-GREEN
Senior Deputy City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-150

A RESOLUTION ACCEPTING THE WORK BY JAMES MICHAEL JOHNSON GENERAL ENGINEERING, INC., DBA ON GRADE CONTRACTING FOR THE "CARPENTER ROAD WATERLINE" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $509,138.35 PER THE CONTRACT

WHEREAS, the Acting Engineering & Transportation Director has filed a report that the project titled "Carpenter Road Waterline" has been completed, in accordance with the contract agreement dated May 6, 2003,

NOW, THEREFORE, BE IT RESOLVED that the "Carpenter Road Waterline" project be accepted from said contractor, James Michael Johnson General Engineering, Inc., dba On Grade Contracting, that the notice of completion be filed with the Recorder of Stanislaus County, and that payment of amounts due totaling $509,138.35, as provided in the contract, be authorized.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-151

A RESOLUTION INCREASING THE DIRECTOR OF ENGINEERING AND TRANSPORTATION'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE "CARPENTER ROAD WATERLINE" PROJECT FROM $45,811.74 (10%) TO $51,309.00 (11.2%) OF THE ORIGINAL CONTRACT PRICE WITH JAMES MICHAEL JOHNSON GENERAL ENGINEERING, INC., DBA ON GRADE CONTRACTING

WHEREAS, on May 6, 2003, the City Council awarded a $458,117.41 contract to James Michael Johnson General Engineering, Inc., dba On Grade Contracting, to construct the "Carpenter Road Waterline" project, and

WHEREAS, the contractor started work on August 11, 2003, and the work is complete, and

WHEREAS, during the course of construction, the contractor was required to perform additional work that was not covered under the original contract, and

WHEREAS, the total cost of the extra work is $51,020.94, an amount which exceeds the Director's authority for the project as established by the Council’s Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of $45,811.74,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Engineering and Transportation Director's authority level to issue change orders, from $45,811.74 (10%) to $51,309.00 (11.2%) of the original contract price for the project entitled "Carpenter Road Waterline."
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION APPROVING A $63,807 AMENDMENT TO THE $998,046 DMJM+HARRIS CONSULTANT CONTRACT FOR CONSTRUCTION MANAGEMENT SERVICES ASSOCIATED WITH THE KANSAS-NEEDHAM OVERHEAD PROJECT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO THE AGREEMENT, INCREASING THE TOTAL ESTIMATED COST OF THE SERVICES TO $1,061,853

WHEREAS, the City of Modesto has entered into a contract with DMJM+Harris for construction management services in conjunction with the Kansas-Needham Overhead project, and

WHEREAS, the original contract was for $998,046, which now has a balance of $13,314 remaining, and

WHEREAS, the project is in the plant establishment period and project close-out mode, and

WHEREAS, the construction oversight period was lengthened by items beyond the consultants’ control, and

WHEREAS, DMJM+Harris is currently negotiating the remainder of the extra work and contract credit items with the contractor, and

WHEREAS, DMJM+Harris’ contractual presence for change order negotiations is critical for controlling the final cost of the project, and

WHEREAS, execution of the amendment to the agreement for $63,807 will enable DMJM+Harris to complete the project close-out process,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the $63,807 amendment to the DMJM+Harris consultant contract for construction management services associated with the Kansas-Needham Overhead project, and authorizes the City Manager to execute the amendment.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION ACCEPTING THE WORK BY GRANITE CONSTRUCTION COMPANY FOR THE "VILLAGE ONE WEST BASIN ROAD IMPROVEMENTS" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $867,207.45 PER THE CONTRACT

WHEREAS, the Acting Engineering & Transportation Director has filed a report that the project titled “Village One West Basin Road Improvements” has been completed, in accordance with the contract agreement dated March 11, 2003,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto, that the “Village One West Basin Road Improvements” project be accepted from said contractor, Granite Construction Company, that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $867,207.45, 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 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney

03/23/04/ E&T/T. Parmer/Item 14
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-154

A RESOLUTION AWARDING THE BID AND APPROVING A $62,481.25 CONTRACT WITH FENCE SYSTEMS INC., DBA THE YARD, FOR THE PROJECT TITLED "BRIGGSMORE SOUND WALL – WEST OF TULLY," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the bids received for the Brigsgmore Sound Wall – West Of Tully were opened at 11:00 a.m. on February 24, 2004, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of $62,481.25 received from Fence Systems Inc., dba The Yard, be accepted as the lowest responsible bid and the contract be awarded to Fence Systems Inc., dba The Yard,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of $62,481.25, and hereby awards Fence Systems Inc., dba The Yard, the contract titled “Brigsgmore Sound Wall – West Of Tully.”

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 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: [Signature]

JEAN ZAHR, City Clerk
(SEAL)

APPROVED AS TO FORM:

[Signature]

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-155


WHEREAS, at the January 14, 2003, City Council meeting, Council rejected bids for the second time and directed staff to construct “Bowen Avenue Traffic Calming,” allocating $150,000 for construction, based on the engineer’s estimate, and

WHEREAS, the project had been bid two times, and each time had only one bidder; the same company, and

WHEREAS, the first bid came in at $291,975, 112.83% over engineer’s estimate in June 2002, and

WHEREAS, staff modified the plans and specifications to reduce construction costs and rebid the project. The second bid came in at $262,258, 78.41% over engineer’s estimate in January 2003, and

WHEREAS, funds for this project are budgeted in the Capital Improvement Program (CIP) project MY-0700-160-L921, “Bowen Avenue Traffic Calming.” The total budget for this project including Engineering Design and Contingencies was $171,000. Of this amount, $21,000 was anticipated for design and routine changes, and

WHEREAS, staff proposes that the budget in project account MY-0700-160-L921 be increased by $29,668 using special Gas Tax Fund reserves to meet the added...
expenses, to match the total construction costs to $198,894. To balance these reserves, it
is proposed that revenue transferred to CIP project MY-2300-160-Q205, “Intersection
Upgrades” be reduced accordingly, and

WHEREAS, the final project budget, including Engineering Design and
Contingencies is now at $219,894. Vendors were paid from the original budget and the
intersection upgrade budget. This transfer is in essence to cover additional staff charges,
and

WHEREAS, the Economic Development Committee discussed this item at its
March 8, 2004, meeting, and concurred with staff’s recommendation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves amending the FY 2003-2004 Capital Improvement Program to
reduce CIP Project 2300-160-Q205, “Intersection Upgrades” by $29,668 and transferring
these budgeted funds from the Capital Improvement Fund (2300) back to the Special Gas
Tax Fund (0700) Reserves, and 2) to increase the expenditure appropriation of project
MY-0700-160-L921, “Bowen Avenue Traffic Calming,” in the amount of $29,668 of gas
tax reserve to reflect the increase of the project’s construction costs.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: Jean Zahr

JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich

MICHAIL D. MILICH, City Attorney
A RESOLUTION AWARDING BID AND APPROVING A $270,193
“INSTALLATION OF TWO TRAFFIC SIGNALS AT THE FOLLOWING
INTERSECTIONS: OAKDALE ROAD AT MANOR OAK DRIVE AND COFFEE
ROAD AT SYLVAN MEADOWS DRIVE” CONSTRUCTION CONTRACT
WITH TIM PAXIN’S PACIFIC EXCAVATION, INC., FOR THE PROJECT
ENTITLED “INSTALLATION OF TWO TRAFFIC SIGNALS AT THE
FOLLOWING INTERSECTIONS: OAKDALE ROAD AT MANOR OAK DRIVE
AND COFFEE ROAD AT SYLVAN MEADOWS DRIVE”

WHEREAS, the bids received for the “Installation of Two Traffic Signals at the
Following Intersections: Oakdale Road at Manor Oak Drive and Coffee Road at Sylvan
Meadows Drive” project were opened at 11:00 a.m., on February 24, 2004, and later
tabulated by the Engineering and Transportation Director for the consideration of the
Council, and

WHEREAS, the Acting Engineering and Transportation Director has
recommended that the bid of $270,193 received from Tim Paxin’s Pacific Excavation, Inc.,
be accepted as the lowest responsible bid,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby awards the bid for “Installation of Two Traffic Signals at the Following
Intersections: Oakdale Road at Manor Oak Drive and Coffee Road at Sylvan Meadows
Drive” project to Tim Paxin’s Pacific Excavation, Inc., and approves a $270,193 contract
for completion of said project.

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 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: [Signature]
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
MICHAEL D. MILICH, City Attorney
A RESOLUTION FINDING THAT THE “INSTALLATION OF TWO TRAFFIC SIGNALS AT THE FOLLOWING INTERSECTIONS: OAKDALE ROAD AT MANOR OAK DRIVE AND COFFEE ROAD AT SYLVAN MEADOWS DRIVE” PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY A MASTER ENVIRONMENTAL IMPACT REPORT (MEIR), SCH NO. 1999082041

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final MEIR, SCH No. 1999082041, for the Modesto Urban Area General Plan, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a MEIR, 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 MEIR, whether the subsequent project was described in the MEIR, and whether the subsequent project was described in the MEIR as being within the scope of the project, and

WHEREAS, the Engineering and Transportation Department, by Initial Study, EA/ET 2002-27, reviewed and proposed “Installation of Two Traffic Signals at the Following Intersections: Oakdale Road at Manor Oak Drive and Coffee Road at Sylvan Meadows Drive” Project, which determines that the proposed project is within the scope of the project covered by the MEIR, that the proposed project will have no additional, significant effect on the environment that was not identified in the MEIR, and that no new or additional mitigation measures or alternatives may be required,

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 “Installation of Two Traffic Signals at the Following Intersections: Oakdale Road at
Manor Oak Drive and Coffee Road at Sylvan Meadows Drive" 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:

A. The proposed Project is consistent with the City of Modesto General Plan and is within scope of the project covered by the General Plan Final MEIR (SCH No. 1999082041).

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

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

D. There is no new information of substantial importance which was known and could not have been known with the exercise of reasonable diligence when the General Plan MEIR was adopted which shows any of the following:

   a. one or more significant effects which is not discussed in the General Plan MEIR; or,

   b. significant effects which were previously examined will be substantially more severe than previously shown; or,
c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or,

d. mitigation measures or alternatives which are considerably different from those analyzed in the General Plan MEIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Engineering and Transportation Director is hereby authorized and directed to file a Notice of Approval 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 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: ________________________
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ________________________
MICHAEL D. MILICH, City Attorney

03/23/04 E&T M. Murphy/Item 17
City of Modesto  
Initial Study  

INSTALLATION OF NEW TRAFFIC SIGNALS  
AT TWO INTERSECTIONS:  
OAKDALE ROAD AT MANOR OAK DRIVE  
COFFEE ROAD AT SYLVAN MEADOWS DRIVE  

E.A./E.T. No: 2002-27  

I. PURPOSE  

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 199082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning. 

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effects on the environment that were not examined in the General Plan Master EIR. This Initial Study also provides documentation that the project is within the scope of the General Plan Master EIR.  

II. PROJECT DESCRIPTION  

A. Project Title:  

Installation of Two New Traffic Signals at the Intersections of Oakdale Road at Manor Oak Drive, and Coffee Road at Sylvan Meadows Drive ("Project")  

B. Lead Agency Name and Address:  

City of Modesto, P.O. Box 642, Modesto, CA 95353  

C. Contact Person, Address, and Phone Number:  

Steven Liu, Engineering and Transportation Department, (209) 577-5297  

D. Project Locations:  

At Two (2) Intersections at:  
• Oakdale Road and Manor Oak Drive  
• Coffee Road and Sylvan Meadows Drive  

E. Project Sponsor:  

City of Modesto, P.O. Box 642, Modesto, CA 95353  

F. General Plan Designation:  

Location 1: Oakdale Road at Manor Oak Drive – MU (Mixed Use)
Traffic Signals: Oakdale/Manor Oak, and Coffee/Sylvan Meadows

Location 2: Coffee Road at Sylvan Meadows Drive – MU (Mixed Use)

G. Zoning:

Location 1: Oakdale Road at Manor Oak Drive – PD (Planned Development), R3 (Medium High Density Residential), and C1 (Neighborhood Commercial).

Location 2: Coffee Road at Sylvan Meadows Drive – PD (Planned Development).

H. Description of Proposed Project:

The City is proposing to construct two new traffic signals at the intersections of Oakdale Road and Manor Oak Drive, and Coffee Road and Sylvan Meadows Drive. Currently, both locations have stop controls on the minor approaches. Oakdale Road is a major arterial with a posted speed limit of 40 mph at the site vicinity. Oakdale is currently carrying approximately 32,000 vehicular traffic per day. Coffee is a minor arterial at Sylvan Meadows with 40 mph speed limit, which is carrying a daily traffic about 16,700.

The proposed new traffic signals will help reduce stopping delay, increase traffic safety, and result in a reduction in air pollution. The proposed signal project will include pedestrian phasing and crosswalks, vehicle detection, and other typical improvements associated with traffic signal installation. Both signals will be coordinated with existing coordination plans on the major streets.

I. Surrounding Land Uses:

The project is located at developed areas in town as follows.

Location 1: Oakdale Road at Manor Oak Drive – PD (Planned Development), R3 (Medium High Density Residential), and C1 (Neighborhood Commercial).

Location 2: Coffee Road at Sylvan Meadows Drive – PD (Planned Development), R2 (Medium Density Residential), and PO (Professional Office).

J. Other Public Agencies Whose Approval is Required:

None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms to the analysis contained within the Master EIR.

A. Traffic and Circulation
The proposed Installation of Two New Traffic Signals Project will not result in a physical change to any existing land use. It is consistent with the General Plan designation for this site. Therefore, the traffic impacts of this project are consistent with those contained in the General Plan Master EIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-33) are, therefore, still valid.

B. Degradation of Air Quality

The air quality impacts for this development are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, this development would not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through V-2-26) are, therefore, still valid.

C. Generation of Noise

The Project will not result in a physical change to any existing land use. The proposed use is consistent with the General Plan in land use and intensity, and the noise impacts from the project and to the project are consistent with those analyzed in the Master EIR. Therefore, the project will not create additional significant effects, and the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are, therefore, still valid.

D. Loss of Productive Agricultural Land

The proposed new traffic signals will be located in developed areas outside of productive agricultural land. Therefore, the project is consistent with the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through V-4-12) and they are, therefore, still valid.

E. Increased Demand for Water Supplies

The proposed Project includes traffic signal related improvements, and will require no additional water beyond that identified in the Increased Demand for Water Supplies section of the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through V-5-13 are, therefore, still valid.

F. Increased Demand for Sanitary Sewer Services

The proposed Project includes traffic signal related improvements, and will create no additional demand for sewer capacity not identified in the MEIR. The Existing
Traffic Signals: Oakdale/Manor Oak, and Coffee/Sylvan Meadows

Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for increased Demand for Sanitary Sewer Services (pages V-6-1 through V-6-12) are, therefore, still valid.

G. Loss of Sensitive Wildlife and Plant Habitat

The proposed new traffic signals will be located in developed areas and not located in a Potential Biological Resource Study Area, as presented in Figure 7-1 of the MEIR. Therefore, the project will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. The Existing Conditions, Impact Analysis, and the Mitigation Measures listed in this section of the MEIR (pages V-7-1 through V-7-29) are still valid.

H. Disturbance of Archaeological and Historic Sites

This project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the MEIR. Figure 8-1 of the MEIR indicates that it is also outside the Archaeological Resource Study Area, which shows areas that may require additional site specific investigations. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are, therefore, still valid.

I. Drainage, Flooding and Water Quality

Because the project is consistent with the General Plan in land use and intensity, it will not present any new impacts to drainage, flooding and water quality that have not already been addressed in the MEIR. The mitigation measures in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages V-9-1 through V-9-13) are still valid.

J. Increased Demand for Storm Drainage

The project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures contained in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages V-10-1 through V-10-16) are still valid.
K. Increased Demand for Parks and Open Space

The proposed improvements will not have an effect upon the parks or open space needs in the area over that anticipated in the Master EIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are, therefore, still valid.

L. Increased Demand for Schools

The proposed improvements will not create any additional demand for schools. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Schools (pages V-12-1 through V-12-11) are still valid.

M. Increased Demand for Police Services

Because the Project is consistent with the General Plan in land use and intensity, it will not present any increased demand for police services that has not already been addressed in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Police Services (pages V-13-1 through V-13-7) are, therefore, still valid.

N. Increased Demand for Fire Services

Because the Project is consistent with the General Plan in land use and intensity, it will not present any increased demand for fire services that has not already been addressed in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are, therefore, still valid.

O. Generation of Solid Waste

This project will not cause the generation of solid waste beyond that which is identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages V-15-1 through V-15-10) are, therefore, still valid.

P. Generation of Hazardous Materials

This proposed use will not result in additional hazardous materials generated beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages V-16-1 through V-16-15) are, therefore, still valid.

