MODESTO CITY COUNCIL
RESOLUTION NO. 2005-371

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PELANDALE INTERSECTION IMPROVEMENTS PROJECT, ACCEPTING THE BID AND APPROVING A $3,395,977.80 CONTRACT WITH GEORGE REED, INC., FOR THE PROJECT TITLED, “PELANDALE INTERSECTION IMPROVEMENTS,” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, the Pelandale Intersection Improvements Project warrants traffic signals at intersections along Pelandale Avenue at Prescott, Carver, and Tully Roads to decrease delays and improve traffic flow, and

WHEREAS, City staff has reviewed the project plans and specifications and recommends approval to the City Council, and

WHEREAS, the sole bid received for “Pelandale Intersection Improvements” was opened at 11:00 a.m. on June 21, 2005, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $3,395,977.80 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 approves the plans and specifications for said project, and accepts the bid of George Reed, Inc, in the amount of $3,395,977.80, and hereby awards George Reed, Inc., the contract titled “Pelandale Intersection Improvements.”

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 12th day of July 2005, by Councilmember Dunbar, who
moved its adoption, which motion being duly seconded by Councilmember Keating, was
upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:  

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By  

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-372

A RESOLUTION TO AMEND THE FY 2006 CIP BUDGET: A) TO REDUCE DEVELOPER REIMBURSEMENT PROJECT 1410-430-H476 BY $400,000 AND RETURN THOSE FUNDS TO FUND BALANCE TO BE REALLOCATED TO 1410-430-N496; B) TO REDUCE CLARATINA: COFFEE TO OAKDALE PROJECT 1410-430-Q210 BY $1,108,495 AND RETURN THOSE FUNDS TO FUND BALANCE TO BE REALLOCATED TO 1410-430-N496; C) TO ALLOCATE AN ADDITIONAL $500,000 FROM CFF FUND RESERVE 1410-800-8000-8003 TO PELANDALE IMPROVEMENT PROJECT 1410-430-N496; D) TO CLOSE PRESCOTT IMPROVEMENTS PROJECT 2680-020-Q319 AND RETURN REMAINING FUNDS TO PELANDALE/SNYDER CFD FUND BALANCE TO BE REALLOCATED AND TRANSFERRED TO PELANDALE INTERSECTION IMPROVEMENTS 1410-430-N496

WHEREAS, the sole bid received for the Pelandale Intersection Improvements project was opened at 11:00 a.m., on June 21, 2005, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $3,395,977.80 received from George Reed, Inc., be accepted as the lowest responsible bid and the contract be awarded to George Reed, Inc., and

WHEREAS, the Public Works Director has determined that $1,312,900 in additional funds is required to fully fund the construction of this project, and

WHEREAS, the Finance Department has indicated that there are sufficient funds in the Fund 1410 fund balance for the appropriation of this project within the FY 2005-2006 Capital Improvement Program Budget to fully fund MY-1410-430-N496,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves amending the FY 2005-2006 Capital Improvement Budget a) to reduce Developer Reimbursement Project 1410-430-H476 by $400,000 and return those funds to Fund Balance to be reallocated to 1410-430-N496; b) to reduce Claratina:
Coffee to Oakdale Project 1410-430-Q210 by $1,108,495 and return those funds to Fund Balance to be reallocated to 1410-430-N496; c) to allocate an additional $500,000 from CFF Fund Reserve 1410-800-8000-8003 to Pelandale Intersection Improvements Project 1410-430-N496; d) to close Prescott Improvements Project 2680-020-Q319 and return remaining funds to Pelandale/Snyder CFD Fund Balance to be reallocated and transferred to Pelandale Intersection Improvements 1410-430-N496, all to cover the increase in expenditure appropriation.

BE IT FURTHER RESOLVED that the acting Finance Director, or her designee, is hereby authorized to take the steps necessary to amend the Capital Improvement Program Budget.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-373


WHEREAS, on March 4, 2003, the City Council of the City of Modesto adopted Resolution No. 2003-123 certifying that the Modesto Urban Area General Plan Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan is complete and adequate pursuant to Section 15090 of the California Environmental Quality Act ("CEQA") Guidelines, and

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

WHEREAS, the Public Works Department, by Initial Study, EA/ET 2003-21, reviewed the proposed "Pelandale Intersection Improvements and Prescott / Snyder Traffic Signal," which determined that the proposed project is within the scope of the project covered by the Master EIR and that the project will have no additional significant effect on the environment that was not identified in the Master EIR; and further, that no new or additional mitigation measures or alternatives may be required, and
WHEREAS, on May 15, 2005, the Public Works Department caused to be published notification of the determination conferred in Initial Study 2003-21, pursuant to Public Resources Code Section 21092, and

WHEREAS, said matter was considered by the City Council at a duly noticed meeting held on the 12th day of July 2005, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study EA 2003-21 prepared for the proposed “Pelandale Intersection Improvements and Prescott / Snyder Traffic Signal” project, a copy of which is attached hereto as Attachment “D”, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

A. The proposed “Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal” are within the scope of the General Plan Master EIR (SCH No. 1999082041), which analyzed the potential impacts of build out of the Urban Area General Plan, including roadways in this area.

B. No additional significant environmental effects will occur as a result of the “Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal” 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 proposed “Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal” that were not previously considered in the General Plan Master EIR.

D. There are no specific features unique to the “Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal” 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.
BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Public Works Director is hereby authorized and directed to file a Notice of Approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _______________________________________

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: _______________________________________

MICHAEL D. MILICH, City Attorney
ATTACHMENT “D”

INITIAL STUDY

EA/ET 2003-21
City of Modesto
Initial Study

PELANDALE INTERSECTION IMPROVEMENTS AND
PRESCOTT / SNYDER TRAFFIC SIGNAL

E.A./E.T. No: 2003-21

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:

Pelandoale Intersection Improvements & Prescott / Snyder Traffic Signal

B. Lead agency name and address:

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

C. Contact person, address and phone number:

Dean Phillips, Engineering and Transportation Department, (209) 577-5260

D. Project Location:

Pelandoale Avenue – Prescott to Tully, and the Prescott / Snyder intersection.

E. Project sponsor:

City of Modesto, P.O. Box 642, Modesto, CA 95353
F. General Plan Designation:

Village Residential
Mixed Use
Business Park

G. Zoning:

Specific Plan (SP-O)
A210 – Minimum 10-Acre Agriculture

H. Description of Proposed Project:

This is an application to install traffic signals at the following intersections:

- Pelandale/Tully
- Pelandale/Carver
- Pelandale/Prescott
- Prescott/Snyder

In addition to the traffic signal installation, the roadway will be widened approaching each intersection to accommodate designated right and left turn lanes (See Exhibit “A”).

The ultimate design of the roadway would follow Standard Detail No. 363 of the City of Modesto’s Standard Specifications for a Class B & C 6-lane Landscaped Expressway at a Minor Arterial for the Pelandale/Tully and Pelandale/Prescott intersections. The Pelandale/Carver and Prescott/Snyder intersections will follow Standard Detail No. 371 for a Class B & C 6-lane Landscaped Expressway at a Minor Collector (Shown also on Exhibit “A”).