Q. Landslides and Seismic Activity

This use will result in no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the
MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity (pages V-17-1 through V-17-12) are, therefore, still valid.

R. Energy

This use will result in less than significant additional demands for energy, as identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages V-18-1 through V-18-7) are, therefore, still valid.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

A. The proposed installation of Two New Traffic Signals Project is within the scope of the General Plan Master EIR (SCH No. 1999082041), which analyzed the potential impacts of buildout of the Urban Area General Plan, including roadways in this area.

B. No additional significant environmental effects will occur as a result of the Project that were not previously examined in the General Plan Master EIR.

C. No new mitigation measures or alternatives will be required as a result of the Project that were not previously considered in the General Plan Master EIR.

D. There are no specific features unique to the Project that requires project specific mitigation measures. All certified mitigation measures identified in the MEIR would apply city wide, including this project as appropriate.

E. This initial study provides substantial evidence to support findings A, B, C, and D above.

Signature:

L. Steven Liu
Assistant Traffic Engineer
A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM BUDGET 1) TO INCREASE THE EXPENDITURE APPROPRIATION OF MY-2300-160-N498 TO REFLECT THE INCREASE OF CONSTRUCTION COSTS BY AN APPROPRIATION TRANSFER FROM MY-1410-160-M194 “GROWTH RELATED NEW TRAFFIC SIGNALS” IN THE AMOUNT OF $64,000

WHEREAS, on February 24, 2004, the City Council received bids for a project titled, “Installation of Two Traffic Signals at the Following Intersections: Oakdale Road at Manor Oak Drive and Coffee Road at Sylvan Meadows Drive” Account No. MY-2300-160-N498, and

WHEREAS, the acceptable low bidder was Tim Paxin’s Pacific Excavation, Inc., of Elk Grove, California, with a bid of $270,193, and

WHEREAS, the City has obtained CMAQ funding to pay for up to $247,883, of the project costs and the remaining portion will be appropriated from CFF account MY-1410-160-M194, “Growth Related New Traffic Signals,” and

WHEREAS, $64,000 in additional local matching funds is required to fully fund the construction of this project, and

WHEREAS, there are sufficient funds in the CFF account MY-1410-160-M194, “Growth Related New Traffic Signals,” to fully fund 2300-160-N498,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the CIP budget is hereby amended to increase the expenditure appropriation of MY-2300-160-N498 to reflect the anticipated increase of the construction costs in the amount of $64,000.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION APPROVING THE MARCH 12TH INSTALLATION OF AN
ALL-WAY STOP ON JEFFERSON STREET AT VINE STREET. FUNDS ARE
BUDGETED IN ACCOUNT NOS. 0700-480-4622-0110 “SALARIES & WAGES
REGULAR AND 0700-480-4622-0360 “REAL PROPERTY MAINTENANCE &
REPAIR SUPPLIES”

WHEREAS, staff received a request from neighbors to install an all-way stop on
Jefferson Street at Vine Street, and

WHEREAS, the neighbors were concerned with safety at this intersection, and

WHEREAS, after review of the collision rate and recognizing the location is near
a high school, staff proceeded to install an all-way stop sign on March 12th at this
location due to the need for immediate action, and

WHEREAS, City staff has reviewed the intersection’s collision history, traffic
volumes, and performed a speed survey at this location and has concluded that an all-way
stop could be accommodated as requested without creating a hazard and without
impeding traffic flow, and

WHEREAS, based on the traffic volumes warrant from the Caltrans Traffic
Manual, an all-way stop is warranted at this intersection, and

WHEREAS, the Economic Development Committee at its March 8, 2004,
meeting reviewed and approved the installation of an all-way stop, as requested by the
neighbors,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the March 12th installation of an all-way stop on Jefferson Street
at Vine Street.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST:  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:  
MICHAEL D. MILICH, CITY ATTORNEY
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-160

A RESOLUTION APPROVING INSTALLATION OF ANGLE PARKING ON THE NORTH SIDE OF SIERRA DRIVE BETWEEN F AND 4TH STREETS AND SHIFTING OF THE EXISTING CENTERLINE OF SIERRA DRIVE TO THE SOUTH TO ACCOMMODATE THE ANGLE PARKING.

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 City of Modesto Parks, Recreation and Neighborhoods Department is planning to begin construction soon to remodel and expand the existing Maddux Youth Center at 615 Sierra Drive, and

WHEREAS, the proposed building addition will nearly double the size of the existing structure and will provide a new multi-purpose room, computer classroom and Police Activities League boxing facility, and

WHEREAS, by Agenda Report dated March 15, 2004, from the Parks, Recreation and Neighborhoods Department, City staff recommended the installation of angle parking on the north side of Sierra Drive between F and 4th Streets, and

WHEREAS, the entrance to the “new” youth center will be moved from “F” Street to Sierra Drive, and will lead through a trellised entry to a new reception/lobby area, and

WHEREAS, to enhance the vehicle parking supply at the youth center, the City proposes to install angle parking along Sierra Drive, commencing about 200-feet east of Sunset Avenue and ending about 100-feet west of Fourth Street, and
WHEREAS, the proposed parking will require the shifting of the existing centerline of Sierra Drive between Fourth Street and "F" Street, and

WHEREAS, Sierra Drive is 66 feet wide and can accommodate the angle parking and the shifting of the road centerline, and

WHEREAS, the adjustment of the centerline will actually improve the alignment of Sierra Drive across the "F" Street intersection, and

WHEREAS, the proposed plan would increase the existing parking on the north side of Sierra Drive between "F" and 4th Streets from 31 parallel spaces to 35 angle and 9 parallel, for a new total of 44 spaces, and

WHEREAS, the Economic Development Committee met on March 8, 2004, and supported the recommendation to install angle parking on the north side of Sierra Drive between F and 4th Streets and to shift the existing centerline of Sierra Drive 10 feet to the south to accommodate the angle parking,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the installation of angle parking on the north side of Sierra Drive between F and 4th Streets and shifting of the existing centerline of Sierra Drive 10 feet to the south to accommodate the angle parking.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

APPROVED AS TO FORM:

Attest: 

JHAN ZAHR, City Clerk

By: 

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-161

A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION (SCH #2004022070), FINDINGS, AND A MITIGATION MONITORING PLAN FOR THE NEIGHBORHOOD CENTER AT MARSHALL PARK.

WHEREAS, on August 15, 1995, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH # 92052017) for the Modesto Urban Area General Plan, and

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified an Update to the Master EIR (SCH # 19990820) for the Modesto Area General Plan, and

WHEREAS, Sections 15070 to 15073 of the CEQA Guidelines relating to Initial Study/Mitigated Negative Declaration permits a lead agency to prepare an Initial Study/Mitigated Negative Declaration on any proposed project to analyze whether the project may cause any significant effect on the environment, and

WHEREAS, the Parks, Recreation and Neighborhoods Department proposes to construct the Neighborhood Center at Marshall Park ("Project") which consists of a joint service facility and amenities at an existing neighborhood park to house a fire station, a Police Area Command Office and new recreation offices, and

WHEREAS, the Parks, Recreation and Neighborhoods Department, prepared an Initial Study (Environmental Assessment EA/PR&N No. 2003-06), dated January 22, 2004 ("IS"), which reviewed the proposed Project pursuant to Section 21157.5 of the Public Resources Code to analyze whether the proposed project is within the scope of the Master Environmental Impact Report, and
WHEREAS, feasible mitigation measures were incorporated to revise the subsequent project before the Initial Study/Mitigated Negative Declaration was released for public review pursuant to CEQA Section 21092 in order to avoid or mitigate the identified effects to a point where clearly no significant effect on the environment will occur, and

WHEREAS, the IS lead to the preparation, circulation and posting, pursuant to Sections 15070 and 15105 of the CEQA Guidelines, of an Initial Study / Environmental Assessment EA/PR&N 2003-07 and a Mitigated Negative Declaration / Finding of No Significant Impact, dated January 22, 2004, (SCH# 2004022070) ("IS/MND"), a copy of which is on file in the City Clerk’s Office, and

WHEREAS, the IS/MND was released for public review and comment for the required 30-day period beginning on February 12, 2004, and ending on March 15, 2004, and

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

WHEREAS, Findings Approving a Mitigated Negative Declaration and Adopting Mitigation Measures as Performance Standards and Design Criterion for the Neighborhood Center at Marshall Park have been prepared and are attached hereto as Exhibit A, and

WHEREAS, in a public hearing on March 23, 2004, the City Council considered the IS/MND for the proposed construction of the Neighborhood Center at Marshall Park, together with all comments received during the public review and circulation period and responses thereto, if any,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study/Environmental Assessment EA/PR&N 2003-06 and the Mitigated Negative Declaration/Finding of No Significant Impact (SCH# 2004022070) ("IS/MND") for the proposed Project, a copy of which is on file in the Parks,
Recreation and Neighborhoods Department, together with all comments received during the public review and circulation period, and based on the substantial evidence included in said IS/MND makes the following findings:

1. An IS/MND has identified potentially significant effects on the environment from the proposed project that were not analyzed in the Master EIR. These additional significant environmental effects are potential impacts to Traffic; Noise; Drainage, Flooding and Water Quality; and Storm Drainage.

2. Feasible mitigation measures or alternatives were incorporated to revise the proposed subsequent project, before the IS/MND were released for public review in order to avoid or mitigate the potential effects to a point where clearly no significant effect on the environment will occur.

3. There is no substantial evidence in light of the whole record before the public agency that the proposed project, as revised, may have a significant effect on the environment.

4. Based on the above-referenced Initial Study and feasible mitigation measures incorporated to revise the proposed project in order to avoid the effects or mitigate the effects to the point where clearly no significant effect on the environment will occur, staff finds that a Mitigated Negative Declaration should be adopted pursuant to CEQA Section 15070-15073 for the proposed Neighborhood Center at Marshall Park Project.

5. Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described above and below have been added to the project. A Mitigated Negative Declaration will therefore be adopted.

6. The cumulative impacts of this project are consistent with those set forth in the Master EIR for the Modesto Urban Area General Plan and the Update to the Master EIR.
appropriate mitigation measures from the Master EIR and Update to the Master EIR have been incorporated into the project, and no further evaluation of cumulative impacts is required as this project generates no significant cumulative impact.

7. City Council hereby adopts the Findings attached hereto as Exhibit A, which provide substantial evidence to support the findings 1 through 6, above.

8. As required by CEQA Section 21081.6 et seq., a mitigation monitoring program will be, and hereby is adopted as set forth in Exhibit B attached hereto.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that, based on the above findings, the City of Modesto hereby adopts the Initial Study/Environmental Assessment EA/PR&N 2003-06 and the Mitigated Negative Declaration/Finding of No Significant Impact (SCH# 2004022070) for the proposed construction of the Neighborhood Center at Marshall Park by the City of Modesto, a copy of which is on file with the City Clerk’s Office, and hereby designates the Parks Planning and Development Services Division of the Parks, Recreation and Neighborhoods Department as the custodian of the documents or other material which constitute the record of proceedings upon which this decision is based, and specifies the Department of Parks, Recreation and Neighborhoods, 1010 Tenth Street, Suite 4400, Modesto, California, as the location of said documents.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Clerk is hereby authorized and directed to file a Notice of Determination with the County Clerk’s Office within five (5) working days of the date of this determination, pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
NEIGHBORHOOD CENTER AT MARSHALL PARK

DRAFT
INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

Prepared for:

CITY OF MODESTO
RECREATION AND NEIGHBORHOODS DEPT.
1010 TENTH STREET, STE. 4400
P. O. Box 642
Modesto, CA 95353

Prepared by:

PMC
PACIFIC MUNICIPAL CONSULTANTS

FEBRUARY 2004
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## Exhibits

- Exhibit A: Air Quality Impact Evaluation
- Exhibit B: Biological Resources Report
- Exhibit C: Archaeological Inventory Survey
- Exhibit D: Storm Water and Drainage

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## Attachments

- A: Environmental Assessment
INITIAL STUDY AND FINDINGS
DRAFT MITIGATED NEGATIVE DECLARATION

PROPOSED DESIGN AND DEVELOPMENT OF THE NEIGHBORHOOD CENTER AT MARSHALL PARK

EA/PR&N – 2003– 06
January 22, 2004

1. Purpose of Initial Study:

Section 15177 of the CEQA Guidelines allows for limited environmental review of subsequent projects under a General Plan Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 1999082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 15177 of the CEQA Guidelines, analyzes:

A. Whether this project may cause additional significant effects on the environment that were not examined in the General Plan Master EIR.
B. Whether new additional mitigation measures or alternatives will be required as result of this project that were not previously considered in the General Plan Master EIR.
C. Whether the proposed project is described within the scope of the General Plan Master EIR.

2. Project Title:
Neighborhood Center at Marshall Park

3. Lead agency name and address:
City of Modesto, P.O. Box 642, Modesto, CA 95353
(Responsible Agency) Recreation and Neighborhoods Department
1010 Tenth Street, Suite 4400, P.O. Box 642, Modesto, CA, 95353

4. Contact person and phone number:
Robert J. Ford, Project Coordinator, Parks, Recreation and Neighborhoods Department,
(209) 577-5437 email: bford@modestogov.com

5. Project location:
The proposed project is located in the southwestern portion of the City of Modesto in north-central Stanislaus County, California (please see Figures 1 and 2). As proposed, the Neighborhood Center at Marshall Park would occupy 1 acre of the existing 6.81-acre James Marshall Neighborhood Park located at 440 Sutter Avenue (at the southwest corner of Sutter and Chicago Avenues). (APN #: 033-022-001)

6. Project sponsor’s name and address:
City of Modesto
Parks, Recreation and Neighborhoods Department
P.O. Box 642, Modesto, CA 95353
FIGURE 3
PROJECT AREA ZONING AND AERIAL

PROJECT SITE
JAMES MARSHALL NEIGHBORHOOD PARK
JAMES MARSHALL SCHOOL
PARADISE ROAD
CHICAGO AVE
SUTTER AVE
WESTERN WAY
EVALUATION OF ENVIRONMENTAL IMPACTS:
FOR A PROPOSED SUBSEQUENT PROJECT TO GENERAL PLAN MASTER EIR

The following sections evaluate the proposed subsequent project to the City's General Plan Master EIR pursuant to CEQA Section 21157.1 (b) whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report, and, if so, make a determination pursuant to Section 21157.5 which requires a mitigated negative declaration to be prepared for a proposed subsequent project if both of the following occur:

1. An initial study has identified potentially new or additional significant effects on the environment that were not analyzed in the master environmental impact report.
2. Feasible mitigation measures or alternatives will be incorporated to revise the proposed subsequent project, before the negative declaration is released for public review, in order to avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment will occur.

The following analysis is based on Exhibit G of the CEQA Guidelines and adapted to reflect the eighteen environmental subject areas in the City of Modesto's General Plan Master EIR.

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<th>Less Than Significant Impact</th>
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Issues:

I. **TRAFFIC AND CIRCULATION NEEDS** -- Compared to the General Plan Master EIR certified for the Modesto Urban Area General Plan, will the project result in increased impacts that would:

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

   b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?

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

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

   e) Result in inadequate emergency access?

   f) Result in inadequate parking capacity?
c) The Neighborhood Center at Marshall Park is proposed to be constructed inside the existing James Marshall Neighborhood Park, and will be served by the same roadway system as the existing James Marshall Neighborhood Park, as adopted in the General Plan. As a result, the project would have no impact resulting in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks that has not already been addressed in the MEIR.

d) The Neighborhood Center at Marshall Park will be served by the same roadway system as the existing James Marshall Neighborhood Park, as adopted in the General Plan. The response driveway accessing Sutter Street will be managed in accordance with typical Fire Code and Fire Department standards resulting in a less than significant impact in substantially increasing hazards due to a design feature.

e) The Neighborhood Center at Marshall Park will be served by the same roadway system as the existing James Marshall Neighborhood Park, as adopted in the General Plan. The design of the park is such that access is provided for emergency vehicles along the paths throughout the park. The response driveway accessing Sutter Street will be managed in accordance with typical Fire Department standards. Parking lots accessed from Chicago Avenue have been designed to provide for proper emergency access. There would be no impact that would result in inadequate emergency access.

As a part of the development of the Neighborhood Center at Marshall Park, the following provision shall be incorporated into the design:

**MM1.1.1** Keep Clear Zone – Prior to final project approval, the project site plan shall locate a “Keep Clear Zone” where the response driveway accesses Sutter Street. The “Keep Clear Zone” shall conform to applicable City Standards.

*Timing/Implementation: Prior to final project approval.*

*Enforcement/Monitoring: City of Modesto Planning Department.*

f) Construction plans show two new parking lots to be added, adjacent to and accessed by Chicago Avenue. The larger of the two lots, to the west, will provide 23 new parking spaces and will serve park and facility visitors. The lot to the east will add 10 more spaces serving Neighborhood Center at Marshall Park Staff. Therefore, there would be no impact that would result in inadequate parking capacity.

g) This project would locate a fire response driveway accessing Sutter Street approximately 60 feet south of its intersection with Chicago Avenue. There is currently a covered Modesto Area Express (MAX) bus stop along Sutter Street (Route 21) at or very near the space proposed to be used for the new fire response driveway. The bus stop would be relocated but would remain as close as feasible to its current location. Therefore, there would be no impact that would conflict with adopted policies, plans or programs supporting alternative transportation (e.g. bus turnouts, bicycle racks).

As a part of the development of the Neighborhood Center at Marshall Park, the following provision shall be incorporated into the design:
The project site is located in the San Joaquin Valley Air Basin (SJVAB), defined by the Sierra Nevada in the east, the Coast Ranges in the west, and the Tehachapi mountains in the south. Under the federal Clean Air Act, the San Joaquin Valley Air Basin is a non-attainment area for ozone and PM$_{10}$ (particulate matter, ten micron or less). The San Joaquin Valley Unified APCD’s PM$_{10}$ Attainment Demonstration Plan (PM$_{10}$ ADP) was recently withdrawn and work is proceeding on a revised attainment plan (there is no state PM$_{10}$ plan). The federal regional ozone plan is the 1994 Ozone Attainment Demonstration Plan (OADP) and Amended 2002 and 2005 Rate of Progress Plan. The state-mandated ozone attainment plan is the California Clean Air Act Triennial Progress Report and Plan Revision 1997-1999.

The General Plan Master EIR requires that the San Joaquin Valley Unified Air Pollution Control District review all discretionary projects for air quality impacts. Since traffic impacts are no greater than those anticipated in the General Plan Master EIR, the proposed project would not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. Temporary air quality degradation during construction and development of the site is expected, and controls will be established to reduce these impacts. The Final General Plan Master EIR introduces two new mitigation measures to be implemented by the City of Modesto to reduce PM$_{10}$ impacts caused by construction. Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through V-2-26) remain valid as discussed below. In an effort to further protect air quality, the City of Modesto has added two new PM$_{10}$ Control measures found on pages V-2-24 and V-2-25 (AQ-1 through AQ-18) of the General Plan Master EIR.

Discussion:

a) Under the existing applicable air quality plan(s), a project would be judged to conflict with implementation of the regional air quality plan if it would be inconsistent with the growth assumptions, in terms of population, employment or regional growth in Vehicle Miles Traveled. A project would obstruct implementation of the regional air quality plan if it would interfere with implementation of the Transportation Control Measures contained in the plans. Construction of the Neighborhood Center at Marshall Park would not generate significantly greater traffic than what is anticipated in the General Plan Master EIR, as discussed in the Traffic and Circulation section of this Initial Study. The project would not conflict with any of the growth assumptions made in the preparation of these plans nor obstruct implementation of any of the proposed control measures contained in these plans. The mitigation measures defined in the General Plan Master EIR will be implemented with a Mitigation Monitoring Program to minimize air quality impacts. Therefore, there would be no impact to conflict with or obstruct the implementation of the San Joaquin Valley Unified Air Pollution Control District air quality plan.

**MM 1.2.1** The following City of Modesto Master EIR policies AQ-1 through AQ-18 shall be implemented to reduce PM$_{10}$ emission impacts:

a. SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM$_{10}$. The following controls are required to be implemented at all construction sites:

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

2. All on-site unpaved roads and off-site unpaved roads access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
Regardless of windspeed, an owner/operator must comply with Regulation VIII’s 20 percent (20%) opacity limitation.

Timing/Implementation: Upon commencement of grading and construction activities.
Enforcement/Monitoring: City of Modesto Planning Department.

b) The SJVUAPCD significance threshold for construction dust impacts is based on the appropriateness of construction dust controls. The San Joaquin Valley Unified Air Pollution Control District regulates construction emissions through its Regulation VIII. Regulation VIII requires a formal dust control plan, and violations of the requirements of Regulation VIII are subject to enforcement action. The provisions of Regulation VIII pertaining to construction activities require:

- Effective dust suppression for land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill and demolition activities.
- Effective stabilization of all disturbed areas of a construction site, including storage piles, not used for seven or more days.
- Control of fugitive dust from on-site unpaved roads and off-site unpaved access roads.
- Removal of accumulations of mud or dirt at the end of the work day or once every 24 hours from public paved roads, shoulders and access ways adjacent to the site.

Project compliance would lead to no significant impact that would result in the violation of any air quality standard or contribute substantially to an existing or projected air quality violation.

c) The SJVUAPCD’s Guide for Assessing and Mitigating Air Quality Impacts identifies types and sizes of projects that have no possibility of exceeding the District’s ozone precursor thresholds of significance. This project size is 57,000 square feet for a government civic center project, or 23,000 square feet for a government office building. As proposed, the project is 13,000 square feet, and therefore well below either of these minimum sizes, meaning the project would have a less than significant impact and would have no possibility of exceeding the District’s ozone precursor thresholds of significance.

d) The project would not regularly release any toxic air contaminants. Area source emissions from on-site would be limited to emissions from combustion of natural gas for space and water heating. Project vehicle trip generation would not have the potential to cause an exceedance of the state or federal ambient air quality standards for carbon monoxide. Therefore the project would have a less than significant impact in exposing sensitive receptors to substantial pollutant concentrations.

e) Various diesel-powered vehicles and equipment in use on the site would create odors during construction. These odors are temporary and not likely to be noticeable to sensitive receptors much beyond construction boundaries. There would be no operational sources of odors associated with the project. Therefore the project would have a less than significant impact on odors affecting a substantial number of people.
the emergency vehicles move away. However, noise generation associated with this project is exempted under Chapter 4 of Title 4 of the City of Modesto Municipal Code (Chapter 9 NOISE REGULATION, 4-9.104 Exemptions, (a), (b), and (d)). Therefore, the project will result in no significant impact to in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

b) Groundborne vibration or groundborne noise generation can be expected to slightly increase with the added presence of emergency service vehicles such as fire engines and police vehicles. Equipment and apparatus that support the emergency service substations may also contribute to groundborne vibration or noise, but are not generally anticipated to be significant. However, groundborne vibration or groundborne noise generation associated with this project is exempted under Chapter 4 of Title 4 of the City of Modesto Municipal Code (Chapter 9 NOISE REGULATION, 4-9.104 Exemptions, (a), (b), and (d)). Therefore, the project will result in no significant impact to exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.

c) Daily operations associated with the project are not anticipated to consistently generate noise levels beyond what is already provided for in the MEIR in the James Marshall Neighborhood Park setting. However, generation of ambient noise may increase, with periodic temporary noise increases due to use of emergency service vehicles and sirens. Noise generation associated with emergency services would be exempted under Chapter 4 of Title 4 of the City of Modesto Municipal Code (Chapter 9 NOISE REGULATION, 4-9.104 Exemptions, (a), (b), and (d)). Therefore, the project will result in no significant impact that would result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.

d) Noise generation associated with this project is exempted under Chapter 4 of Title 4 of the City of Modesto Municipal Code (Chapter 9 NOISE REGULATION, 4-9.104 Exemptions, (a), (b), and (d)). Noise related to construction activities is addressed in the City of Modesto Municipal Code (Section 4-9.101), which limits construction-type activities to the hours of 7:00AM to 9:00PM on weekdays and to the hours of 9:00AM to 9:00PM on weekends and holidays. Project compliance would lead to there being a less than significant impact in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

e) Because the proposed Neighborhood Center at Marshall Park would be located outside the noise contour of the Modesto City-County Airport, (Figure 3-2 MEIR) as analyzed in the General Plan Master EIR, its development would result in no impact to an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, and the project would not expose people residing or working in the project area to excessive noise levels.

f) Because the proposed Neighborhood Center at Marshall Park would be located in the Redevelopment Planning District of the General Plan, where there are no private airstrips, and it was analyzed in the General Plan Master EIR, its development would result in no impact to a private airstrip, nor would the project expose people residing or working in the project area to excessive noise levels.
Issues:

V. INCREASED DEMAND FOR WATER SUPPLIES - Compared to the General Plan Master EIR certified for the Modesto Urban Area General Plan, will the project result in increased impacts that would:

a) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? □ □ □ ☒

b) Require or result in the construction of new water treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effect? □ □ □ ☒

The City of Modesto adopted the following significance standard in the adopted General Plan Master EIR:

The Urban Area General Plan will have a significant impact on long-term water supplies if development will result in water demand that exceeds the capacity for recharge or that will contribute to overdraft of the groundwater basins. (page V-5-11)

It is not anticipated that the proposed 13,000 square foot municipal service center could generate a demand that would approach this criteria. In addition, the facility would be located in an area already adequately serviced by existing water infrastructure and facilities. And, because integration of a municipal services facility into an existing park is consistent with specific language in Chapter 5, Sections G and K of the City of Modesto’s General Plan, the project would be consistent with buildout scenarios examined by the Urban Area General Plan Master EIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through V-5-13) remain valid as discussed below.

Discussion:

a) Because construction of the proposed Neighborhood Center at Marshall Park would not result in a significant increase in water demand within the developed James Marshall Neighborhood Park, there would be no impact to water supplies available to serve the project from existing entitlements and resources, and no new or expanded entitlements would be needed.

b) Because construction of the proposed Neighborhood Center at Marshall Park would not result in a significant increase in water demand within the developed James Marshall Neighborhood Park, there would be no impact to any requirement or need for the construction of new water treatment facilities or expansion of existing facilities, the construction of which would cause significant environmental effects.
facilities that contribute to sewer demand are few and in aggregate would not produce an increase that would exceed the capacity of the existing system. It is expected that project development will deliver a determination by the wastewater treatment provider serving the project (City of Modesto) that it has adequate capacity to serve the project’s projected demand.

b) Because new facilities proposed in the Neighborhood Center at Marshall Park that contribute to sewer demand are few and in aggregate would not produce an increase that would exceed the capacity of the existing system as outlined in the City of Modesto Urban Area General Plan, the project would not generate increased demand for sanitary sewer services over what was assumed in the General Plan Master EIR. Therefore, the project would result in no significant impact to wastewater treatment requirements of the applicable Regional Water Quality Control Board.

c) Because new facilities proposed in the Neighborhood Center at Marshall Park that contribute to sewer demand are few and in aggregate would not produce an increase that would exceed the capacity of the existing system as outlined in the City of Modesto Urban Area General Plan, the project would not generate increased demand for sanitary sewer services over what was assumed in the General Plan Master EIR. Therefore, the project would result in no significant impact to a requirement for or result in the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effect.

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VII. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT - Compared to the General Plan Master EIR certified for the Modesto Urban Area General Plan, will the project result in increased impacts that would:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?

   □ □ □ □ ☒

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?

   □ □ □ □ ☒

c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

   □ □ □ □ ☒
habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.

c) As described in the Project Description of the document there are no water features on the project site, and therefore no wetlands or other waters of the U.S. occur in the project study area. Since there are no wetlands in the project area, the construction of the Neighborhood Center at Marshall Park will have no impact on federally protected wetlands as defined by Section 404 of the Clean Water Act.

d) The project site does not contain sensitive habitat, a riparian corridor, or any water features, and therefore construction of Neighborhood Center at Marshall Park would have no impact on the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

e) The proposed project includes uses that are consistent with the standards set by the City of Modesto Urban Area General Plan, which is consistent with what was analyzed in the General Plan Master EIR. Further, the City of Modesto does not currently have a Tree Protection Ordinance in place. The only local ordinance or policy that would protect biological resources is the General Plan and the subsequent MEIR. As the Neighborhood Center at Marshall Park is not located in area determined to be Sensitive Biological Habitat as defined by the General Plan, and the development of the service center is consistent with the General Plan Park Standards for a Neighborhood Park, it can be concluded that there will be no impact or conflict with any local policies or ordinances protecting biological resources.

f) The proposed project does not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. Therefore there is no impact.

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Issues:

VIII. DISTURBANCE OF ARCHAEOLOGICAL OR HISTORICAL SITES - Compared to the General Plan Master EIR certified for the Modesto Urban Area General Plan, will the project result in increased impacts that would:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?

   - ☐
   - ☐
   - ☐
   - ☒

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

   - ☐
   - ☒
   - ☐
   - ☐

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

   - ☐
   - ☐
   - ☐
   - ☒

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

   - ☐
   - ☐
   - ☐
   - ☒

This project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the MEIR. Figure 8-1 of the MEIR indicates...
substantial adverse change in the significance of an archaeological resource pursuant to §15064.5.

**MM 1.8.1** In the event that any prehistoric or historic subsurface cultural resource is discovered during construction-related activity, all work within 50 feet of the resource shall be halted. The City shall consult with a qualified archaeologist to assess the significance of the find. If any find were determined to be significant by the qualified archaeologist, then the City, the developer and the archaeologist would meet to determine the appropriate course of action. Mitigation measures, as recommended by the archaeologist and approved by the City in accordance with Section 15064.5 of the CEQA Guidelines, shall be implemented prior to recommencement of construction activity within the 50-foot perimeter. If Native American resources are involved, Native American organizations and individuals recognized by the City shall be notified and consulted regarding any plans for treatment.

**Timing/Implementation:** Upon commencement of project construction activities.

**Enforcement/Monitoring:** City of Modesto Planning Department

c) As indicated in the discussion above, this area has no known archaeological sites within the project area. Based on the intensive field survey of the Neighborhood Center at Marshall Park conducted on June 7, 2003, it was concluded that there is no impact above what has already been studied in the MEIR, to directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.

d) As indicated in the discussion above, this area has no known archaeological sites within the project area. The Management Summary of the Archaeological Resources Inventory states that "[i]f human remains are discovered, California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the county coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code Section 5097.8. Therefore, with the existing General Plan mitigation measures in place, it can be concluded that there is no impact, above what has already been studied in the MEIR, to disturb any human remains, including those interred outside of formal cemeteries.

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**Issues:**

**IX. DRAINAGE, FLOODING AND WATER QUALITY** - Compared to the General Plan Master EIR certified for the Modesto Urban Area General Plan, will the project result in increased impacts that would:

a) Violate any water quality standards or waste discharge requirements? ❌

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support the land uses or planned uses for which permits have been granted)? ❌
b) It is not anticipated that the proposed 13,000 square foot facility would substantially deplete groundwater supplies or interfere substantially with groundwater recharge. In addition, the integration of a municipal services facility into an existing park is consistent with specific language in Chapter 5, Sections G and K of the City of Modesto's General Plan, and consistent with buildout scenarios examined by the Urban Area General Plan Master EIR. Therefore, the project would result in a less than significant impact to substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted).

c) Although the project will require some grading on the site, after incorporation of design mitigations described in Exhibit D, the existing drainage patterns of the site or area will not significantly change. Therefore, the project would result in an impact that would be less than significant with mitigation incorporated (MM 1.9.1) to substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on-or off-site.

d) Generally, integration of a municipal services facility into a park is consistent with specific language in Chapter 5, Sections G and K of the City of Modesto's General Plan, and consistent with buildout scenarios examined by the Urban Area General Plan Master EIR. In addition, the design mitigations described below would reduce impacts associated with the project would result in a less than significant impact to create or contribute runoff water which would exceed the capacity or existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.

**MM 1.9.1** As a part of the development of the Neighborhood Center at Marshall Park, the following drainage provisions shall be incorporated into the grading and drainage design:

1. **Elevate Buildings** – Since the site is located in a portion of the City that is not served by positive storm drain facilities, the building pads shall be elevated a minimum of 1.0 feet above the adjacent top of curb elevations for Chicago Avenue and Sutter Avenue in conformance with City Standards.

2. **Grading** – The proposed site buildings and contiguous development features on the south side of the buildings should drain to the rear (south) and into the interior of the existing park towards the existing low-lying area. The south portion of the staff and visitor parking area in the northwest portion of the proposed development should also drain to the interior of the existing park, around the west edge of the proposed police/recreation office building. The north portion of the staff and visitor parking area and the fire department yard/staff parking may drain to Chicago Avenue along the north frontage. The fire department response driveway and portions of contiguous landscaping may drain to Sutter Avenue along the east frontage.

3. **Rock Well** – Runoff increases created by the portions of the Neighborhood Center at Marshall Park development that are recommended to drain to the low-lying area within the interior of the park may be sufficient to warrant the installation of a new rock well near the existing rock well to improve drainage. The need for a new rock well may be determined by the City, based on an interpretation of any prior maintenance issues.

4. **Stormwater Quality Control Measures** – The site development shall include stormwater quality control measures that conform with the requirements set forth in the City policy document entitled “Guidance Manual for New Development Stormwater Quality
Construction of the Neighborhood Center at Marshall Park will increase rates of runoff production compared with the existing condition. There is existing curb and gutter along the northern perimeter of the site, at Chicago Avenue. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages V-9-1 through V-9-13) are still valid for the reasons discussed below.