I. Surrounding land uses:

Pelandale/Tully: The project is bounded on the North by an agricultural area (almond trees) within Stanislaus County. The project is also bounded on the Southeast by the Big Valley Grace Community Church which is currently Mixed Use zoning. The Southwest quadrant is PD 534 which has higher density residential dwellings.

Pelandale/Carver: The project is bounded on the Northeast by an agricultural area (alfalfa) within Stanislaus County. The project is also bounded on the remaining three quadrants by single-family residential houses which are within the City limits. The Southwest corner of the intersection will have Fire Station No. 11, which is scheduled for construction in 2004.

Pelandale/Prescott: The project is bounded on the North by single-family residential houses. The Southeast quadrant is scheduled for a commercial development, and the Southwest quadrant is a storm drainage basin.
Prescott/Snyder: The project is bounded on all quadrants except the Northeast by single-family residential houses. The Northeast quadrant is scheduled to have a commercial development.

J. Other public agencies whose approval is required:

Stanislaus County

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 Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal project proposes public improvements consistent with the General Plan designation for these sites. The proposed project’s traffic signals would be mostly within existing rights-of-way. Limited land acquisition would be required in the east and west ends of the project for public roadway. The ultimate design calls for a Class B 6-lane expressway per the General Plan Program Circulation and Transportation Diagram of Figure V-1. 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 IV-2-26) are, therefore, still valid.

C. Generation of Noise

Because the proposed use is consistent with the General Plan in land use and intensity, the noise impacts from the project and to the project are consistent with those analyzed in the Master EIR. 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

Portions of this project are located in an agricultural portion of Modesto and Stanislaus County. 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) are still valid.

E. Increased Demand for Water Supplies

The proposed project 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 will create no additional demand for sewer capacity not identified in the MEIR. The Existing 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 project is located within agricultural lands, however it is 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 intersection improvements and traffic signals 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 intersection improvements and traffic signals 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 still valid.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

A. The proposed Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal are 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 Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal 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 proposed Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal that were not previously considered in the General Plan Master EIR.

D. There are no specific features unique to the Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal 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:

Dean J. Phillips,
Sr. Civil Engineer
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-374

A RESOLUTION AWARDING A $121,596 AGREEMENT TO RMC WATER AND ENVIRONMENT, INC., (RMC), OF WALNUT CREEK, CA, FOR PROFESSIONAL SERVICES TO PREPARE THE 2005 URBAN WATER MANAGEMENT PLAN AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the California Water Code requires that all urban water suppliers providing water for municipal purposes, either directly or indirectly to more that 3,000 customers, or supplying more that 3,000 acre-feet of water annually, must prepare an Urban Water Management Plan (UWMP) and update it at least every five years, and

WHEREAS, the City of Modesto, pursuant to the Water Code, filed Urban Water Management Plans for 1985, 1990, 1995, and 2000, and

WHEREAS, the City of Modesto’s current UWMP has served its intended purpose of serving as a basis for local and regional water management planning and ensuring the appropriate level of reliability in water service sufficient to meet the needs of various categories of customers during normal, dry, and multiple dry years, and

WHEREAS, a number of legislative updates have occurred in the last five years which make it necessary to update the UWMP, and

WHEREAS, the 2005 UWMP update will need to be submitted to the Department of Water Resources (DWR) by December 31, 2005, and

WHEREAS, City Administrative Directive 3.1 was followed to select a professional engineering consultant, and

WHEREAS, a Request for Proposals was sent to four qualified engineering consulting firms, of which three responded, and
WHEREAS, the proposals were reviewed for compliance with the project's scope of work, and interviews were conducted with the three firms, and

WHEREAS, RMC Water and Environment Inc., (RMC) was deemed most qualified and was selected for engineering consulting services for the 2005 UWMP, and

WHEREAS, the Public Works Director has recommended that RMC be accepted as the most qualified engineering consulting firm and has recommended accepting their proposal, in an amount not to exceed $121,596,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with RMC for preparation of the UWMP in an amount not to exceed $121,596.

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 12th day of July 2005, by Councilmember Marsh, 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: Mayor Ridenour

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH CAROLLO ENGINEERING FOR CHIEF PLANT OPERATOR (CPO) SERVICES EXTENDING THE AGREEMENT THROUGH MAY 2006 AND INCREASING THE AMOUNT FROM “NOT TO EXCEED” $48,755 TO “NOT TO EXCEED” $168,155, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY

WHEREAS, Modesto’s Wastewater Treatment Plant is rated as a Class V facility based upon its design flow of 70 million gallons per day, and

WHEREAS, the state requires that the Chief Plant Operator (CPO) of a Class V plant have a Grade 5 operator on staff, and

WHEREAS, historically, the City has had at least two Grade 5 operators on staff but, due to recent resignations, both of the Grade 5 slots are now vacant and the City was faced with the prospect of not having a Grade 5 operator, and

WHEREAS, as a stopgap measure, staff contracted with Carollo Engineering to provide Grade 5 CPO services, and

WHEREAS, staff has notified the Regional Board of the interim arrangement as is required under our permit, and

WHEREAS, failure to have a licensed Grade 5 operator could expose the City to administrative sanctions, including fines, and

WHEREAS, the original contract with Carollo Engineering was for an amount “not to exceed” $48,755 and gave the City of Modesto approximately 260 billable hours per the current billing rates; which will provide for CPO services through September 2, 2005, and
WHEREAS, this request is to authorize an extension of the initial contract through May 2006, if needed, and to increase the amount of the contract to an amount “not to exceed” $168,155, and

WHEREAS, funds are budgeted in Account 6210-480-5213-0235 for these contract services, and

WHEREAS, staff has initiated the recruitment process to fill the vacated Grade 5 positions and the extension of this contract will allow time for recruitment of a Water Quality Control Superintendent and/or Deputy Director with a requirement of Grade 5 Operator certification, and

WHEREAS, due to the shortage of Grade 5 operators throughout the state, it may be difficult to fill these vacancies by the September interim CPO contract expiration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to the Agreement with Carollo Engineering for Chief Plant Operator (CPO) Services extending the agreement through May 2006 and increasing the amount from “not to exceed” $48,755 to “not to exceed” $168,155.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the Amendment to the Agreement on behalf of the City.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July 2005, by Councilmember Marsh, 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: Mayor Ridenour

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION ORDERING THE LEVY AND COLLECTION OF CHARGES WITHIN LANDSCAPE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1-6

WHEREAS, the City of Modesto has by Resolution No. 2005-268 adopted on May 24, 2005, declared its intent to levy charges or assessments for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6 under the provisions of the "Landscaping and Lighting Act of 1972", and

WHEREAS, the cost for Fiscal Year 2005-06 is $26.00 annual assessment per lot, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by City Engineering, and

WHEREAS, the City of Modesto has determined and certifies that the charges are either exempt from or in compliance with all the provisions of Proposition 218, which was passed by the voters in November 1996, and

WHEREAS, the City of Modesto has further determined the charges are in compliance with all laws pertaining to the levy of such charges,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby orders the levy and collection of $26.00 annual assessment per lot within Landscape Maintenance Assessment District No. 1 for Dry Creek Meadows Subdivisions Nos. 1-6 for the 2005-06 fiscal year, and that a certified copy of this resolution shall be
delivered to the Auditor-Controller of the County of Stanislaus for placement of such
charges on the 2005-06 County Tax Roll.