**Discussion:**

a) The incorporation of paved surfaces and vehicle parking on the site may produce impacts to downstream stormwater quality if not mitigated, due to the potential introduction of petroleum hydrocarbons, oil and grease into storm runoff. This potential shall be appropriately mitigated as a part of site development (as detailed above in Section VIII DRAINAGE, FLOODING AND WATER QUALITY). The overall rates and volumes of runoff production that will drain to adjacent streets and leave the site are considered to be less than significant with mitigation incorporation (See MM 1.9.1).

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**Issues:**

XII. INCREASED DEMAND FOR PARKS AND OPEN SPACE - Compared to the General Plan Master EIR certified for the Modesto Urban Area General Plan, will the project result in increased impacts that would:

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? ☐ ☐ ☒ ☒

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? ☐ ☐ ☒ ☒

This proposed project consists of constructing a joint municipal services facility (and amenities) inside the existing James Marshall Neighborhood Park. Integration of a municipal services facility into an existing park is consistent with specific language in Chapter 5, Sections G and K of the City of Modesto's General Plan, and therefore the project would be consistent with buildout scenarios examined by the Urban Area General Plan Master EIR.

As proposed, the Neighborhood Center at Marshall Park would occupy 1 acre in the northeast portion of the existing 6.81-acre park. No recreation facilities will be removed in association with the proposed project, and the proposed plan does not conflict with established recreational, educational, religious, or scientific use of the park. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) remain valid as discussed below.
The Stanislaus Resource Recovery Facility (SRRF) and the Fink Road Landfill serve the project area. Capacity at SRRF is 3,000,000 tons, and capacity at the landfill is 6,000,000 tons, which is currently in process for expansion.

The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages V-15-1 through V-15-10) remain valid, as discussed below.

**Discussion:**

a) The project proposes the integration of city services into the James Marshall Neighborhood Park, and is consistent with the General Plan in land use. Because the proposed integration of services into an existing park is consistent with specific language in Chapter 5, Sections G and K of the City of Modesto’s General Plan, it is consistent with the findings of the Urban Area General Plan Master EIR, the proposed project will not present any generation of solid waste that has not already been addressed in the MEIR. In addition, based on the existing capacity of the SRRF and the landfill serving the project area, construction and planned uses of the proposed 13,000 square foot facility would result in a *less than significant impact* to increase demand for service by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs.

b) The project proposes the integration of city services into the James Marshall Neighborhood Park, and is consistent with the General Plan in land use. This project will not cause the generation of solid waste that would breach published national, state, or local standards relating to solid waste or litter control, or beyond that which is identified in the MEIR. Therefore, the project would result in no impact to compliance with federal, state, and local statutes and regulations related to solid waste.

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**Issues:**

**XVI. GENERATION OF HAZARDOUS MATERIALS** - Compared to the General Plan Master EIR certified for the Modesto Urban Area General Plan, will the project result in increased impacts to:

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

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

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?
than small amounts of "household" or typical office cleaning chemicals. Integration of City services into an existing park is consistent with specific language in Chapter 5, Sections G and K of the City of Modesto's General Plan, and is consistent with buildout scenarios examined by the Urban Area General Plan Master EIR. Therefore, there is a less than significant impact to create a significant hazard to the public or the environment greater than that studied in the General Plan MEIR through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

c) Transport of hazardous materials is strictly regulated by federal, state, and local agencies. Hazardous materials are not anticipated to be a part of operations at the service center, other than small amounts of "household" or typical office cleaning chemicals. Although the Neighborhood Center at Marshall Park will be located adjacent to an existing school within the boundaries of the Urban Area General Plan, integration of city services into an existing park is consistent with specific language in Chapter 5, Sections G and K of the City of Modesto's General Plan, and is consistent with buildout scenarios examined by the Urban Area General Plan Master EIR. Therefore, there is a less than significant impact to emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school greater than that studied in the General Plan MEIR.

d) Based on a review of the lists describing hazardous material sites (under Section 65962.5 of the Government Code) it was determined that there are no listed hazardous materials presently located within the immediate vicinity of the project site. However, the Stanislaus County Environmental Review Committee recently identified a site located within 500 feet of the proposed project. The site, located at 505 Paradise Road, is currently being investigated for contamination by constituents associated with underground storage tanks. Little information has been developed to date, except that the County Department of Environmental Resources is actively investigating the extent of soil and groundwater contamination. Preliminary indications are that effects on the proposed project site are not anticipated. Therefore, impacts associated with health and safety concerns related to the presence of documented hazardous sites are considered to be less than significant.

e) The proposed site for the Neighborhood Center at Marshall Park is not located within the Modesto City-County Airport Land Use Planning Area Boundary as indicated in the Airport Land Use Commission Plan, adopted August 3, 1978. Therefore, there is no impact to result in a safety hazard for people residing, working or visiting the project area.

f) Because the proposed Neighborhood Center at Marshall Park would be located in the Baseline Developed Area of the General Plan, and there are no private airstrips within or adjacent to the Modesto General Plan Area, its development would result in no impact to a private airstrip, or to result in a safety hazard for people residing or working in the project area.

g) Because the Neighborhood Center at Marshall Park will be located within the boundaries of the Urban Area General Plan and will be consistent in use and intensity with Neighborhood Park standards, there is no impact that would impair implementation of an adopted emergency response plan or emergency evacuation plan.

h) Because the proposed project location would be in a mostly-developed urban area, there is no impact beyond that already studied in the MEIR, to expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.
Construction of the proposed 13,000 square foot facility is not anticipated to increase any existing risk associated with faults. Therefore, locating the Neighborhood Center at Marshall Park would result in no impact to expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault.

b) The Uniform Building Code indicates that Modesto is in Zone 3, a lower risk zone. It is anticipated that project construction would comply with all related codes, ordinances, and regulations. Construction of the proposed 13,000 square foot facility is not anticipated to increase any existing risk associated with ground shaking. Therefore, locating the Neighborhood Center at Marshall Park would result in no impact to expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking.

c) According to the General Plan Master EIR Modesto predominantly lies on young alluvial fans. Liquefaction can occur in areas of unconsolidated sediments, but the risk has not precluded construction in the vicinity. Construction of the proposed 13,000 square foot facility is not anticipated to increase any existing risk associated with liquefaction. Locating the Neighborhood Center at Marshall Park would result in no impact to expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction.

d) The General Plan Master EIR states that because the general slope in the Modesto area is very slight, the potential for slope failures is reported to be minimal. Construction of the proposed 13,000 square foot facility is not anticipated to increase any existing risk associated with landslides. Therefore, locating the Neighborhood Center at Marshall Park would result in no impact to expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides.

e) Erosion by wind or rain may occur when soils are exposed at the surface by construction activities. And while construction of the proposed 13,000 square foot facility may increase the site’s exposure to erosion, it is anticipated that project construction would comply with all applicable codes, ordinances, and regulations including BMPs. Therefore, locating the Neighborhood Center at Marshall Park would result in no impact to result in substantial soil erosion or the loss of topsoil.

f) The General Plan Master EIR states that because the general slope in the Modesto area is very slight, the potential for slope failures is reported to be minimal. Construction of the proposed 13,000 square foot facility is not anticipated to increase any existing risk associated with landslides. Therefore, locating the Neighborhood Center at Marshall Park would result in no impact to being located on a geological unit or 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.

g) The Modesto Urban Area is reported to not have soils with a great potential for expansion. Therefore, locating the Neighborhood Center at Marshall Park would result in no impact to being located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property.

h) Integration of a municipal service facility into an existing park is consistent with specific language in Chapter 5, Sections G and K of the City of Modesto’s General Plan, and is consistent with buildout scenarios examined by the Urban Area General Plan Master EIR. Because the
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Issues:

XVIX. AESTHETICS - Compared to the Master EIR certified for the Modesto Urban Area General Plan, would the project:

a) Have a substantial adverse effect on a scenic vista? ☐ ☐ ☒ ☐

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? ☐ ☐ ☐ ☒

c) Substantially degrade the existing visual character or quality of the site and its surroundings? ☐ ☐ ☒ ☐

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? ☐ ☒ ☐ ☐

This use will result in an improvement of aesthetics in the project area by adding to an existing urban park, and is not anticipated to degrade the aesthetic character of the area in any significant way.

Discussion:

a) The proposed project site is in an existing, developed urban park. The park is bounded by residential development to the east and west, and a school to the south. Generally, the park is considered to be in a residential area. Directly north of the project site across Chicago Avenue is a small shopping center with off-street parking. East of the proposed site, across Sutter, is residential housing. There are apartments to the west, and the James Marshall School is located to the south. The addition of the proposed building will not adversely affect a scenic vista or the quality of the surrounding communities and therefore the impact is considered to be less than significant.

b) The surrounding roadways are not state scenic highways, therefore, there is no impact which would substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.

c) The proposed project is within a redevelopment district and will improve the aesthetics of the community. There is no impact to the site and its surroundings.

c) The City of Modesto is an urban environment with substantial night lighting. The proposed building will have have lighting as part of its development plan. There might be the potential to have a significant effect on nighttime views as a result of increased lighting except that the project is already in an urban area with an existing cumulative impact on nighttime views, and the lighting will be mitigated to direct the lighting downwards. Therefore, this project is expected have a less than significant impact on the cumulative problem by the creation of a new source of light or glare which would adversely affect day or nighttime views in the area.
Mitigation Measures identified in this document, it can be concluded that this project has no potential to further degrade the quality of the environment.

b) Because the proposed integration of a municipal services facility at this location (into an existing park) is generally consistent with the City of Modesto General Plan and buildout scenarios examined by the General Plan Master EIR, the facility does not create impacts which would be considered cumulatively considerable. The MEIR specifically projects development of the entire General Plan by the year 2025, and this project is a small increment of that development. Since the adoption of the MEIR, there are no major projects proposed in the vicinity of this project which would further exacerbate impacts which have not already been reviewed.

c) Finally, as set forth in both the MEIR and this Initial Study, it is not expected that the project will cause substantial adverse effects on human beings, either directly or indirectly.

XXI DETERMINATION

Based on substantial evidence provided in the Initial Study, the City of Modesto finds:

☐ This Initial Study, prepared pursuant to CEQA Section 21157.1, has identified an additional significant environmental effect that was not analyzed in the General Plan Master EIR.

☒ Feasible mitigation measures will be incorporated to revise the subsequent project before the Negative Declaration and Initial Study is released for public review pursuant to CEQA Section 21092 in order to avoid or mitigate the identified effects to a point where clearly no significant effects on the environment will occur.

The City’s Parks, Recreation and Neighborhoods, Engineering and Transportation, Operations and Maintenance, and Community & Economic Development Departments have reviewed the proposed project and have determined the following mitigation measures will address the identified impacts and provide an acceptable level of service.

Traffic and Circulation Needs:

**MM 1.1.1** Keep Clear Zone – Prior to final project approval, the project site plan shall locate a “Keep Clear Zone” where the response driveway accesses Sutter Street. The “Keep Clear Zone” shall conform to applicable City Standards.

*Timing/Implementation: Prior to final project approval.*
*Enforcement/Monitoring: City of Modesto Planning Department.*

**MM 1.1.2** Relocate Bus Stop – Prior to final project approval, the project site plan shall identify the new bus stop location and design, which shall conform to applicable City Standards.

*Timing/Implementation: Prior to final project approval.*
*Enforcement/Monitoring: City of Modesto Planning Department.*

Air Quality:

**MM 1.2.1** The following City of Modesto Master EIR policies AQ-1 through AQ-18 shall be implemented to reduce \(PM_{10}\) emission impacts:
1. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site;

2. Install wind breaks at windward side(s) of construction areas;

3. Suspend excavation and grading when winds exceed 20 mph; and*

4. Limit the area subject to excavation, grading, and other construction activity at any one time.

(Regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation).

Timing/Implementation: Upon commencement of grading and construction activities.
Enforcement/Monitoring: City of Modesto Planning Department.

Archaeological:

MM 1.8.1 In the event that any prehistoric or historic subsurface cultural resource is discovered during construction-related activity, all work within 50 feet of the resource shall be halted. The City shall consult with a qualified archaeologist to assess the significance of the find. If any find were determined to be significant by the qualified archaeologist, then the City, the developer and the archaeologist would meet to determine the appropriate course of action. Mitigation measures, as recommended by the archaeologist and approved by the City in accordance with Section 15064.5 of the CEQA Guidelines, shall be implemented prior to recommencement of construction activity within the 50-foot perimeter. If Native American resources are involved, Native American organizations and individuals recognized by the City shall be notified and consulted regarding any plans for treatment.

Timing/Implementation: Upon commencement of project construction activities.
Enforcement/Monitoring: City of Modesto Planning Department

Drainage, Flooding and Water Quality:

MM 1.9.1 As a part of the development of the Neighborhood Center at Marshall Park, the following drainage provisions shall be incorporated into the grading and drainage design:

1. *Elevate Buildings* – Since the site is located in a portion of the City that is not served by positive storm drain facilities, the building pads shall be elevated a minimum of 1.0 feet above the adjacent top of curb elevations for Chicago Avenue and Sutter Avenue in conformance with City Standards.

2. *Grading* – The proposed site buildings and contiguous development features on the south side of the buildings should drain to the rear (south) and into the interior of the existing park towards the existing low-lying area. The south portion of the staff and visitor parking area in the northwest portion of the proposed development should also drain to the interior of the existing park, around the west edge of the proposed police/recreation office building. The north portion of the staff and visitor parking area and the fire department yard/staff parking may drain to Chicago Avenue along the north frontage. The fire department response driveway and portions of contiguous landscaping may drain to Sutter Avenue along the east frontage.
above have been added to the project. A MITIGATED NEGATIVE DECLARATION will be prepared.

✓ I further find that the cumulative impacts of this project are consistent with those set forth in the General Plan Master EIR for the Modesto Urban Area General Plan. This proposed project consists of constructing a joint municipal services facility (and amenities) inside the existing James Marshall Neighborhood Park. Integration of a municipal services facility into an existing park is consistent with specific language in Chapter 5, Sections G and K of the City of Modesto’s General Plan, and therefore the project would be consistent with buildout scenarios examined by the Urban Area General Plan Master EIR. The City’s Parks, Recreation and Neighborhoods, Engineering and Transportation, Operations and Maintenance, and Community Development Departments have determined that the impacts from this project with mitigation applied will achieve the level of service consistent with the Modesto Urban Area General Plan and General Plan Master EIR. As such, this project would generate no additional cumulative impacts that were not previously addressed in the General Plan Master EIR. All appropriate mitigation measures from the General Plan Master EIR have been incorporated into the project, and no further evaluation of cumulative impacts is required since this project generated no significant cumulative impact.

Signature: ____________________________ Date: ______________________
Bob Ford, Project Coordinator
Parks, Recreation and Neighborhoods Department
City of Modesto
EXHIBIT "A"

Ballanti – Air Quality
September 3, 2003

Nick Ferracone
Pacific Municipal Consultants
140 Independence Circle, Suite C
Chico, CA. 95973

Dear Mr. Ferracone:

The following is my analysis of air quality impacts for the proposed Modesto Westside Service Center. I have prepared my analysis as suggested responses to air quality questions contained in the California Environmental Quality Act (CEQA) checklist. In preparing this analysis I have made use of the methods, assumptions and thresholds of the San Joaquin Valley Unified Air Pollution Control District as described in the District's CEQA guidance document “Guide of Assessing and Mitigating Air Quality Impacts”.

STANDARDS OF SIGNIFICANCE

The CEQA environmental checklist provides five questions regarding air quality impact significance. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the determinations of significance.

The San Joaquin Valley Air Pollution Control District (SJVUAPCD) has established the following standards of significance.¹

- A project results in estimated carbon monoxide concentrations exceeding the California Ambient Air Quality Standard of 9 parts per million (PPM) averaged over 8 hours and 20 ppm averaged over 1 hour.
- Project operation results in new direct or indirect emissions of ozone precursors (ROG or NOx) in excess of 10 tons per year.
- Any project with the potential to frequently expose members of the public to

¹San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, August 20, 1998 (Revised June 1, 1999).
A project would be judged to conflict with implementation of the regional air quality plan if it would be inconsistent with the growth assumptions, in terms of population, employment or regional growth in Vehicle Miles Traveled. A project would obstruct implementation of the regional air quality plan if it would interfere with implementation of the Transportation Control Measures contained in the plans. The project would not conflict with any of the growth assumptions made in the preparation of these plans nor obstruct implementation of any of the proposed control measures contained in these plans.

During the construction of the project emissions would be generated by construction equipment and vehicles. Annual emissions from construction have been estimated using the URBEMIS2002 program (output is attached). Annual construction emissions were estimated at 0.28 tons/year for ROG, 0.53 tons/year for NOx and 0.13 tons/year for PM10.