BE IT FURTHER RESOLVED that the diagram of said assessment district and
amount of levy thereon is hereby confirmed.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 12th day of July 2005, by Councilmember Marsh, who
moved its adoption, which motion being duly seconded by Councilmember Hawn, was
upon roll call carried and the resolution adopted by the following vote:

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

NOES:  Councilmembers:  None

ABSENT:  Councilmembers:  Mayor Ridenour

ATTEST:  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By MICHAEIL D. MILICH, City Attorney
A RESOLUTION ORDERING THE Levy AND COLLECTION OF CHARGES WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION, AND YOSEMITE MEADOWS SUBDIVISION UNITS 1 & 2

WHEREAS, the City of Modesto has by Resolution No. 2005-269, adopted on May 24, 2005, declared its intent to levy charges or assessments for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision and Yosemite Meadows Subdivision Units No. 1 & 2, under the provisions of the "Landscaping and Lighting Act of 1972", and

WHEREAS, the cost for Fiscal Year 2005-06 is $108.39 per acre for commercial property and $21.33 for each residential property, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by City Engineering, and

WHEREAS, the City of Modesto has determined and certifies that the charges are either exempt from or in compliance with all the provisions of Proposition 218, which was passed by the voters in November 1996, and

WHEREAS the City of Modesto has further determined that the charges are in compliance with all laws pertaining to the levy of such charges.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby orders the levy and collection of $108.39 per acre for commercial property and $21.33 for each residential property within Landscape Maintenance Assessment District No. 2 for Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood
Meadows Subdivision and Yosemite Meadows Subdivision Units 1 & 2 for the 2005-06 fiscal year, and that a certified copy of this resolution shall be delivered to the Auditor—Controller of the County of Stanislaus for placement of such charges on the 2005-06 County Tax Roll.

BE IT FURTHER RESOLVED that the diagram of said assessment district and amount of levy thereon is hereby confirmed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
CERTIFYING THE FINAL SUBSEQUENT ENVIRONMENTAL IMPACT
REPORT FOR THE MODESTO REGIONAL WATER TREATMENT PLANT
PHASE TWO EXPANSION PROJECT AND RELATED DOWNSTREAM
IMPROVEMENTS (SCH No. 2004022013) IN ACCORDANCE WITH THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Modesto (the "City") and the Modesto Irrigation District
("MID") have been planning for the Phase II expansion of the Modesto Regional Water
Treatment Plant ("MRWTP") and the construction of new water storage tanks,
distribution pipelines and associated downstream facilities to improve the delivery
capacity of the existing MRWTP ("Project"), and

WHEREAS, in March, 1990, the City and MID certified a Final EIR for the
MRWTP and construction of new water storage tanks, distribution pipelines and
associated downstream facilities, including the proposed Project which the City and MID
are currently planning (SCH No. 89020044) in accordance with the California
Environmental Quality Act, Public Resources Section 21000, et seq ("CEQA"), and

WHEREAS, on January 26, 2004, the City of Modesto (the "City") and the
Modesto Irrigation District ("MID") as co-lead agencies published an Initial Study and a
Notice of Preparation ("IS/NOP") for the proposed Project, and

WHEREAS, based on the information in the Initial Study and because of the
additional level of detail known about the project and the potential for changed
conditions since the certification of the 1990 Final EIR for the MRWTP, the City and
MID determined that a Subsequent Environmental Impact Report ("SEIR") was required
for the proposed Project, and
WHEREAS, the IS/NOP provided notice of the City’s and MID’s determination, and solicited public input on the proposed scope and content of the SEIR for the proposed Project, and

WHEREAS, on November 8, 2004, the City and MID published and distributed a Draft SEIR for the proposed Project, which was available for public review and comment for a period of 45 days as required by Section 21091 of CEQA, and

WHEREAS, during the 45-day public comment period the City and MID received five letters commenting on the Draft SEIR, and

WHEREAS, the City and MID prepared written responses to all written comments received on the Draft SEIR, said responses being contained in a Final Subsequent Environmental Impact Report ("Final SEIR") for the proposed Project prepared pursuant to Section 15089 of the CEQA Guidelines, and

WHEREAS, the Final SEIR was published and distributed on June 28, 2005, and consists of the Draft SEIR, a list of commenters, copies of all written comments received, responses to those comments that raise environmental issues, and any revisions to the text of the Draft EIR made in response to the comments, as required by Section 15132 of the CEQA Guidelines, and

WHEREAS, said matter was set for a Public Hearing of the City Council to be held on July 12, 2005, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time evidence both oral and documentary was received and considered by the Council, and

WHEREAS, the City Council has received and considered the Final SEIR for the proposed MRWTP Phase II Expansion and the construction of downstream facilities
(SCH No. 2004022013) which analyzes the potential environmental effects of the proposed Project, and

WHEREAS, CEQA requires that, in connection with the certification of a Final SEIR, the decision-making agency make certain written findings,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

1. The Final SEIR has been completed in compliance with CEQA; and

2. The Final SEIR has been presented to the City Council and the Council has reviewed and analyzed the Final SEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the Final SEIR; and

3. The Final SEIR represents the independent judgment of the City of Modesto; and

4. The Final SEIR contains additions, clarifications, modifications and other information in its responses to comments on the Draft SEIR for the Project and also incorporates information obtained by the City and MID since the Draft SEIR was issued. This Council hereby finds and determines that such changes and additional information are not significant new information as that term is defined under the provisions of the CEQA, because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the proposed Project and do not reflect any substantial increase in the severity of any environmental impact; no feasible mitigation measures considerably different from those previously analyzed in the Draft SEIR have been proposed that would lessen significant environmental impacts of the Project; and no feasible alternatives considerably different from those analyzed in the Draft SEIR have been proposed that would lessen significant environmental impacts of the proposed Project. Accordingly, this Council hereby finds and determines that recirculation of the Final SEIR for further public review and comment is not warranted; and

5. The City Council does hereby designate the Deputy Director, Capital Improvement Services for the City of Modesto, at his office at 1010 Tenth Street, Modesto, California 95354 as the
custodian of documents and record of proceedings on which this decision is based; and

6. The City Council does hereby make the foregoing findings with the stipulations that all information in these findings is intended as a summary of the full administrative record supporting certification of the Final SEIR, which full administrative record should be consulted for the full details supporting these findings, and that any mitigation measures and/or alternatives that were suggested by commenters to the Draft SEIR and were not certified as part of the Final SEIR are hereby expressly rejected for the reasons stated in the responses to the comments set forth in the Final SEIR and elsewhere in the record.