Construction emissions would not exceed the SJVUAPCD thresholds of significance nor the federal “de minimis” levels that would require a conformity determination. Operational emissions from the project would not exceed the SJVUAPCD thresholds of significant nor the much higher federal “de minimis” levels. The proposed project would therefore not interfere with attainment of the National Ambient Air Quality Standards and would not require a conformity determination.

b. Violate any air quality standard or contribute substantially to an existing or projected air quality violations?

Less than Significant

Discussion: The SJVUAPCD significance threshold for construction dust impacts is based on the appropriateness of construction dust controls. The San Joaquin Valley Unified Air Pollution Control District regulates construction emissions through its Regulation VIII. Regulation VIII requires a formal dust control plan, and violations of the requirements of Regulation VIII are subject to enforcement action. The provisions of Regulation VIII pertaining to construction activities require:

- Effective dust suppression for land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill and demolition activities.

- Effective stabilization of all disturbed areas of a construction site, including storage piles, not used for seven or more days.
associated with the project.

Please call if you have any questions regarding this analysis.

Sincerely,

Donald Ballanti
Certified Consulting Meteorologist

Attachment
EXHIBIT "B"

BIOLOGICAL (DFG Letter)
Mr. Brenden Vieg  
Senior Planner  
Pacific Municipal Consultants  
140 Independence Circle, Suite C  
Chico, California 95973

Subject: Westside Service Center at James Marshall Neighborhood Park in the City of Modesto, Stanislaus County, California

Dear Mr. Vieg:

This letter is in response to your request for concurrence from the U.S. Fish and Wildlife Service (Service) that the proposed Westside Service Center at James Marshall Neighborhood Park, located in the City of Modesto, Stanislaus County, California, will not adversely affect federally-listed species. Your letter dated May 12, 2003, was received by our office on May 13, 2003. Our primary concern and mandate is the protection of federally-listed species pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act). Section 9 of the Act prohibits the “take” (e.g., hunt, harm, harass, capture, pursue, injure, kill, trap, or collect) of federally-listed wildlife species. “Harm” (i.e., “take”) is further defined to include habitat modification or degradation that kills or injures wildlife by impairing essential behavioral patterns including breeding, feeding, or sheltering.

The proposed Westside Service Center is a 13,000 square-foot joint-use fire, police, and recreation facility, located within the existing James Marshall Neighborhood Park. The project site is an existing urban park, and consists of slightly undulating terrain covered by turfgrass and a mix of native and ornamental trees. There are no water features located at the project site. Based on our review of the project description and the project site, the Service finds that the proposed Westside Service Center is not likely to result in take of federally-listed species. The Service makes this determination based on the lack of evidence of listed species or their habitats at the urban park project site.
Archaeological Resources Inventory
Westside Service Center Project
Modesto, Stanislaus County, California
Salida 7.5' Quadrangle
Section 31, T. 3S, R. 9E MDM
Approximately One Acre

Ric Windmiller, M.A.
Registered Professional Archaeologist

with a contribution by
Donald S. Napoli, Ph.D.
Registered Professional Historian

Ric Windmiller
Consulting Archaeologist
P.O. Box 1358
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Prepared For
Pacific Municipal Consultants
10461 Old Placerville Road, Suite 110
Sacramento, California 95827

June, 2003
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Figure 1. Westside Service Center project vicinity.
reasonable and good faith effort to identify Indian tribes that shall be consulted in the Section 106 process; the federal government has a unique legal relationship with Indian tribes set forth in the Constitution of the United States, treaties, statutes and court decisions, and, therefore, consultations must recognize this government-to-government relationship.

The Present Study

The purpose of the present study is to identify any archaeological resources within the proposed Westside Service Center project area, and to note any buildings that appear to be 50 years old or older on site or clearly visible from the project site.

A records search was conducted by the North Central Information Center, California Historical Resources Information System. The consultant requested of the Native American Heritage Commission a search of its sacred lands file and list of Native American contacts as a source of further information. Pending the commission’s response, the consultant mailed letters to Native American contacts and the McHenry Museum Historical Society requesting comments.

Archaeologists usually organize their studies in three phases (De Barros and Weber 1993:7). Phase I is the inventory or identification of archaeological resources within a project area, which usually includes a prefield records or literature search, field survey and a written report. A Phase I inventory may also include preliminary evaluations of importance. Phase II is a comprehensive evaluation of any archaeological resources discovered during Phase I. Phase III is the treatment of those resources considered "unique" or eligible for the California Register of Historical Resources, or eligible for the National Register of Historic Places as a result of the Phase II evaluation. Phase III includes either avoidance of the resources, a means to lessen any adverse effects, "mitigation," or a combination of the two.

For purposes of the present study, the consultant conducted a Phase I archaeological resources inventory of the Westside Service Center project area. The archaeological survey was conducted by a Registered Professional Archaeologist (see Appendix A: Statement of Qualifications).

SETTING

The proposed Westside Service Center is located in California’s Great Central Valley, “...one of the most notable structural depressions in the world” (Hinds 1952:145). The valley is more than 400 miles long and approximately 50 miles wide. Elevation is near sea level. The climate is Mediterranean: summers are hot and rainless, while winters are cool, often with low (tule) fog and 6-20 inches rainfall (Storer and Usinger 1963:26).

The proposed project lies at an elevation of 80 feet in the low plains of the northern San Joaquin Valley in the southern portion of the Central Valley. The Tuolumne River lies one mile south of the project site, while the San Joaquin River lies 9 miles southwest (see Appendix D: Maps).

Prehistory/Archaeology

Archaeology of the early to mid-Holocene period following the last Ice Age is poorly known in California’s Central Valley. Moratto and Riley (1980) and Moratto (1984:543-544, 555-557) suggest that California was inhabited primarily by Hokan speaking people between 10,000 and 6000 B.C. Artifacts diagnostic of the Western Pluvial Lakes Tradition (Bedwell 1973) are thought by archaeologists to represent the ancient Hokan populations (Peak & Associates, Inc. 1982; see also Peak and Crew 1990 summarizing research at the Clarks Flat Site, CA-CAL-S342).

Utian peoples (including proto-Miwokan and, later, Yokutsan-speaking people) entered the lower Sacramento Valley probably from the northwest Great Basin and Columbian Plateau region during
to the probability that Yokuts people were relatively late arrivals to the San Joaquin Valley. As Numic-speaking Monache from the east side of the Sierra Nevada began entering the San Joaquin River drainage about 500 years ago, tribelets that inhabited the upper San Joaquin and possibly also the upper Kings River, began to move out, over the valley floor (Wallace 1978:463).

The valley Yokuts lived in villages near water sources, whether waterways or springs. Dwellings consisted of round or oval-shaped structures, 25-40 feet across, covered with tules. Individual structures within the village were scattered about, possibly without any intentional order. Semi-subterranean sweat houses and larger semi-subterranean "dance" houses have been recorded by archaeologists (Wallace 1978:465).

Rafts or boats made by lashing together bundles of tules were the means of transportation on the waterways. Early Spanish explorers noted beaten paths though meadows and along river banks. Well-traveled trails were also noted over great distances, such as westward into Salinan territory of the Coast Ranges. Yokuts bands on horseback made regular visits to Monterey Bay in Costanoan territory during the historic period (Wallace 1978:465).

In 1825, one of Mission San Jose's neophytes, a Yokuts-speaking Indian named Estanislao, fled to the San Joaquin Valley taking with him other neophytes who had become disenchanted with mission life. Estanislao then established his own nation near present-day Salida, from which he led raids on missions and settlements. In 1829, the Mexican government sent two expeditions against Estanislao, which burned out the natives who were otherwise protected by Estanislao’s complex fortification of trenches and barriers (Barnes 1987:2).

Latta estimated the original Yalesumne pre-contact population at 500 (Latta 1977:98). In 1832, a year before the epidemic, hunter and trapper Colonel James J. Warner noted that there were hundreds of Indians living along the Tuolumne and Stanislaus rivers above the San Joaquin River. Many villages supported 50 to 100 dwellings. When Warner returned to the area a few months after the epidemic, he saw only six or eight live Indians (Barnes 1987:2).

History

The history of the Modesto vicinity during the Spanish, Mexican and American periods is largely a history of agriculture. John C. Fremont wrote of the area between the Stanislaus and Tuolumne rivers, later known as Paradise Valley. Fremont's 1844 account of its beauty and richness of its soil was one of the most descriptive in its day (Barnes 1987:1).

In the late 1700s, early 1800s, European and American visitors to the area were mainly Spanish soldiers and mission priests. One of the earliest Spanish expeditions into the area was led by Pedro Fages in search of Spanish Army deserters. The Spanish also led forces into the region in search of Indian neophytes who had fled mission life (Barnes 1987:1-2).

Explorers and trappers, as Kit Carson, Jedediah Smith and later, John C. Fremont, noted the abundance of game and fertility of the region's soils. In 1842, Dr. John Marsh, whose land grant was located near the foot of Mt. Diablo, forecasted a great agricultural future for both the Sacramento and San Joaquin valleys. In the final decade of Mexican rule, the region that is now Stanislaus County encompassed five land grants. While in the early years, most of the grants were not occupied due to the threat of hostile Indians, cattle became the primary product of the ranchos. Of the five land grants, El Pescadero, a 35,500 acre rancho between Banta and Grayson, and which was deeded to Velentin Higuerra and Rafael Feliz, was the only rancho permanently occupied in the early years. The rancho was started with 1,300 head of cattle, 350 sheep and 300 horses. The first market was for hides and tallow (Barnes 1987:4).

The market shifted from hides and tallow to beef during the Gold Rush. Americans imported midwestern cattle to California beginning in 1850. By 1854, the Stanislaus River region was open range; cattle country. However, the devastating floods of 1861-1862, followed by three years of drought triggered the decline of the Paradise Valley cattle industry (Barnes 1987:5).
RECORDS SEARCH RESULTS

The Central California Information Center, California Historical Resources Information System, completed a records search for the proposed project area on May 22, 2003. As a result of that search, the information center found that no prehistoric resources had been reported within one mile of the project and no historic archaeological resources or historic properties had been reported within or immediately adjacent to the project area. No cultural resources known to have value to local (ethnic) groups have been reported to the information center (see Appendix B: Records Search Results).

CONSULTATIONS

As part of the present study, the consultant requested a sacred lands file search of the Native American Heritage Commission. However, the commission has not concluded its file search at the time of this writing. Therefore, the consultant mailed letters to the two Native American representatives who usually appear on the commission's list for Stanislaus County. The consultant also requested comments and concerns from the McHenry Museum Historical Society. However, no responses have been received at this writing (see Appendix C: Consultations).

FIELD METHODS

Ric Windmiller, Registered Professional Archaeologist, conducted an intensive field survey of the Westside Service Center site on June 7, 2003. The entire site is the north portion of a landscaped park with extensive irrigated lawns, trees, paved walkways and picnic tables. One park-goer was asked if he had ever found any historic or prehistoric artifacts there; his answer was in the negative. Numerous small, fresh exposures of sediments were exposed by burrowing rodents, presumably gophers. These fresh exposures were examined for any evidence of archaeological resources such as historic and prehistoric artifacts, shell, bone and other "ecofacts." None were found. The entire project site was inspected along transects 5-15 meters apart.

In addition, digital video was used to record buildings within the view shed of the proposed service center. The video footage was reviewed by architectural historian, Donald S. Napoli, Ph.D. Dr. Napoli indicated which buildings appeared 50 years old or older, based on architectural style and noted his impressions with respect to their importance reported below under "Findings."

FINDINGS

Archaeological Resources

No archaeological resources, either prehistoric or historic, were discovered during the study.

Buildings and Structures

It is the consultants' opinion that apartment buildings on the west side of the park, south of Chicago Avenue will be within the view shed of the planned service center. However, these buildings appear to have been constructed in the 1960s and, therefore, are less than 50 years old.

A commercial building on the northwest side of Tuolumne Boulevard and its intersection with Chicago Avenue is of undetermined age. However, the commercial buildings on the north side of...
2. It is associated with the lives of persons important to local, California, or national history;

3. It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master or possesses high artistic values; or

4. It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

Eligibility for the California Register also depends on the integrity, or the survival of characteristics of the resource that existed during its period of significance. Eligible historic resources must not only meet one of the above criteria, but also they must retain enough of their historic character or appearance to convey the reasons for their importance, or retain the potential to yield significant scientific or historical information or specific data.

Like the process of evaluating historical resources for National Register eligibility, California Register evaluations include the consideration of seven aspects of integrity: location, design, setting, materials, workmanship, feeling and association. The evaluation of integrity must be judged with reference to the particular criterion or criteria under which a resource may be eligible for the California Register. However, the implementing regulations specifically caution that alterations of a historic resource over time may themselves have historical, cultural or architectural significance.

Most often, historical resources eligible for the California Register will be 50 years old or older. However, the new implementing regulations stipulate that "a resource less than fifty (50) years old may be considered for listing in the California Register if it can be demonstrated that sufficient time has passed to understand its historical importance."

If an archaeological resource does not meet the definition of a "historical resource," it may meet the definition of a "unique archaeological resource" under Public Resource Code 21083.2. An archaeological resource is "unique" if it:

1. Is associated with an event or person of recognized significance in California or American history or recognized scientific importance in prehistory;

2. Can provide information that is of demonstrable public interest and is useful in addressing scientifically consequential and reasonable research questions;

3. Has a special or particular quality such as oldest, best example, largest, or last surviving example of its kind;

4. Is at least 100 years old and possesses substantial stratigraphic integrity;

5. Involves important research questions that historical research has shown can be answered only with archaeological methods.

Generally, a historic site, object, building, structure or district is eligible for listing on the National Register of Historic Places if it is older than 50 years, possesses integrity of location, design, setting, materials, workmanship, feeling and association, and meets at least one of the following criteria (National Park Service 1991):

A. Association with events that have made significant contributions to the broad patterns of United States history.

B. Association with the lives of people important in United States history.
REFERENCES CITED

Barnes, D. H.
1987 The Greening of Paradise Valley: Where the Land Owns the Water and Power–The First 100 Years of the Modesto Irrigation District. Modesto Irrigation District, Modesto.

Bedwell, S. F.

DeBarros, P. and C. Weber

Gudde, E.G.

Hinds, N. E. A.

Latta, F. F.

Modesto, City of
2003a Modesto Historical Information. Internet: http://www.modestogov.com/localInfo/cityHistory/.


Moratto, M. J.

Moratto, M.J. and L. M. Riley

National Park Service

Olsen, W. and L. A. Payen
1968 Archaeology of the Little Panoche Reservoir, Fresno County. Archeology Report 11, California State Department of Parks and Recreation, Sacramento.

APPENDIX A: STATEMENT OF QUALIFICATIONS
REPRESENTATIVE PROJECTS

Cultural Resources and Wireless Telecommunications Projects/GeoTrans, Inc. Historic building evaluations, archaeological surveys, construction monitoring for archaeological resources and records searches for wireless telecommunications projects in northern California.

Specific Plan EIR/Quad Knopf. Cultural resources inventory for a 5,000 acre specific plan EIR in Placer County, California.

Paleontological Survey/Jones & Stokes Associates. Survey for planned interceptor project in Yolo and Sacramento counties, California.

Commercial Development/City of Folsom. Archaeological test excavations, analysis, recovery and reburial of human remains with cooperation of the Sacramento County Coroner, Native American Heritage Commission and the commission’s appointed “most likely descendant.” Folsom, Sacramento County, California.

Mining Permit/Blue Mountain Minerals. On-site archaeological monitoring of the soil capping of archaeological sites as a condition for the permit. Tuolumne County, California.

Manteca General Plan EIR/Wade Associates. Records search, archaeological and historic architectural surveys for updated Manteca General Plan, San Joaquin County, California.

Stanford House Restoration/California Department of Parks & Recreation. Archaeological excavations to define brick footings, buried conduits and other features associated with the original construction and use of the Stanford House, 8th and N streets, Sacramento.

Data Recovery/Elliott Homes. Archaeological excavations at a 19th century ranch site near Folsom, Sacramento County, California. Data recovery program undertaken as part of a treatment plan approved under the National Historic Preservation Act, Section 106 review. Folsom, Sacramento County, California.

PARTIAL LIST OF RECENT REPORTS


2003 Archaeological Survey Report: AT&T Wireless Services, L.L.C., Site ID #960008023B-
APPENDIX B: RECORDS SEARCH RESULTS

This appendix contains information on the specific locations of cultural resources. This information is not for publication or release to the general public. It is for planning, management and research purposes only. Information on the locations of prehistoric and historic sites are exempted from the California Freedom of Information Act, as specified in Government Code 6254.10.
Attached historic maps (regional information):

- 1953 edition of the Salida 7.5' USGS quadrangle map: no structures shown at the project area, but 2 structures shown nearby to the west.

- GLO Plat for T3S/R9E (sheet # unlisted, dated 1853-1854): “Road” shown further northwest in section 31, and another “Road” further southeast in section 32.

- GLO Plat for T4S/R9E (sheet # unlisted, dated 1853-1854): two roads shown in section 6, one entering T3S, section 31, SE ¼; another shown entering T3S, section 32.

Resources known to have value to local cultural groups:

None have been formally reported to the Information Center.

Previous investigations within the project:

None reported to the Information Center.

Previous investigations immediately adjacent to the project Area:

One has been reported within 1/8th-mile, cited as follows:

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<tr>
<th>CCIC #</th>
<th>Author/Date</th>
<th>Title</th>
</tr>
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</table>

Recommendations/Comments:

Please be advised that a historical resource is defined as a building, structure, object, prehistoric or historic archaeological site, or district possessing physical evidence of human activities over 45 years old. There may be unidentified features 45 years or older within your project that are considered as historical resources requiring further study and evaluation by a qualified professional of the appropriate discipline.

In accordance with State law, if any historical resources are found during construction, work is to stop and the lead agency and a qualified professional are to be consulted to determine the importance and appropriate treatment of the find.
The above plat of Township No. 3 South, Range No. 3 East of Mount Diablo Base and Meridian, the Field Notes of the undersigned Surveyors thereof, returned to and filed in this office.

<table>
<thead>
<tr>
<th>Under Contract</th>
<th>Work executed and exhibited</th>
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</thead>
<tbody>
<tr>
<td>Dated</td>
<td>With</td>
</tr>
<tr>
<td>September 1853</td>
<td>A. W. von Schmidt, F. R. Loring</td>
</tr>
<tr>
<td>Jan 1853</td>
<td></td>
</tr>
<tr>
<td>Apr 1853</td>
<td>A. W. von Schmidt, A. W. von Schmidt</td>
</tr>
<tr>
<td>Apr 1854</td>
<td></td>
</tr>
<tr>
<td>Apr 1856</td>
<td></td>
</tr>
</tbody>
</table>

GLO Plat T3S/R9E (1853-854) no number listed
To: Native American Heritage Commission

Fax #: 657-5390

Phone #: 653-4082

No. Pages (including this one): 2

Date: May 21, 2003

Re: Request Sacred Lands file search and list of contacts.

Comments:

Project Name: Westside Service Center, Modesto Project

Location: 440 Sutter Avenue, Modesto (see attached map)

Project Description and Needs: file search to include project area outlined on map and any sites immediately adjacent to the project

Purpose of File Search: cultural resources inventory to comply with CEQA.

Please fax me the results at your earliest convenience.

Ric Windmiller
To: Native American Heritage Commission

Fax #: 657-5390
Phone #: 653-4082

No. Pages (including this one): 2
Date: May 21, 2003

Re: Request Sacred Lands file search and list of contacts.

Comments:

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Purpose of File Search: cultural resources inventory to comply with CEQA.

Please fax me the results at your earliest convenience.

Ric Windmiller
Figure 2. Westside Service Center project area.
FIGURE 2-2
PROJECT LOCATION MAP
Exhibit "D"

Storm Drainage
Design Monitoring
Westside Service Center

Storm Drainage Analysis

Prepared for:

Pacific Municipal Consultants

By:

Storm Water Consulting Inc.

1899 Sapphire Way
El Dorado Hills, CA 95762
Ph (916) 801-3962

July 10, 2003
Based on the Flood Insurance Rate Map published by the Federal Emergency Management Agency covering this overall area (Panel 15), the proposed Westside Service Center development and the remainder of James Marshall Neighborhood Park are located outside of the 100-year and 500-year flood hazard area associated with the nearby Tuolumne River and within Flood Insurance Zone C. Zone C is defined as an "area of minimal flooding" by the Federal Emergency Management Agency.

**Runoff Production**

Under existing conditions, the roughly 1-acre area proposed to be developed as the Westside Service Center consists of park uses associated with James Marshall Neighborhood Park. Runoff production is rather minimal due to the abundance of turf as the primary ground cover and the low percentage of impervious surfaces.

The Westside Service Center will introduce the following features into this 1-acre portion of the existing park site:

- 13,000 SF of new buildings (fire station and police/recreation office)
- Staff and visitor parking with access drives to Chicago Avenue
- Fire Department yard
- Fire Department response driveway with access to Sutter Avenue
- Community Building patio
- New pedestrian walk
- Landscape areas

Most of these features will increase the rate of runoff production for the 1-acre site when compared with existing conditions due to the introduction of impervious surfaces associated with rooftops, pavement, concrete, etc. For a 10-year return period storm, the total peak runoff rate generated within the Westside Service Center site area would increase from 0.4 cubic feet per second (cfs) for the existing park use to 1.75 cfs under a developed condition (see calculation sheet). Though this represents a high percentage increase in peak runoff, the magnitude of peak rates and volumes is quite small. In addition, the majority of storm runoff originating within the proposed Westside Service Center development will continue to drain to the interior of the existing City park (per the Drainage Design Requirements section of this analysis).

The incorporation of paved surfaces and vehicle parking on the site may produce impacts to downstream stormwater quality if not mitigated, due to the potential introduction of petroleum hydrocarbons, oil and grease into storm runoff. This potential should be appropriately mitigated as a part of site development.
2. There is a potential for the site development to degrade downstream stormwater quality due to the introduction of petroleum hydrocarbons, oil, and grease via new site facilities and uses; however, this potential impact will be reduced to less than significant if mitigated by the implementation of onsite stormwater quality control measures in conformance with City policies.

3. The site is not located in a 100-year or 500-year flood hazard area according to the Federal Emergency Management Agency.

4. Building pads shall be elevated a minimum of 1.0 feet above the top of curb elevations for adjacent streets, and the majority of the site development shall be graded to eventually drain to adjacent streets.
1.0 INTRODUCTION

This mitigation and monitoring program has been prepared by the City of Modesto for the Neighborhood Center at Marshall Park. CEQA Section 21081.6 requires public agencies to adopt a mitigation reporting or monitoring program when adopting a Mitigated Negative Declaration. Monitoring programs are designed to ensure that all mitigation measures described in the Negative Declaration are carried out.

2.0 SCOPE

The program described below applies to all mitigation measures described in the Initial Study/Mitigated Negative Declaration, dated November 2003, prepared for the project. The components of project mitigation were reviewed and approved by the City of Modesto’s Parks, Recreation and Neighborhoods, Engineering and Transportation, Operations and Maintenance, and Community Development staff.

3.0 MITIGATION

Traffic and Circulation Needs:

MM 1.1.1 Keep Clear Zone – Prior to final project approval, the project site plan shall locate a “Keep Clear Zone” where the response driveway accesses Sutter Street. The “Keep Clear Zone” shall conform to applicable City Standards.

Timing/Implementation: Prior to final project approval.
Enforcement/Monitoring: City of Modesto Planning Department.

MM 1.1.2 Relocate Bus Stop – Prior to final project approval, the project site plan shall identify the new bus stop location and design, which shall conform to applicable City Standards.

Timing/Implementation: Prior to final project approval.
Enforcement/Monitoring: City of Modesto Planning Department.

Air Quality:

MM 1.2.1 The following City of Modesto Master EIR policies AQ-1 through AQ-18 shall be implemented to reduce PM$_{10}$ emission impacts:

b. SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM$_{10}$. The following controls are required to be implemented at all construction sites:

10. 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.
8. Limit the area subject to excavation, grading, and other construction activity at any one time.

(Regardless of windspeed, an owner/operator must comply with Regulation VIII’s 20 percent (20%) opacity limitation).

Timing/Implementation: Upon commencement of grading and construction activities.
Enforcement/Monitoring: City of Modesto Planning Department.

Archaeological:

MM 1.8.1 In the event that any prehistoric or historic subsurface cultural resource is discovered during construction-related activity, all work within 50 feet of the resource shall be halted. The City shall consult with a qualified archaeologist to assess the significance of the find. If any find were determined to be significant by the qualified archaeologist, then the City, the developer and the archaeologist would meet to determine the appropriate course of action. Mitigation measures, as recommended by the archaeologist and approved by the City in accordance with Section 15064.5 of the CEQA Guidelines, shall be implemented prior to recommencement of construction activity within the 50-foot perimeter. If Native American resources are involved, Native American organizations and individuals recognized by the City shall be notified and consulted regarding any plans for treatment.

Timing/Implementation: Upon commencement of project construction activities.
Enforcement/Monitoring: City of Modesto Planning Department

Drainage, Flooding and Water Quality:

MM 1.9.1 As a part of the development of the Neighborhood Center at Marshall Park, the following drainage provisions shall be incorporated into the grading and drainage design:

1. *Elevate Buildings* – Since the site is located in a portion of the City that is not served by positive storm drain facilities, the building pads shall be elevated a minimum of 1.0 feet above the adjacent top of curb elevations for Chicago Avenue and Sutter Avenue in conformance with City Standards.

2. *Grading* – The proposed site buildings and contiguous development features on the south side of the buildings should drain to the rear (south) and into the interior of the existing park towards the existing low-lying area. The south portion of the staff and visitor parking area in the northwest portion of the proposed development should also drain to the interior of the existing park, around the west edge of the proposed police/recreation office building. The north portion of the staff and visitor parking area and the fire department yard/staff parking may drain to Chicago Avenue along the north frontage. The fire department response driveway and portions of contiguous landscaping may drain to Sutter Avenue along the east frontage.

3. *Rock Well* – Runoff increases created by the portions of the Neighborhood Center at Marshall Park development that are recommended to drain to the low-lying area within the interior of the park may be sufficient to warrant the installation of a new rock well near the existing rock well to improve drainage. The need for a new rock well may be determined by the City, based on an interpretation of any prior maintenance issues.

4. *Stormwater Quality Control Measures* – The site development shall include stormwater quality control measures that conform with the requirements set forth in the City
ATTACHMENT "A"

ENVIRONMENTAL ASSESSMENT

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Environmental Assessment
(HUD recommended format per 24 CFR 58.36, revised 1/99)

Project Identification: Neighborhood Center at Marshall Park

Preparer: Nicholas Ferracone, Pacific Municipal Consultants, Chico, California

Responsible Entity: City of Modesto, California

Month/Year: November/2003
Environmental Assessment

Responsible Entity [24 CFR 58.2(a)(7)]: City of Modesto

Certifying Officer [24 CFR 58.2(a)(2)]: Robert J. Ford, Project Coordinator, Parks, Recreation and Neighborhoods Department

Project Name: Neighborhood Center at Marshall Park

Project Location: The proposed project is located in the southwestern portion of the City of Modesto in north-central Stanislaus County, California. As proposed, the Neighborhood Center at Marshall Park would occupy 1 acre of the existing 6.81-acre James Marshall Neighborhood Park located at 440 Sutter Avenue (at the intersection of Western Way at Sutter and Chicago Avenues).

Estimated Total Project Cost: $3.3 M

Grant Recipient [24 CFR 58.2(a)(5)]: City of Modesto

Recipient Address: P.O. Box 642, Modesto, CA 95353

Project Representative: Robert J. Ford, Project Coordinator, Parks, Recreation and Neighborhoods Department

Telephone Number: (209) 577-5437

Conditions for Approval: (List all mitigation measures adopted by the responsible entity to eliminate or minimize adverse environmental impacts. These conditions must be included in project contracts or other relevant documents as requirements.) [24 CFR 58.40(d), 40 CFR 1505.2(e)]

See Attachment 1.

FINDING: [58.40(g)]
- Finding of No Significant Impact
  (The project will not result in a significant impact on the quality of the human environment)
- Finding of Significant Impact
  (The project may significantly affect the quality of the human environment)

Preparer Signature: ___________________________ Date: __________
Title/Agency: Contract Planning Staff, City of Modesto

RE Approving Official Signature: ___________________________ Date: __________
Title/Agency: City Administrator/Planning Director, City of Modesto
## Statutory Checklist

**[24 CFR §58.5]**

For each listed statute, executive order or regulation, record the determinations made. Note reviews and consultations completed as well as any applicable permits or approvals obtained. Attach evidence that all required actions have been taken. Record any conditions or mitigation measures required. Then, make a determination of compliance or consistency.

<table>
<thead>
<tr>
<th>Factors</th>
<th>Determinations and Compliance Documentation</th>
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<tbody>
<tr>
<td>Historic Preservation</td>
<td>In compliance. Although this property is located in the Archaeological Resource Zone, the Archaeological Resource Inventory indicates that it is unlikely that any archaeological resources will be encountered during the construction of this project. In addition, the General Plan Master EIR (MEIR) has specific mitigation measures that are included with any project within the scope of the General Plan, and these mitigation measures will be included in the construction documents for the park. With these existing mitigation measures in place, there would be no impact above what has already been studied in the General Plan MEIR. Reference: Neighborhood Center at Marshall Park MND, Section VIII (b), and Exhibit C.</td>
</tr>
<tr>
<td>Floodplain Management</td>
<td>In compliance. The project site is not located within a floodplain area, as designated by a Flood Insurance Rate Map prepared by FEMA.</td>
</tr>
<tr>
<td>Wetlands Protection</td>
<td>In compliance. There are no water features on the project site, and therefore no wetlands or other waters of the U.S. occur in the project study area. Since there are no wetlands in the project area, the construction of the Neighborhood Center at Marshall Park will have no impact on federally protected wetlands as defined by Section 404 of the Clean Water Act. Reference: Neighborhood Center at Marshall Park MND, Section VII (c), and Exhibit B.</td>
</tr>
<tr>
<td>Coastal Zone Management Act</td>
<td>Not applicable. The project site is not located in any Coastal Zone in California.</td>
</tr>
<tr>
<td>Sole Source Aquifiers</td>
<td>In compliance. No Sole Source Aquifers have been identified in the project vicinity.</td>
</tr>
<tr>
<td>Endangered Species Act</td>
<td>In compliance. On behalf of the City of Modesto, Pacific Municipal Consultants (PMC) provided the San Joaquin Branch of the Endangered Species Division of the U.S. Fish and Wildlife Service (USFWS) a memo dated May 12, 2003 which attached the following material: 1) a summary of the project's attributes, 2) a project aerial and site photos, 3) results of a CNDDB search for the subject parcel area, 4) and documentation of correspondence with the USFWS requesting a list of sensitive species known to occur or which may occur in the vicinity of the project area. PMC's memo concluded that no listed species inhabit the project site, and that no listed species will be adversely affected by implementation of the proposed project. On June 27, 2003, PMC received concurrence in writing from the USFWS that the proposed action is not likely to adversely affect listed species and that no further consultation is required. Therefore, it is concluded that</td>
</tr>
</tbody>
</table>
### HUD Environmental Standards

<table>
<thead>
<tr>
<th>Standards</th>
<th>Determinations and Compliance Documentation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Noise Abatement and Control</strong> [24 CFR 51 B]</td>
<td>Not applicable. No residential structures are being constructed as part of this project.</td>
</tr>
<tr>
<td><strong>Toxic or Hazardous Substances and Radioactive Materials</strong> [HUD Notice 79-33]</td>
<td>In compliance. A review of the lists describing hazardous material sites as required under Section 65962.5 of the California Government Code has determined that there are no listed hazardous materials sites presently located within the project site of the Neighborhood Center at Marshall Park at James Marshall Neighborhood Park. The Neighborhood Center at Marshall Park would not be located in a Potential Hazardous Contamination Study Area, as presented in Figure 16-1 of the MEIR. Reference: Neighborhood Center at Marshall Park MND, Section VI (d).</td>
</tr>
<tr>
<td><strong>Siting of HUD-Assisted Projects near Hazardous Operations</strong> [24 CFR 51 C]</td>
<td>Not applicable. There are no hazardous operations in the vicinity of the project site.</td>
</tr>
<tr>
<td><strong>Airport Clear Zones and Accident Potential Zones</strong> [24 CFR 51 D]</td>
<td>Not applicable. There are no airports or private airstrips in the vicinity of the project site.</td>
</tr>
</tbody>
</table>
Environmental Assessment Checklist, continued