BE IT FURTHER RESOLVED by the Council that it hereby certifies the Final Subsequent Environmental Impact Report for the MRWTP Phase II Expansion and related downstream facilities (SCH No. 2004022013), a copy of which is available in the City Clerk’s Office.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-379

A RESOLUTION APPROVING AMENDMENT NO. 2 TO THE “AGREEMENT RELATING TO THE ADVANCED FUNDING AND REIMBURSEMENT OF COSTS RELATED TO THE (PHASE TWO) EXPANSION OF THE MODESTO REGIONAL WATER TREATMENT PLANT”, BETWEEN THE CITY AND THE MODESTO IRRIGATION DISTRICT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT

WHEREAS, the Council ofthe City of Modesto approved Resolution No. 92-183 on April 21, 1992, authorizing the original Treatment and Delivery Agreement with the Modesto Irrigation District (MID) and the former Del Este Water Company, and

WHEREAS, the original Treatment and Delivery Agreement contemplated the design, construction, and operation of the Phase Two Expansion of the Modesto Regional Water Treatment Plant (MRWTP), and

WHEREAS, City and MID wish to pursue the design, construction, and operation of the Phase Two Expansion of the MRWTP, and

WHEREAS, City and MID agree that the preliminary costs should be included in the project costs to be financed at a later date, and

WHEREAS, MID agrees to initially fund certain costs related to preliminary work for the project, and

WHEREAS, City agrees that MID should be reimbursed for certain costs related to preliminary work for the project, and

WHEREAS, the Council of the City of Modesto adopted Resolution No. 2003-538 approving the Advanced Funding and Reimbursement Agreement with the MID for the reimbursement of costs related to the Phase Two Expansion of the MRWTP
authorizing the City Manager to execute said Agreement at its October 7, 2003, meeting, and

WHEREAS, City and MID agree that the preliminary costs shall be shared and reimbursed as summarized in amended Exhibit “A” attached hereto and incorporated herein by this reference, and

WHEREAS, the Council of the City of Modesto adopted Resolution No. 2004-676, approving Amendment No. 1 to the Advanced Funding and Reimbursement Agreement at its December 14, 2004, meeting.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 2 to the Agreement Relating to the Advanced Funding and Reimbursement of Costs Related to the (Phase Two) Expansion of the Modesto Regional Water Treatment Plant with the Modesto Irrigation District.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager or his designee, to execute said Amendment.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

APPROVED AS TO FORM:
By

MICHAEL D. MILICH, City Attorney

ATTEST: 
JEAN ZAHR, City Clerk
### Exhibit "A"

#### ESTIMATED PROJECT COSTS

**ADVANCED BY MID**

<table>
<thead>
<tr>
<th>ITEM</th>
<th>ESTIMATED TOTAL COST</th>
<th>AMOUNT PAID OR TO BE PAID DIRECTLY BY THE CITY</th>
<th>AMOUNT ADVANCED BY MID</th>
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</thead>
<tbody>
<tr>
<td>Public Outreach Program</td>
<td>$30,000</td>
<td>$15,000</td>
<td>$15,000</td>
</tr>
<tr>
<td>MID Labor Cost &amp; Expenses</td>
<td>TBD*</td>
<td>-</td>
<td>TBD*</td>
</tr>
<tr>
<td>Initial Environmental Review (Insite Environmental)</td>
<td>$12,000</td>
<td>-</td>
<td>$12,000</td>
</tr>
<tr>
<td>Environmental Documentation (Jones &amp; Stokes)</td>
<td>$220,000</td>
<td>-</td>
<td>$220,000</td>
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<tr>
<td>Preliminary Study (Black &amp; Veatch)</td>
<td>$120,000</td>
<td>$60,000</td>
<td>$60,000</td>
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<tr>
<td>Preliminary Engineering Design (Black &amp; Veatch)</td>
<td>$1,200,000</td>
<td>-</td>
<td>$1,200,000</td>
</tr>
<tr>
<td>Amount to be Reimbursed by the City of Modesto**</td>
<td></td>
<td></td>
<td>$1,507,000 plus TBD Costs</td>
</tr>
</tbody>
</table>

* TBD - To be determined at a future date

** Amounts advanced by MID shall be reimbursed by the City of Modesto at a future date through the Project's financing.

NOTE: This Exhibit "A" supercedes Exhibit "A" to Amendment No. 1.
A RESOLUTION AUTHORIZING THE MODESTO IRRIGATION DISTRICT TO EXECUTE AMENDMENT NO. 3 TO THEIR EXISTING AGREEMENT WITH THE BLACK & VEATCH CORPORATION IN AN AMOUNT NOT TO EXCEED AN ADDITIONAL $450,000, FOR A TOTAL AGREEMENT AMOUNT OF $1,200,000, TO PROVIDE ADDITIONAL PRELIMINARY ENGINEERING DESIGN SERVICES RELATED TO THE PHASE TWO EXPANSION OF THE MODESTO REGIONAL WATER TREATMENT PLANT

WHEREAS, the Council of the City of Modesto approved Resolution No. 92-183 on April 21, 1992, authorizing the original Treatment and Delivery Agreement with the Modesto Irrigation District (MID) and the former Del Este Water Company, and

WHEREAS, the original Treatment and Delivery Agreement contemplated the design, construction, and operation of the Phase Two Expansion of the Modesto Regional Water Treatment Plant (MRWTP), and

WHEREAS, City and MID wish to pursue the design, construction, and operation of the Phase Two Expansion of the MRWTP, and

WHEREAS, by Resolution No. 2005-379, adopted on July 12, 2005, the Council has authorized the City Manager, or his designee, to execute Amendment No. 2 to the Advanced Funding and Reimbursement Agreement with the MID for costs related to the Phase Two Expansion of the MRWTP, and

WHEREAS, the aforementioned agreement requires MID to obtain City authorization to proceed beyond certain milestones in the Phase Two Expansion MRWTP, and
WHEREAS, the Council of the City of Modesto adopted Resolution 2003-540, authorizing Modesto Irrigation District to execute an agreement with Black & Veatch to provide Preliminary Engineering Design services, not to exceed $750,000, and

WHEREAS, MID and City staff agree that additional services are needed and justified for the project in an additional amount not to exceed $450,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Modesto Irrigation District to execute an amendment to the agreement with Black & Veatch in an amount not to exceed an additional $450,000, for a total of $1,200,000, to provide additional Preliminary Engineering Design services related to the Phase Two Expansion of the Modesto Regional Water Treatment Plant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2005 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:  JEAN ZAHN  City Clerk

APPROVED AS TO FORM:

By  MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-381

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO SOLICIT BIDS FOR NEW VEHICLES AND HEAVY EQUIPMENT THROUGHOUT FY 05/06 THROUGH VARIOUS COMPETITIVE PROCESSES AND IN A CUMULATIVE AMOUNT NOT TO EXCEED THE BUDGETED AMOUNT OF $3,120,000, AND AUTHORIZING THE PURCHASING SUPERVISOR TO PURCHASE THIRTEEN (13) USED VEHICLES AT WHOLESALE AUCTION OR THROUGH OTHER COMPETITIVE PROCESSES FOR AN ESTIMATED BUDGETED AMOUNT OF $216,000

WHEREAS, the City has an ongoing need to purchase vehicles and heavy equipment throughout the year, and

WHEREAS, the expenditures for vehicles and heavy equipment have been approved by Council through the budget process, and

WHEREAS, the vehicles and heavy equipment are purchased by means of formal and informal bid processes, auction, negotiation, and by “piggybacking” off State contracts and other agencies’ competitively bid contracts, and

WHEREAS, in past years Council has authorized the Purchasing Supervisor to solicit bids and go to auction for said vehicles and heavy equipment without having to go before the Finance Committee and the Council for authorization to issue bids, and

WHEREAS, each vehicle and/or heavy equipment staff report that goes through this process takes approximately 90-120 days to complete and on average accounts for approximately fifteen (15) hours of staff time to process, and