<table>
<thead>
<tr>
<th>Energy Consumption</th>
<th>1</th>
<th>The project proposes a 13,000 square foot building which at buildout would not consume a significant amount of electricity. In addition, the project would comply with energy conservation provisions of the California Building Code.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noise - Contribution to Community Noise Levels</td>
<td>1</td>
<td>The proposed project will not significantly increase vehicle trips, so it is anticipated that traffic noise from this source would not increase. Generation of ambient noise may increase somewhat due to the addition of Police and Fire services, with periodic temporary noise increases due to use of sirens. Equipment and apparatus that support the emergency service substations may also contribute to groundborne vibration or noise. However, noise from these public facilities is exempted under the City of Modesto Noise Ordinance. In addition, the integration of such services into a park is consistent with specific language in Chapter 5, Sections G and K of the City of Modesto’s General Plan, and examined in buildout scenarios in the adopted General Plan Master EIR.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Land Development</th>
<th>Code</th>
<th>Source or Documentation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air Quality</td>
<td>1</td>
<td>The project would not regularly release any toxic air contaminants. Area source emissions from on-site would be limited to emissions from combustion of natural gas for space and water heating. In addition, Exhibit A (attached to this document) states that project vehicle trip generation would not have the potential to cause an exceedance of the state or federal ambient air quality standards for carbon monoxide.</td>
</tr>
<tr>
<td>Environmental Design</td>
<td>2</td>
<td>The project would be designed in conformance with City design standards for buildings and infrastructure. In addition, the project is located in a redevelopment overlay zone, where new attractive construction is encouraged.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Socioeconomic</th>
<th>Code</th>
<th>Source or Documentation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Demographic Character Changes</td>
<td>1</td>
<td>The proposed project is not anticipated to cause any change in demographic character.</td>
</tr>
<tr>
<td>Displacement</td>
<td>1</td>
<td>No residences would be removed as part of the project. As proposed, the Neighborhood Center at Marshall Park would occupy 1 acre of the northeast portion of the existing 6.81-acre James Marshall Neighborhood Park.</td>
</tr>
<tr>
<td>Employment and Income Patterns</td>
<td>1</td>
<td>The proposed project is not anticipated to cause any change in employment and income patterns.</td>
</tr>
<tr>
<td>Natural Features</td>
<td>Source or Documentation</td>
<td></td>
</tr>
<tr>
<td>------------------</td>
<td>-------------------------</td>
<td></td>
</tr>
<tr>
<td>Water Resources</td>
<td>The project is expected to place a demand on water supplies of the City. However, the City has adequate water supply to supply the project site.</td>
<td></td>
</tr>
<tr>
<td>Surface Water</td>
<td>There is no natural surface water on the project site.</td>
<td></td>
</tr>
<tr>
<td>Unique Natural Features and Agricultural Lands</td>
<td>There are no unique natural features on the project site.</td>
<td></td>
</tr>
<tr>
<td>Vegetation and Wildlife</td>
<td>On June 27, 2003, PMC received concurrence in writing from the USFWS that the proposed action is not likely to adversely affect listed species and that no further consultation is required. (See Exhibit B attached to this document.)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other Factors</th>
<th>Source or Documentation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indirect Illumination – Light and Glare</td>
<td>The project may introduce new light and glare sources in the area that may indirectly illuminate nearby residences, creating a nuisance. The project includes mitigation measures that would set a maximum level of indirect illumination that the project may not exceed, and would incorporate light and glare reduction measures.</td>
</tr>
</tbody>
</table>

NOTE: The Responsible Entity must additionally document and ensure compliance with 24 CFR §58.6 in the ERR, particularly with the Flood Insurance requirements of the Flood Disaster Protection Act and the Buyer Disclosure requirements of the HUD Airport Runway Clear Zone/Clear Zone regulation at 24 CFR 51 Subpart D.
Mitigation Measures Recommended [24 CFR 58.40(d), 40 CFR 1508.20]
(Recommend feasible ways in which the proposal or external factors relating to the proposal should be modified in order to eliminate or minimize adverse environmental impacts.)

See Attachment 1A and Additional Studies Performed (described below).

Additional Studies Performed
(Attach studies or summaries)

1) 2003 City of Modesto Neighborhood Center at Marshall Park Mitigated Negative Declaration (MND)
2) 2003 Air Quality Impact Analysis (Neighborhood Center at Marshall Park MND, Exhibit A)
3) 2003 Letter, USFWS (Neighborhood Center at Marshall Park, Exhibit B)
4) 2003 Archaeological Resources Study (Neighborhood Center at Marshall Park MND, Exhibit C)
5) 2003 Storm Drainage Analysis (Neighborhood Center at Marshall Park MND, Exhibit D)

List of Sources, Agencies and Persons Consulted [40 CFR 1508.9(b)]

1) 2003 Final Master Environmental Impact Report for the Urban Area General Plan and Related Amendments to the Urban Area General Plan
2) 1995 City of Modesto Urban Area General Plan
3) 1995 Final Master Environmental Impact Report for the Urban Area General Plan
4) San Joaquin Branch of the Endangered Species Division of the U.S. Fish and Wildlife Service (USFWS): 6/27/03 memo
6. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

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

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

9. Any site with more than 150 or more vehicle trips per day shall prevent carryout and trackout.

a. Enhanced Control Measures. The following measures should be implemented at construction sites when required to mitigate significant PM_{10} impacts (note, these measures are to be implemented in addition to Regulation VIII requirements):

1. Limit traffic speeds on unpaved roads to 15mph; and

2. Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

Timing/Implementation: Upon commencement of grading and construction activities. Enforcement/Monitoring: City of Modesto Planning Department.

MM 1.2.2 The following measures are strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason warrant additional emissions reductions.

1. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site;

2. Install wind breaks at windward side(s) of construction areas;

3. Suspend excavation and grading when winds exceed 20 mph; and*

4. Limit the area subject to excavation, grading, and other construction activity at any one time.

(Regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation).

Timing/Implementation: Upon commencement of grading and construction activities. Enforcement/Monitoring: City of Modesto Planning Department.
4. **Stormwater Quality Control Measures** – The site development shall include stormwater quality control measures that conform with the requirements set forth in the City policy document entitled “Guidance Manual for New Development Stormwater Quality Control Measures”, in order to mitigate any site development impacts on downstream stormwater quality.

*Timing/Implementation:* Prior to receipt of grading permit.
*Enforcement/Monitoring:* City of Modesto Engineer

**Aesthetics:**

**MM 1.18.1** The following mitigation measure will apply to lighting and glare:

1. Lighting on the project site shall not indirectly illuminate adjacent residences at a level greater than one foot-candle in intensity when measured from the portion of the residence facing the project site. If indirect illumination at a residence is greater than one foot-candle, the City shall ascertain the cause of the indirect illumination and, if necessary, implement appropriate measures to reduce such illumination.

2. Building materials proposed as part of the project shall include provisions regulating light and glare. Such provisions may include, but are not limited to, the following:
   - Prohibiting the use of reflective materials in the construction of buildings, fencing and other outdoor structures.
   - The use of earth tones that do not reflect sunlight for colors of buildings and other exterior structures.
   - Encouraging measures to reduce the amount of indirect illumination of offsite properties by onsite lighting, such as shielding.

   Nothing in this mitigation measure shall be construed so as to prohibit the installation of lighting necessary for safety and/or security purposes.

*Timing/Implementation:* Prior to approval of certificate of occupancy.
*Enforcement/Monitoring:* City of Modesto Planning Department
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-162

A RESOLUTION APPROVING THE MASTER PLAN AND DESIGN DEVELOPMENT REPORT FOR THE NEIGHBORHOOD CENTER AT MARSHALL PARK.

WHEREAS, three City departments desire to develop a joint service facility at the southwest corner of Sutter and Chicago Avenues, on the existing Marshall Park site ("Project"), and

WHEREAS, WLC Architects of Folsom, California was selected to provide architectural services and prepare a Master Plan and Design Development Report for the Project and a professional services agreement was approved by the City Council on March 6, 2002, and

WHEREAS, the Safety and Communities Committee met on March 1, 2004, and supported the recommendation to approve the Master Plan and Design Development Report, and

WHEREAS, by an agenda report dated March 15, 2004, from the Parks, Recreation and Neighborhoods Director, staff recommended to the Council approving the Master Plan and Design Development Report for the Neighborhood Center at Marshall Park, a copy of said report is on file in the office of the City Clerk, and

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

WHEREAS, on March 23, 2004, concurrent with this resolution, the Modesto City Council considered and adopted Initial Study EA/PR&N 2003-06 and Mitigated
Negative Declaration (SCH # 2004022070) for construction of the Neighborhood Center at Marshall Park at 440 Sutter Avenue,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Master Plan and Design Development Report for the Neighborhood Center at Marshall Park, a copy of said report is on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION APPROVING AN AMENDMENT TO THE ARCHITECTURAL SERVICE CONTRACT WITH WLC ARCHITECTS TO INCREASE THE FEE FROM $197,500 TO $243,840 TO PROVIDE FOR ADDITIONAL CONSTRUCTION MANAGEMENT AND ENGINEERING AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT.

WHEREAS, three City departments desire to develop a joint service facility at the southwest corner of Sutter and Chicago Avenues, on the existing Marshall Park site, and

WHEREAS, on March 6, 2002, the City entered into an agreement with WLC Architects ("WLC") to provide a Design Development Report and Construction Documents for the Neighborhood Center at Marshall Park for a total contract amount of $197,500 for the Master Plan, Construction Documentation for Phase I Fire Station and Phase II Police and Recreation Offices, and Construction Management for Phase I Fire Station Construction ("Agreement"), and

WHEREAS, it was anticipated that the Phase I construction would be completed first, followed by the Phase II construction when funding became available, and

WHEREAS, it was later discovered that the City could apply for a HUD Section 108 loan to cover the cost of construction of both Phase I and Phase II, and

WHEREAS, the Agreement did not include any engineering for the Marshall Park drainage basin alterations, and

WHEREAS, staff now desires to amend the Agreement to expand WLC's scope of work further to include additional Construction Management required for Phase II and engineering for the Marshall Park drainage basin alterations and to increase the amount of the Agreement from $197,500 to $243,840 ("Amendment"), and

WHEREAS, the Safety and Communities Committee met on March 1, 2004, and supported staff's recommendation to approve an Amendment to the Agreement with
WLC to provide the additional Construction Management required for Phase II and engineering for the Marshall Park drainage basin alterations, at a cost not to exceed $46,340.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Amendment to Agreement with WLC Architects for additional services related to the additional Construction Management required for Phase II and engineering for the Marshall Park drainage basin alterations, at a cost not to exceed $46,340 is hereby approved.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute the Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

Attest: JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-164

A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE CITIZENS HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE (CH&CDC) TO ALLOCATE $400,000 IN HOME FUNDS TO THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS FOR THE MILLER POINTE PROJECT, AND $624,831 TO STANISLAUS COUNTY AFFORDABLE HOUSING (STANCO) FOR THE 3333 CARVER ROAD PROJECT, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENTS.

WHEREAS, on July 1, 2003, by Resolution No. 2003-338, the City Council authorized staff to solicit a Request for Proposals (RFP) for the development and construction of multi-family housing, rehabilitation and conversion of market rate units to affordable units or the development of new entry-level single-family units, which will increase the affordable housing stock within the City of Modesto, and

WHEREAS, a total of $1,536,624 of assistance was released this fiscal year, consisting of $1,154,720 newly allocated HOME funds, $312,825 of CHDO set-aside funds, and $69,079 of CHDO operating expense, and

WHEREAS, inasmuch as the federal HOME program provides these funds, all funding recipients will be governed by HOME regulations, and

WHEREAS, a RFP was released on July 8, 2003, and due on September 5, 2003, and

WHEREAS, four proposals were received; with one proposal being late and incomplete, and therefore rejected, and

WHEREAS, the review committee recommended the approval of Habitat for Humanity’s proposal for CHDO operating expenses in the amount of $69,079; as recommended by the Citizens Housing and Community Development Committee
(CH&CDC) on November 21, 2003, and approved by the City Council on January 6, 2004, by Resolution No. 2004-016, and

WHEREAS, the review committee further requested and received additional information from other proposals to clarify the increase of construction costs, and made its recommendations, and

WHEREAS, based on the review committee suggestions, the CH&CDC met on January 22, 2004, and recommended allocation of $400,000 for the Miller Pointe Project by the Housing Authority of the County of Stanislaus, and approval of the requested funding by STANCO in the amount of $624,831 for the 3333 Carver Road Project contingent upon receipt of a commitment letter by County Bank,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to allocate $400,000 for the Miller Pointe Project by the Housing Authority of the County of Stanislaus, and $624,831 to STANCO for the 3333 Carver Road Project contingent upon receipt of a commitment letter by County Bank.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreements.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2004, by Councilmember Marsh, 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: Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest:  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:  
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2004-165  

A RESOLUTION AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE AN AGREEMENT WITH STANISLAUS COUNTY AFFORDABLE HOUSING (STANCO) FOR COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) SET-ASIDE FUNDS IN THE AMOUNT OF $260,270.

WHEREAS, on November 22, 2002, the Citizens Housing and Community Development Committee (CH&CDC) recommended that staff be authorized to negotiate with Stanislaus County Affordable Housing (STANCO) for the use of $260,270 in uncommitted CHDO funds and

WHEREAS, at the time STANCO was the only financially stable CHDO operating within the Modesto city limits, and

WHEREAS, on December 10, 2002, by Resolution No. 2002-638, the City Council directed staff to negotiate with STANCO for the use of the $260,270 in uncommitted CHDO funds, and

WHEREAS, CHDO funds negotiated with STANCO are needed to complete the financing for the construction of the 3333 Carver Road project, and

WHEREAS, inasmuch as the federal HOME program provides these funds, all funding recipients will be governed by HOME regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to allocate $260,270 in Community Housing Development Organization (CHDO) Funds to Stanislaus County Affordable Housing (STANCO).
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 23rd day of March, 2004, by Councilmember Marsh, 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: Hawn, Jackman, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-166

A RESOLUTION AMENDING THE FISCAL YEAR 02-03 OPERATING BUDGET TO RE-ALLOCATE $260,270 IN UNOBLIGATED FY 02-03 CHDO SET-ASIDE FUNDS TO 1170-320-3259-0508, CHDO SET-ASIDE.

WHEREAS, ON November 22, 2002, the Citizens Housing and Community Development Committee (CH&CDC) recommended that staff be authorized to negotiate with the Housing Authority of Stanislaus County for use of $260,270 in uncommitted FY 02-03 CHDO funds, and

WHEREAS, on December 10, 2002, by Resolution No. 2002-638, the City Council authorized staff to negotiate with STANCO for $260,270, and

WHEREAS, the CHDO funds negotiated with STANCO are needed to complete the financing for the construction of the 3333 Carver Road project, and

WHEREAS, Fiscal Year 02-03 funds are available,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 03-04 operating budget to re-allocate $260,270 in unobligated FY 02-03 CHDO set-aside funds to 1170-320-3259-0508, CHDO Set-aside.

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2004, by Councilmember Marsh, 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: Hawn, Jackman, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest:  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
A RESOLUTION ADOPTING POLICIES AND PROCEDURES AND
ESTABLISHING FEES FOR THE PARKS, RECREATION AND
NEIGHBORHOODS DEPARTMENT FACILITIES AND SERVICES AND
RESCINDING RESOLUTION NO. 98-237.

WHEREAS, on July 16, 1996, the City Council adopted Resolution No. 96-397 establishing certain fees and a Use and Fee Policy for use of facilities managed by the City’s Parks, Recreation and Neighborhoods Department, and

WHEREAS, on May 5, 1998, the City Council adopted Resolution No 98-237, restating a comprehensive use policy and fee schedule for use of facilities and services provided by the City of Modesto Community Services and Neighborhood Connections (now Parks, Recreation and Neighborhoods) Department and adding a policy for co-sponsor programs with non-profit and public organizations and superceding Resolutions Nos. 96-397, 97-430, 98-26 and 98-236, and

WHEREAS, pursuant to an agenda report to the City Council dated March 15, 2004, the Parks, Recreation and Neighborhoods Department staff has recommended to the City Council certain and policies and procedures for rental and use of said facilities, a copy of which is attached hereto as Exhibit 1 and incorporated herein by reference, and

WHEREAS, pursuant to an agenda report to the City Council dated March 15, 2004, the Parks, Recreation and Neighborhoods Department staff has recommended to the City Council certain fee assessments relating to the use of facilities and other related services for facilities managed by the Parks, Recreation and Neighborhoods Department, a copy of which is attached hereto as Exhibit 2 and incorporated herein by reference, and

WHEREAS, the Finance Committee met on March 1, 2004, and supported the recommended policies and procedures and increased fees for facilities and related services managed by the Parks, Recreation and Neighborhoods Department, and
WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on March 23, 2004 in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, and

WHEREAS, on said date and time said duly noticed public hearing of the City Council was held for the purpose of receiving public comment on the proposed policies and procedures and fees for facilities and related services managed by the Parks, Recreation and Neighborhoods Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the policies and procedures for rental and use of facilities and related services managed by the Parks, Recreation and Neighborhoods Department, a copy of which is attached hereto as Exhibit 1 and incorporated herein by reference.

BE IT FURTHER RESOLVED that the Council hereby approves certain fee assessments relating to the use of facilities and other related services for facilities managed by the Parks, Recreation and Neighborhoods Department, a copy of which is attached hereto as Exhibit 2 and incorporated herein by reference.

BE IT FURTHER RESOLVED that Resolution No. 98-237 is hereby rescinded effective March 31, 2004.