WHEREAS, by authorizing the Purchasing Supervisor to purchase budgeted vehicles and heavy equipment for the entire fiscal year without returning to Council for subsequent approval for the solicitation of bids, the following benefits are realized:
• Reduces staff time when preparing for and conducting the bidding process,
• Avoids the possibility of missing manufacturer cut-off ordering dates,
• Improves delivery time of new vehicles allowing them to be put into service sooner,
• Improves reaction time as "good deals" become available, and

WHEREAS, by authorizing the Purchasing Supervisor or his designee to solicit bids and attend auctions to purchase vehicles and equipment for the entire fiscal year without having to go before Council for bid/purchasing approval the City will save substantial staff and processing time, and

WHEREAS, the request for authorization to award bid and contract for new vehicles and equipment will still come before Council and conform to Modesto Municipal Code (MMC) 8-3.203(a), and

WHEREAS, the Purchasing Division will continue to work at increasing local vendor inclusion in the bidding process, and

WHEREAS, upon approval by Council the Purchasing Supervisor will solicit bids for new vehicles and heavy equipment throughout FY 05/06 through various competitive processes and in a cumulative amount not to exceed the budgeted amount of $3,120,000, and

WHEREAS, upon approval by Council the Purchasing Supervisor, or his designee, will purchase thirteen (13) used vehicles at auction or through various competitive processes for an estimated total budgeted amount of $216,000,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is hereby authorized to solicit bids for new vehicles and equipment throughout FY 05/06 through various competitive processes and in a cumulative amount not to exceed the budgeted amount of $3,120,000, returning to Council for authorization to award said new vehicles and equipment.

BE IT FURTHER RESOLVED that the Purchasing Supervisor, or his designee, is hereby authorized to purchase thirteen (13) used vehicles for an estimated budgeted amount of $216,000 at auction or through various competitive processes without returning to Council for authorization to award said used vehicles.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: 

APPROVED AS TO FORM:

By: 

MICHAEL D. MILICH, City Attorney
A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE MODESTO CONVENTION AND VISITORS BUREAU (CVB) AND THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, on June 24, 2003, the City of Modesto and the Modesto Convention and Visitors Bureau entered into an Agreement under authority of Resolution No. 2003-316 to provide convention and visitor bureau services, and

WHEREAS, it is the desire of the City and the Modesto Convention and Visitors Bureau to continue to provide convention and visitor bureau services, and

WHEREAS, funding for the Modesto Convention and Visitors Bureau is based on Transient Occupancy Tax collections received by the City of Modesto, and

WHEREAS, at their June 27, 2005, meeting, the Finance Committee recommended continuing the relationship between City of Modesto and the Modesto Convention and Visitors Bureau,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that the Council hereby approves the agreement with the Modesto Convention and Visitors Bureau to provide convention and visitor bureau services.

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 special meeting of the Council of the City of Modesto held on the 3rd of August, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: ________________

JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By ________________

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-383

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR
THE CITY OF MODESTO

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

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

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

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

SECTION 1. CLASSIFICATIONS AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specification for Deputy City Attorney I, Deputy City Attorney II, Senior Deputy City Attorney I, and Senior Deputy City Attorney II. Said classifications are being amended to update the job specification and to incorporate other minor operational changes to more accurately reflect the requirements of these classifications. The revised specification for the classifications of Deputy City Attorney I, Deputy City Attorney II, Senior Deputy City Attorney I and Senior Deputy City Attorney II, as shown on the attached Exhibit “A”, which is hereby made part of this resolution by reference, are hereby approved and made a part of the Position Classification Plan of the City of Modesto.
SECTION 2. CLASSIFICATION DELETED. The Position Classification Plan of the City of Modesto is hereby amended to delete the confidential designation from the classification of Administrative Office Assistant I-Confidential. Said classification is currently no longer being used with the confidential designation.

SECTION 4. EFFECTIVE DATE. This resolution shall become effective on and after August 3, 2005.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr

JEAN ZAHR City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
DEPUTY CITY ATTORNEY I  
DEPUTY CITY ATTORNEY II  
SENIOR DEPUTY CITY ATTORNEY I  
SENIOR DEPUTY CITY ATTORNEY II

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

DEFINITION

To perform legal work related to municipal government operations; to conduct legal research, prepare opinions, memoranda, administrative rules and regulations and other legal documents; to advise City departments, boards and commissions; and to represent the City in a variety of litigation that involved administrative hearings, trial and appellate work.

DISTINGUISHING CHARACTERISTICS

Positions in this class are flexibly staffed and are usually filled by advancement from the lower level class and when not done so require previous experience, or when filled from the outside, require prior work experience directly related to the area of assignment.

Deputy City Attorney I – This is the entry-level class in the Deputy City Attorney series. This class is distinguished from the Deputy City Attorney II by the performance of the more routine tasks and duties assigned to positions within the series. Since this class is typically used as a training class, employees may have only limited or no directly related work experience.

Deputy City Attorney II – This is a full journey professional level class within the Deputy City Attorney series. Employees within this class are distinguished from the Deputy City Attorney I by the performance of the full range of duties as assigned including those duties involving higher levels of City administration and the more difficult assignments. Employees at this level receive only occasional instruction or assistance as new or unusual situations arise, and are fully aware of the operating procedures and policies of the work unit. This class is distinguished from the Senior Deputy City Attorney I in that the latter have broad discretionary and decision-making responsibility and perform complex legal work with very little supervision.

Senior Deputy City Attorney I – This is the advanced journey professional level class in the Deputy City Attorney series. Positions at this level are distinguished from other classes within the series by the level of responsibility assumed and the complexity of duties assigned. Employees perform the most difficult and responsible types of duties assigned to classes within this series including duties involving higher levels of City administration and performing more difficult assignments. Employees at this level are required to be fully trained in all procedures related to assigned area of responsibility.

Exhibit "A"
Senior Deputy City Attorney II – This is the highest-level class in the Deputy City Attorney series. After one year when an employee's employment history shows one year of satisfactory performance as a Senior Deputy City Attorney I, he/she an employee may be promoted to Senior Deputy City Attorney II and is expected to take assigned to a wide variety of the most complex cases the most and wide variety of cases.

SUPERVISION RECEIVED AND EXERCISED

Deputy City Attorney I

Receives direction from the Assistant City Attorney.

Exercises technical supervision over clerical staff.

Deputy City Attorney II

Receives direction from the Assistant City Attorney.

Exercises technical supervision over clerical staff.

Senior Deputy City Attorney I

Receives general direction from the Assistant City Attorney.

Exercises technical supervision over clerical staff.

Senior Deputy City Attorney II

Receives general direction from the Assistant City Attorney.

Exercises technical supervision over clerical staff.

May receive general direction from the Assistant City Attorney, City Attorney or assigned Department Director.

Depending on assignment, may exercise technical supervision over assigned staff.

EXAMPLES OF DUTIES

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

Essential Functions:

Assist in or prepare cases for hearings, trials, and other judicial proceedings and represent the City in such proceedings including all phases of pretrial and trial work in municipal, State and Federal courts.

Exhibit "A"
Essential Functions: (Continued)

Examine and analyze court rulings and legislation with regard to its effect on municipal government operations.

Confer with and advise City departments, boards and commissions concerning their respective duties, powers, functions and obligations.

Perform legal research and prepare written and oral opinions and various legal problems for the City Council, City departments, and various boards and commissions.

Prepare, draft and review ordinances, resolutions, contracts, deeds, leases and other legal documents and instruments; offer opinions as to legal acceptability when presented to the City for consideration by an outside agent or agency.

Represent the City in litigation.

Investigate claims and complaints against the City and take or recommend appropriate action; make tentative decisions concerning advisability to; prosecute, compromise, or dismiss litigation and discuss recommendations and problems with the Assistant or City Attorney.

May train and direct the work of subordinate professional assigned staff.

May participate in employee selection and performance evaluations.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Deputy City Attorney I

Knowledge of:

Legal principles and practices, including civil, criminal, constitutional, and administrative law and procedures.

Methods of legal research.

Tort law and liability insurance litigation.

Judicial procedures and rules of evidence.

Statutes and court decisions relating to civil rights and public labor law.

Exhibit "A"
Ability to:

Learn ordinances, statutes and court decisions relating to municipal corporations.

Learn organization and operation procedures of a City Attorney's Office.

Learn modern and highly complex principles of municipal law.

Learn methods of public agency administration.

Learn organization, duties, powers, limitations, and authority of City government and the City Attorney's Office.

Deputy City Attorney II

In addition to the qualifications for Deputy City Attorney I:

Knowledge of:

Ordinances, statutes and court decisions relating to municipal corporations.

Organization and operating procedures of a City Attorney's Office.

Modern and highly complex principles and practices of municipal law.

Methods of public agency administration.

Organization, duties, powers, limitations, and authority of City government and the City Attorney's Office.

Establish precedents and sources of legal reference applicable to municipal activities.

Senior Deputy City Attorney I

In addition to the qualifications for Deputy City Attorney II:

Ability to:

Learn the principles of supervision, training and performance evaluation.

Represent the City in a wide variety of complex judicial and administrative proceedings.

Analyze and prepare a wide variety of complex cases in court.

Conduct research on legal complex problems and prepare sound legal opinions.

Exhibit "A"
Abilities to: (Continued)

Learn established precedents and sources of legal reference applicable to municipal activities.

Represent the City in a wide variety of judicial and administrative proceedings.

Communicate clearly and concisely, both orally and in writing.

Analyze and prepare a wide variety of legal documents.

Organize, interpret, and apply legal principles and knowledge of legal problems; effectively apply legal knowledge and principles in court.

Present statements of law, fact and argument clearly, logically and effectively.

Prepare and present cases in court.

Conduct research on legal problems and prepare sound legal opinions.

Prepare clear and concise documents including correspondence and bond documentation.

Properly interpret and make decisions in accordance with laws, regulations and policies.

Establish and maintain cooperative working relationships with the general public, staff, committee members, and public officials.

Senior Deputy City Attorney II

In addition to the qualification for Senior Deputy City Attorney I:

Knowledge of:

Principles of supervision, training and performance evaluation.

Ability to:

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

Prosecute the most difficult cases.

Experience and Training Guidelines

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

Exhibit "A"
Deputy City Attorney I

Experience:
No experience is required.

Deputy City Attorney II

Experience:
One year of experience in the practice of civil or municipal law.

Senior Deputy City Attorney I

Experience:
Two years of progressively responsible experience in the practice of civil or municipal law.

Senior Deputy City Attorney II

Experience:
Three years of progressively responsible experience in the practice of civil or municipal law.

Training (all levels):
A Juris Doctorate from an accredited law school.

License or Certificate (all levels):
Active membership in the State Bar of California.
Possession of, or the ability to obtain, an appropriate and valid California Driver's License.

WORKING CONDITIONS

Environmental Conditions:
Office environment.

Physical Conditions:
Essential and marginal functions may require maintaining physical condition for sitting for prolonged periods of time; attending meetings; using a personal computer and related office equipment and traveling from site to site.

Exhibit "A"
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-384

A RESOLUTION AMENDING EXHIBIT “A” OF RESOLUTION NO. 2003-178
(MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION
MEMORANDUM OF UNDERSTANDING) TO AMEND THE CLASS RANGE
TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-
SWORN CLASSES TO DELETE ADMINISTRATIVE OFFICE ASSISTANT I-
CONFIDENTIAL FROM SALARY RANGE 403

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

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2003-178. (MCMA
Memorandum of Understanding), Resolution No. 2003-178 Effective April 8, 2003, is
hereby amended as shown on the amended Exhibit “A” entitled “City of Modesto Class
Range Table Represented Management and Confidential Non-Sworn Classes Effective
August 3, 2005”, which is attached hereto and made a part hereof as though set forth in
full herein. Said amended Exhibit “A” deletes the Administrative Office Assistant I-
Confidential at salary range 403 from the class range table.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and
after August 3, 2005.
The foregoing resolution was introduced in a special meeting of the Council of the City of Modesto held on the 3rd day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By
MICHAEL D. MILICH, City Attorney
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>403</td>
<td>Administrative Clerk II (Confidential)</td>
</tr>
<tr>
<td></td>
<td>Administrative Office Assistant II (Confidential)</td>
</tr>
<tr>
<td>408</td>
<td>Administrative Office Assistant III (Confidential)</td>
</tr>
<tr>
<td>409</td>
<td>Police Clerk II (Confidential)</td>
</tr>
<tr>
<td>410</td>
<td>Administrative Technician (Confidential)</td>
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<tr>
<td>411</td>
<td>Senior Administrative Office Assistant (Confidential)</td>
</tr>
<tr>
<td></td>
<td>Secretary</td>
</tr>
<tr>
<td>412</td>
<td>Legal Secretary</td>
</tr>
<tr>
<td>413</td>
<td>Systems Technician I</td>
</tr>
<tr>
<td>414</td>
<td>Public Information Technician (Confidential)</td>
</tr>
<tr>
<td>415</td>
<td>Accountant I (Confidential)</td>
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<tr>
<td></td>
<td>Deputy City Clerk</td>
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<tr>
<td></td>
<td>Employee Benefits Coordinator</td>
</tr>
<tr>
<td></td>
<td>Executive Secretary (Represented)</td>
</tr>
<tr>
<td></td>
<td>Legal Services Technician</td>
</tr>
</tbody>
</table>

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

Exhibit "A"
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 432   | Communications Specialist  
Customer Services Supervisor  
Neighborhood Preservation Supervisor  
Operations and Maintenance Supervisor  
Recreation Supervisor II  
Senior Accountant  
Water Quality Control Maintenance Supervisor  
Water Quality Control Operations Supervisor |
| 433   | Organizational Development Specialist |
| 434   | Assistant Civil Engineer  
Assistant Traffic Engineer  
Budget Analyst II  
Events Supervisor II  
Environmental Laboratory Supervisor  
Operations Supervisor  
Regulatory Compliance Supervisor  
SCADA Supervisor  
Senior Housing Rehabilitation Specialist  
Software Analyst II  
Systems Engineer I |
| 435   | Business Analyst  
Cultural Services Manager  
Integrated Waste Specialist  
Management Analyst  
Senior Personnel Analyst |
| 436   | Electrical Supervisor  
Senior Planner |
<p>| 437   | |</p>
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 438   | Budget Officer  
Housing Program Supervisor  
Land Surveyor  
Property Agent  
Purchasing Supervisor  
Senior Business Analyst  
Software Analyst III  
Systems Engineer II |
| 439   | Administrative Services Officer  
Community Facilities Districts Administrative Officer |
| 440   | Associate Civil Engineer  
Associate Traffic Engineer  
Transportation Planner |
| 441   | Airport Manager  
Building Maintenance Superintendent  
Fire Marshal  
Fleet Manager  
Housing and Urban Development Manager  
Parks Operations Superintendent  
Parks Planning and Development Manager  
Recreation Superintendent  
Solid Waste Program Manager  
Streets Superintendent  
Transit Manager  
Urban Forestry Superintendent  
Wastewater Collections Superintendent  
Water Superintendent |
| 442   | Customer Services Division Manager  
Manager of Budget and Financial Analysis  
Software Analyst IV  
Supervising Building Inspector  
Supervising Construction Inspector  
Systems Engineer III |
| 443   | |
| 444   | Deputy Chief Building Official  
Principal Planner |