BE IT FURTHER RESOLVED that this resolution shall become effective on April 1, 2004.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

APPROVED AS TO FORM:

Attest: Jean Zahr
JEAN ZAHR, City Clerk

By: Michael D. Milich, City Attorney
<table>
<thead>
<tr>
<th>Service Description</th>
<th>Current Fee</th>
<th>FY 03-04 Cost of Service</th>
<th>Proposed FY 03-04 Fee</th>
<th>Full Fee</th>
<th>Proposed FY 04-05 Fee</th>
<th>Full Fee</th>
<th>Proposed FY 05-06 Fee</th>
<th>Full Fee</th>
<th>Proposed FY 06-07 Fee</th>
<th>Full Fee</th>
<th>Proposed FY 07-08 Fee</th>
<th>Full Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Volleyball or Softball Equipment Bag</td>
<td>$13.00</td>
<td>$14.94</td>
<td>$15</td>
<td>$15</td>
<td>$15</td>
<td>$15</td>
<td>$16</td>
<td>$16</td>
<td>$16</td>
<td>$16</td>
<td>$17</td>
<td>$17</td>
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<tr>
<td>Horseshoe pits per park</td>
<td>$16.00</td>
<td>$25.01</td>
<td>$9</td>
<td>$19</td>
<td>$12</td>
<td>$23</td>
<td>$16</td>
<td>$20</td>
<td>$15</td>
<td>$30</td>
<td>$16</td>
<td>$31</td>
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<tr>
<td>Horseshoe pits per park Prep for Tournament</td>
<td>$479.00</td>
<td>$205.42</td>
<td>$103</td>
<td>$205</td>
<td>$105</td>
<td>$211</td>
<td>$109</td>
<td>$217</td>
<td>$112</td>
<td>$224</td>
<td>$115</td>
<td>$231</td>
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<tr>
<td>Ballfield without lights, per 2 hours</td>
<td>$16.00</td>
<td>$19.48</td>
<td>$10</td>
<td>$20</td>
<td>$10</td>
<td>$20</td>
<td>$10</td>
<td>$21</td>
<td>$11</td>
<td>$21</td>
<td>$11</td>
<td>$22</td>
</tr>
<tr>
<td>Ballfield with lights, per 2 hours</td>
<td>$38.00</td>
<td>$43.34</td>
<td>$22</td>
<td>$44</td>
<td>$23</td>
<td>$46</td>
<td>$23</td>
<td>$47</td>
<td>$24</td>
<td>$48</td>
<td>$25</td>
<td>$50</td>
</tr>
<tr>
<td>Tennis Courts, per court per 2 hours</td>
<td>$10.00</td>
<td>$50.35</td>
<td>$6</td>
<td>$13</td>
<td>$8</td>
<td>$16</td>
<td>$10</td>
<td>$20</td>
<td>$12</td>
<td>$24</td>
<td>$15</td>
<td>$21</td>
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<tr>
<td>Scoreboards, per game</td>
<td>N.A.</td>
<td>$24.80</td>
<td>$18</td>
<td>$18</td>
<td>$20</td>
<td>$20</td>
<td>$22</td>
<td>$22</td>
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## Miscellaneous Facilities and Services

<table>
<thead>
<tr>
<th>Service Description</th>
<th>FY 03-04 Cost of Service</th>
<th>Proposed FY 04-05 Fee</th>
<th>Proposed FY 05-06 Fee</th>
<th>Proposed FY 06-07 Fee</th>
<th>Proposed FY 07-08 Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>McClatchy Square</td>
<td>$190.00</td>
<td>$79.43</td>
<td>$40</td>
<td>$41</td>
<td>$42</td>
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<tr>
<td>Mancini Bowl</td>
<td>$160.00</td>
<td>$346.76</td>
<td>$100</td>
<td>$125</td>
<td>$156</td>
</tr>
<tr>
<td>Use of Breaker Box</td>
<td>New</td>
<td>$28.26</td>
<td>$28</td>
<td>$29</td>
<td>$30</td>
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<td>New</td>
<td>$84.78</td>
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<td>$88</td>
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<td>Mark Twain, La Loma</td>
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<td>Roosevelt Multi-purpose Facility per 2 hours</td>
<td>$41.00</td>
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<td>Picnic Areas-per section-all day</td>
<td>$96.00</td>
<td>$173.46</td>
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<td>$173.46</td>
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<td>Filming Permit per 2 hrs (plus other applicable fees)</td>
<td>$113.00</td>
<td>$119.53</td>
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<td>FY 03-04 Cost of Service</td>
<td>Proposed FY 03-04 Fee</td>
<td>Proposed FY 04-05 Fee</td>
<td>Proposed FY 05-06 Fee</td>
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<td>Boy Scout Clubhouse</td>
<td>$18.00</td>
<td>$18.10</td>
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<td>Per 4 Hours, Unstaffed</td>
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<td>Per 5 Hours</td>
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<td>Per 4 Hours, Staffed</td>
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<td>McHenry Museum Equipment Fees</td>
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<td>Service Description</td>
<td>FY 03-04 Fee</td>
<td>Proposed FY 03-04 Fee</td>
<td>Proposed FY 04-05 Fee</td>
<td>Proposed FY 05-06 Fee</td>
<td>Proposed FY 06-07 Fee</td>
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<td>King-Kennedy Auditorium/Kitchen</td>
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<td>$150.95</td>
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<td>FY 03-04 Current Fee</td>
<td>FY 03-04 Proposed Fee Non-profit 50%</td>
<td>FY 03-04 Proposed Fee Full Fee</td>
<td>FY 04-05 Proposed Fee Non-profit 50%</td>
<td>FY 04-05 Proposed Fee Full Fee</td>
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<td>Senior Citizens Center Small Dinning Room</td>
<td>Per 4 Hours, Staffed</td>
<td>New $109.53</td>
<td>$55</td>
<td>$109</td>
<td>$56</td>
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<td>Per 4 Hours, Unstaffed</td>
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<td>Each Additional Hour, Staffed</td>
<td>New $26.60</td>
<td>$13</td>
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<td>Each Additional Hour, Unstaffed</td>
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<td>Each Additional Hour, Unstaffed</td>
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<td>Parks, Recreation and Neighborhoods Department</td>
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<tr>
<td>Boy Scout Clubhouse</td>
<td>Current</td>
<td>FY 03-04 Cost of Service</td>
<td>Proposed FY 03-04 Fee</td>
<td>Proposed FY 04-05 Fee</td>
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<td>Per 4 Hours, Unstaffed</td>
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<td>Podium</td>
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<td>Proposed FY 04-05 Fee</td>
<td>Proposed FY 05-06 Fee</td>
<td>Proposed FY 06-07 Fee</td>
<td>Proposed FY 07-08 Fee</td>
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<td>Each Additional 2 Hours, staffed</td>
<td>N/A</td>
<td>$41.00</td>
<td>$39.00</td>
<td>$39.00</td>
<td>$42.00</td>
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<td>King-Kennedy Room A</td>
<td>N/A</td>
<td>$72.97</td>
<td>$75.00</td>
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<td>$78.00</td>
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<tr>
<td>Per 2 Hours, Staffed</td>
<td></td>
<td>$146.00</td>
<td>$155.00</td>
<td>$155.00</td>
<td>$164.00</td>
</tr>
<tr>
<td>Each Additional Hour, staffed</td>
<td>N/A</td>
<td>$17.05</td>
<td>$16.00</td>
<td>$16.00</td>
<td>$19.00</td>
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<tr>
<td>King-Kennedy additional charge</td>
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<td>$20.00</td>
<td>$15.00</td>
<td>$15.00</td>
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<td>Sound System, Microphones</td>
<td>N/A</td>
<td>$25.00</td>
<td>$25.00</td>
<td>$25.00</td>
<td>$28.00</td>
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<td>Facility Set-up</td>
<td>N/A</td>
<td>$20.00</td>
<td>$15.00</td>
<td>$15.00</td>
<td>$18.00</td>
</tr>
<tr>
<td>Additional Staff fee, per hour 7 p.m. to Midnight</td>
<td>N/A</td>
<td>$19.98</td>
<td>$14.00</td>
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<tr>
<td>Senior Citizens Center Entire Facility</td>
<td>$156.00</td>
<td>$197.96</td>
<td>$215.00</td>
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<td>$243.00</td>
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<tr>
<td>Per 4 Hours, Staffed</td>
<td></td>
<td>$215.94</td>
<td>$235.00</td>
<td>$235.00</td>
<td>$263.00</td>
</tr>
<tr>
<td>Each Additional Hour, staffed</td>
<td>N/A</td>
<td>$37.72</td>
<td>$35.00</td>
<td>$35.00</td>
<td>$38.00</td>
</tr>
<tr>
<td>Each Additional Hour, unstaffed</td>
<td>N/A</td>
<td>$41.00</td>
<td>$39.00</td>
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<td>Senior Citizens Center Auditorium</td>
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<tr>
<td>Per 4 Hours, Staffed</td>
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<td>$129.54</td>
<td>$146.00</td>
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<td>$164.00</td>
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<td>Each Additional Hour, staffed</td>
<td>N/A</td>
<td>$22.60</td>
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<tr>
<td>Each Additional Hour, unstaffed</td>
<td>N/A</td>
<td>$26.60</td>
<td>$24.00</td>
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<tr>
<td>Senior Citizens Center Large Dining Room</td>
<td>$178.00</td>
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<td>$291.00</td>
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<tr>
<td>Per 4 Hours, Staffed</td>
<td></td>
<td>$215.94</td>
<td>$235.00</td>
<td>$235.00</td>
<td>$263.00</td>
</tr>
<tr>
<td>Each Additional Hour, staffed</td>
<td>N/A</td>
<td>$37.72</td>
<td>$35.00</td>
<td>$35.00</td>
<td>$38.00</td>
</tr>
<tr>
<td>Each Additional Hour, unstaffed</td>
<td>N/A</td>
<td>$41.00</td>
<td>$39.00</td>
<td>$39.00</td>
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<td>Service</td>
<td>FY 03-04 Cost of Service</td>
<td>Proposed FY 03-04 Fee</td>
<td>Proposed FY 04-05 Fee</td>
<td>Proposed FY 05-06 Fee</td>
<td>Proposed FY 06-07 Fee</td>
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<tr>
<td>---------------------------------</td>
<td>--------------------------</td>
<td>-----------------------</td>
<td>-----------------------</td>
<td>-----------------------</td>
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</tr>
<tr>
<td>Senior Citizens Center Small Dining Room</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Per 4 Hours, Staffed</td>
<td>New $106.53</td>
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<td>$109</td>
<td>$122</td>
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<td>Per 4 Hours, Unstaffed</td>
<td>New $52.91</td>
<td>$20</td>
<td>$27</td>
<td>$54</td>
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<td>Each Additional Hour, staffed</td>
<td>New $26.60</td>
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<td>Each Additional Hour, unstaffed</td>
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<td>$9</td>
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<td>Senior Citizens Center Kitchen</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
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<td>Per 4 Hours, Staffed</td>
<td>New $94.48</td>
<td>$47</td>
<td>$49</td>
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<td>Per 4 Hours, Unstaffed</td>
<td>New $37.57</td>
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<td>Each Additional Hour, staffed</td>
<td>New $26.60</td>
<td>$13</td>
<td>$25</td>
<td>$26</td>
<td>$13</td>
</tr>
<tr>
<td>Each Additional Hour, unstaffed</td>
<td>New $13.95</td>
<td>$7</td>
<td>$7</td>
<td>$7</td>
<td>$8</td>
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<tr>
<td>American Legion Hall</td>
<td></td>
<td></td>
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<tr>
<td>Per 4 hours (M-Th, 8am-5pm)</td>
<td>$550.00</td>
<td>$553.67</td>
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<td>$571</td>
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<td>Per Day</td>
<td>$925.00</td>
<td>$1,077.33</td>
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<td>Event Staffing Per Hour</td>
<td>New $30.78</td>
<td>$31</td>
<td>$32</td>
<td>$33</td>
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A RESOLUTION APPROVING THE DOWNTOWN IMPROVEMENT DISTRICT BOARD'S PILOT PARKING VALIDATION PROGRAM

WHEREAS, in order to increase Downtown Business patronage, the Downtown Improvement District Board approached staff with a proposal for a Pilot Parking Validation Program (Pilot Program), and

WHEREAS, the Pilot Program provides validation stamps redeemable for free parking at the Tenth Street Place and Eleventh Street parking garages, and

WHEREAS, under the Pilot Program, DID will pay the City fifty percent (50%) of the face value of the parking validation stamps, or fifty-two dollars and fifty cents ($52.50) for a book of one hundred (100) stamps, each of which is redeemable for one (1) hour of free parking, and

WHEREAS, the Pilot Program provides that the validation stamps will be specially marked to be redeemable only during the weekday lunch-hour time period, defined as Monday through Friday, 11 a.m. to 2 p.m., and

WHEREAS, the Pilot Program validation stamps will be made available to DID businesses for use by patrons only, and

WHEREAS, the Pilot Program will commence on or about April 5, 2004 and continue for a period of six (6) months to October 2004, and

WHEREAS, following the conclusion of the Pilot Program period, staff will meet with DID to prepare a report for Council on the success of the program and make appropriate recommendations for continuance of the program, and

WHEREAS, fiscal impacts of the Pilot Program are uncertain, but likely to be negligible, and
WHEREAS, the Finance Committee considered this item at its January 26, 2004, meeting and recommended approval to the full Council,

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the Downtown Improvement District Board’s Pilot Parking Validation Program, as outlined by the Acting Engineering and Transportation Director in an agenda report dated March 11, 2004, and tentatively set to commence April 5, 2004.

BE IT FURTHER RESOLVED that the Pilot Program will be in place for a period of time not to exceed six (6) months, after which time a program evaluation will be prepared and recommendations made to Council regarding continuance of the Pilot Program.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 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: Hawn, Jackman, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: 

(SIGNATURE)

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-169

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO ENDORSING A GRANT APPLICATION FROM THE STATE THEATRE BOARD OF DIRECTORS TO THE STANISLAUS COUNTY ECONOMIC DEVELOPMENT BANK.

WHEREAS, the State Theatre Non-Profit Board of Directors is initiating a capital project to renovate the State Theatre’s structure, including ceiling and wall murals; and

WHEREAS, the State Theatre Board of Directors is soliciting a $150,000 grant from the Stanislaus County Economic Development Bank; and

WHEREAS, the Stanislaus County Economic Development Bank requires endorsement from the incorporated City before it will consider the application; and

WHEREAS, the Economic Development Advisory Board, which includes the nine City Managers in Stanislaus County, recommended a provision to the Alliance Board of Directors that should the State Theatre cease operating as a non-profit organization within the three years, the succeeding organization (for profit) must repay the grant to the City of Modesto. Each year of the three years that the State Theatre continues to operate as a non-profit would release one-third of the obligation so at the end of three years there is no further obligation; and

WHEREAS, the Alliance Board approved this provision and referred to the County Board of Supervisors who requested a Council Resolution accepting the State Theatre’s request for City endorsement of their loan request; and

WHEREAS, the Modesto City Manager recommends approval,
NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Modesto that the State Theatre $150,000 grant request to the Stanislaus County Economic Development Bank is hereby endorsed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr, City Clerk

(seal)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-170

A RESOLUTION APPOINTING NORALYNN DOYLE GOOLD TO THE COMMUNITY QUALITIES FORUM

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

WHEREAS, Mayor Jim Ridenour has recommended NORALYNN DOYLE GOOLD as his selection to the Community Qualities Forum.

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

SECTION 1. NORALYNN DOYLE GOOLD is hereby appointed to the Community Qualities Forum with a term expiration of January 1, 2008.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Community Qualities Forum and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of April, 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

APPROVED AS TO FORM: 

Michael D. Milich, City Attorney

ATTEST: Jean Pahl, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-171

A RESOLUTION APPROVING A CONTRACT WITH MAZE & ASSOCIATES, AN ACCOUNTANCY CORPORATION, TO PERFORM FINANCIAL RELATED WORK FOR THE CITY OF MODESTO, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT.

WHEREAS, the City’s Police Department requires an audit firm to perform agreed upon procedures to assure that the City-licensed bingo games operator is in compliance with the City of Modesto’s bingo regulations, and

WHEREAS, the City’s Community Facilities Fees administrative management requires an audit firm to perform agreed upon procedures to provide assurance that previous accounting and financial calculations are accurate, and

WHEREAS, the City’s Internal Audit Division requires a qualified audit firm to perform agreed upon procedures to provide assurance that the City’s information systems comply with security and disaster recovery requirements, and

WHEREAS, the City’s Finance Department requires assistance from an audit firm to perform its Gann appropriations limit calculations, and

WHEREAS, the Council has previously selected Maze & Associates as the firm most qualified to perform financial audit services for the City, and

WHEREAS, the Audit Committee has, on March 12, 2004, recommended Maze and Associates be approved to perform the required financial services cited above,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a contract with Maze & Associates to perform these services at a price not to exceed $78,200.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract for these services.

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

APPROVED AS TO FORM:

BY: Michael D. Milich, City Attorney