Exhibit "A"
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>445</td>
<td>Accounting Division Manager</td>
</tr>
</tbody>
</table>
| 446   | Water Quality Control Superintendent  
        Information Technology Unit Manager |
| 447   | Business Development Division Manager  
        Chief Building Official  
        Planning Division Manager  
        Senior Civil Engineer  
        Traffic Engineer |
| 448   | |
| 449   | |
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| 452   | |
| 453   | |
| 455   | |
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-385

A RESOLUTION APPROVING A FOURTH AMENDMENT TO
THE CRIME PREVENTION ACT 2000 AGREEMENT BETWEEN
THE CITY OF MODESTO AND THE COUNTY OF STANISLAUS,
FOR ONE MODESTO POLICE OFFICER TO WORK ON THE
HIGH-RISK OFFENDER/JUVENILE WARRANT ENFORCEMENT PROGRAM
AND AUTHORIZING THE CITY MANAGER TO
EXECUTE SAID AMENDMENT TO THE AGREEMENT

WHEREAS, on July 1, 2001, by Resolution Number 2001-351, the City Council
approved an agreement between the Stanislaus County Probation Department and the
City of Modesto Police Department for a Modesto Police Officer to partner with a Stanislaus Probation Officer to monitor high-risk juvenile offenders and to enforce Juvenile Court warrants, and

WHEREAS, on August 8, 2002, by Resolution Number 2002-377, the City Council approved the first amendment to that agreement, and

WHEREAS, on August 6, 2003, by Resolution Number 2003-428 the City Council approved a second amendment to that agreement, and

WHEREAS, on August 4, 2004, by Resolution Number 2004-397 the City Council approved a third amendment to that agreement between the Stanislaus County Probation Department and the City of Modesto Police Department for a Modesto Police Officer to partner with a Stanislaus Probation Officer to monitor high-risk juvenile offenders and to enforce Juvenile court warrants, and

WHEREAS, the County of Stanislaus Probation Department and the Modesto Police Department desire to continue to provide intensive supervision and monitoring to
high-risk juvenile wards, enforce Juvenile Court warrants and conduct police/probation activities to curtail delinquent behavior for the purpose of reducing juvenile crime and gang involvement and increasing offender accountability, and

WHEREAS, the Modesto Police Department can provide an experienced and competent Police Officer for these purposes and the City wishes to enter into a fourth amendment to the agreement with the Probation Department to provide such services, and

WHEREAS, the cost of one Modesto Police Officer, his or her benefits and personal equipment, will be paid by the County of Stanislaus by a federal grant obtained for the High Risk Offender/Juvenile Warrant Enforcement Program, and

WHEREAS, said amendment extends the term of the agreement from July 1, 2005 to June 30, 2006, and provides total compensation of $79,700,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fourth Amendment to the Crime Prevention 2000 Agreement between the City of Modesto and the Stanislaus County Probation Department for one Modesto Police Officer to work in the High-Risk Offender/Juvenile Warrant Enforcement Program for fiscal year 2005/06 is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said amendment to the agreement.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2005-386

A RESOLUTION AMENDING THE FISCAL YEAR 2005/06 BUDGET TO
RECOGNIZE REVENUE AND APPROPRIATE FUNDS FOR THE HIGH RISK
OFFENDER SUPERVISION AND JUVENILE COURT WARRANT
ENFORCEMENT PROGRAM

WHEREAS, on July 1, 2001, by Resolution Number 2001-351, the City Council
approved an agreement between the Stanislaus County Probation Department and the
City of Modesto Police Department for a Modesto Police Officer to partner with a
Stanislaus Probation Officer to monitor high-risk juvenile offenders and to enforce
Juvenile Court warrants, and

WHEREAS, on August 8, 2002, by Resolution Number 2002-377, the City
Council approved the First Amendment to that agreement, and

WHEREAS, on August 6, 2003, by Resolution Number 2003-428 the City
Council approved a Second Amendment to that agreement between the Stanislaus County
Probation Department and the City of Modesto Police Department for a Modesto Police
Officer to partner with a Stanislaus Probation Officer to monitor high-risk juvenile
offenders and to enforce Juvenile Court warrants, and

WHEREAS, on August 4, 2004, by Resolution Number 2004-397 the City
Council approved a Third Amendment to that agreement between the Stanislaus County
Probation Department and the City of Modesto Police Department for a Modesto Police
Officer to partner with a Stanislaus Probation Officer to monitor high-risk juvenile
offenders and to enforce Juvenile Court warrants, and

WHEREAS, the County of Stanislaus Probation Department and the Modesto
Police Department desire to continue to provide intensive supervision and monitoring to
high-risk juvenile wards, enforce Juvenile Court warrants and conduct police/probation activities to curtail delinquent behavior for the purpose of reducing juvenile crime and gang involvement and increasing offender accountability, and

WHEREAS, the Modesto Police Department can provide an experienced and competent Police Officer for these purposes and the City wishes to enter into a Fourth Amendment to the agreement with the Probation Department to provide such services, and

WHEREAS, the cost of one Modesto Police Officer, his or her benefits and personal equipment, will be paid by the County of Stanislaus by a federal grant obtained for the High Risk Offender/Juvenile Warrant Enforcement Program, and

WHEREAS, said amendment extends the term of the agreement from July 1, 2005 to June 30, 2006, and provides total compensation of $79,700,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2005/06 Annual Budget is hereby amended as follows:

To:
Revenue: $79,700 0410-190-2983-3313 High Risk Offender Program

To:
Appropriations: $79,700 0410-190-2983 High Risk Offender Program Salary and Benefits

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 special meeting of the Council of the City of Modesto held on the 3rd day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: 
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-387

A RESOLUTION APPROVING THE FINAL MAP OF THE CANTERBURY ESTATES SUBDIVISION AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH RICHMOND AMERICAN HOMES OF CALIFORNIA, A COLORADO CORPORATION

WHEREAS, RICHMOND AMERICAN HOMES OF CALIFORNIA, a Colorado Corporation, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 12.35 acres, known as the CANTERBURY ESTATES SUBDIVISION ("SUBDIVISION"), and

WHEREAS, an application for a vesting tentative subdivision map was deemed complete by the Secretary of the Planning Commission on June 11, 2004, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 30th day of August, 2004, and

WHEREAS, the Secretary of the Planning Commission of the City of Modesto and the City Engineer have 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,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that said final map be approved; that the dedications for streets and easements as shown thereon within the boundaries of said tract be accepted on behalf of the public for public use; and that the City Clerk be 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; and after subdivider has furnished securities, as set forth in Section 4-4.605 of the Modesto Municipal Code, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California. Said securities shall be in forms acceptable to the City Attorney and in the amounts required by the City Engineer.

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with subdivider as required by Section 4-4.604(c) of the Modesto Municipal Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-388

A RESOLUTION ACCEPTING A DEED OF AVIGATION AND HAZARD EASEMENT FROM GORDON D. STEWART AND JOHN F. STEWART THAT ALLOWS AIRCRAFT FLIGHT OVER RESIDENTIAL PROPERTY ON RIVER ROAD ADJACENT TO THE MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE CITY MANAGER TO SIGN THE ACCEPTANCE OF THIS EASEMENT ON BEHALF OF THE CITY

WHEREAS, Gordon D. Stewart and John F. Stewart intend to sell real property located on River Road in the City of Modesto adjacent to Modesto City-County Airport, and

WHEREAS, Modesto City-County Airport is an active airport with commercial and general aviation aircraft arrivals and departures that will be flying over and near the parcel of land that is being sold, and

WHEREAS, Gordon D. Stewart and John F. Stewart have provided the City of Modesto with a Deed of Avigation and Hazard Easement (Deed), at no cost, that will assign perpetual, assignable easement in and over the real property named in that document, and

WHEREAS, the Deed gives the Airport certain rights that ensure safe flight over that property, and authorizes access to the property for specific purposes stated in the Deed, and

WHEREAS, the Deed dedicates easement and right-of-way that will allow continued flight operations at Modesto City-County Airport,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Deed of Avigation and Hazard Easement from Gordon D. Stewart and John F. Stewart.
BE IT FURTHER RESOLVED that Council authorizes the City Manager, or his
designee, to sign the Deed of Avigation and Hazard Easement on behalf of the City of
Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 3rd day of August 2005 by Councilmember Jackman,
who moved its adoption, which motion being duly seconded by Councilmember Hawn,
was upon roll call carrier and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: Marsh

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION ACCEPTING THE PROPOSAL AND APPROVING A CONTRACT WITH LARRY WALKER ASSOCIATES FOR PROFESSIONAL SERVICES FOR THE WASTEWATER TREATMENT PLANT (WWTP) NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FOR DISCHARGE TO THE SAN JOAQUIN RIVER FOR A TWO-YEAR AGREEMENT, NOT TO EXCEED $242,000, WITH OPTIONS FOR TWO (2), ONE-YEAR RENEWALS, NOT TO EXCEED $100,000 EACH YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, the treated effluent from the City’s wastewater stream is discharged to the San Joaquin River and this discharge is regulated by the state through the federal NPDES permit, and

WHEREAS, this permit has a renewal term of five years and is due for renewal in May of 2006 and the renewal process is initiated by the Central Valley Regional Water Quality Control Board (Regional Board), and

WHEREAS, the current permit includes specific “effluent limitations” that are typically reflected as maximum allowable discharge concentrations for certain constituents, and

WHEREAS, the State Implementation Plan also allows the City to perform additional water quality studies related to permit compliance and effluent limitations, and

WHEREAS, to provide the best available science for the permit renewal process, the City needs to collect data and perform several additional water quality studies, and

WHEREAS, these studies will be performed in two phases to determine if completion of the study beyond initial "range-finding" is necessary, and
WHEREAS, professional services are essential for the City to continue meeting the NPDES Permit requirements and for successful negotiations with the Regional Board during the 2006 permit renewal process, and

WHEREAS, on May 24, 2005, Council approved Resolution No. 2005-276, authorizing the Public Works Department to solicit Request for Proposals (RFP) for professional assistance for the WWTP NPDES permit for discharge to the San Joaquin River, and

WHEREAS, staff solicited requests for proposals from 84 firms and formally advertised the RFP, and

WHEREAS, two (2) proposals were received in response to the RFP, and

WHEREAS, interviews of the two firms were performed by a four-member panel, including two external, non-staff, members, and

WHEREAS, the interviews were also observed by Councilmember Denny Jackman, and

WHEREAS, upon completion of the interview process it was determined that Larry Walker Associates is the most qualified firm based on the total score, and

WHEREAS, funds are budgeted in Account 6210-480-5217-0235 in the amount of $242,000 for FY 2005-06 for the two-year agreement and will be budgeted in Account 6210-480-5217-0235 for FY 2007-08 and FY 2008-09 in the amount of $100,000 per year should the additional one-year extensions be necessary,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the acceptance of proposal and approves the award of contract to Larry Walker Associates for professional assistance for the WWTP NPDES permit for
discharge to the San Joaquin River for a period of two years, not to exceed $242,000, with options for two (2), one-year renewals, not to exceed $100,000 each year.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the contract on behalf of the City.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: [Signature]

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-390

RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY LEVEL TO AMEND THE PROJECT SCOPE BY CHANGE ORDER TO ADD WORK AT RUMBLE ROAD AND STANDIFORD AVENUE CROSSINGS NOT PREVIOUSLY INCLUDED IN THE CONTRACT ON THE “VIRGINIA CORRIDOR CROSSINGS AND GRADE RESTORATION PROJECT” FROM 8 PERCENT ($137,717.32) TO 22 PERCENT ($378,722.63) OF THE ORIGINAL CONTRACT PRICE WITH GEORGE REED, INC.

WHEREAS, on February 24, 2004, the City Council passed a resolution allocating the remaining Federal Demonstration funding, and

WHEREAS, on August 4, 2004, the City Council awarded a $1,721,466.50 contract to George Reed, Inc. to construct the “Virginia Corridor Crossings and Grade Restoration Project” project, and

WHEREAS, during the course of construction the Contractor was required to perform extra work not anticipated or included in the original contract, and

WHEREAS, the cost of the extra work is estimated to be as high as $378,722.63, an amount which exceeds the Director’s authority for the project as established by the Council’s Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of 8 percent of the original contract price which amounts to $137,717.32 on a project this size, and

WHEREAS, the Council desires to fully utilize the Federal funding available for this project,
NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director’s authority level to amend the project scope by change order to add work at Rumble Road and Standiford Avenue crossings not previously included in the contract, from 8 percent ($137,717.32) to 22 percent ($378,722.63) for the project entitled “Virginia Corridor Crossings and Grade Restoration Project.”

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney
WHEREAS, Capital Facility Fees (CFF) are development fees intended to mitigate the impacts of growth, and

WHEREAS, CFF fees are paid later in the development process, and

WHEREAS, Streets CFF projects require significant sums of funds for construction, and

WHEREAS, the most efficient use of Streets CFF funds is critical to the City, and

WHEREAS, approximately 20% of the CFF program is comprised of major interchange projects, and

WHEREAS, staff is seeking policy direction on prioritization of Capital Improvement Projects funded with Streets CFF, and

WHEREAS, staff recommends that 20% of all Streets CFF collected be set aside for major interchange projects, and

WHEREAS, staff proposes the use of CIP project prioritization principles as set forth in a report to the Mayor and Council from James Niskanen, the Acting Public Works Director, dated July 19, 2005, and

WHEREAS, staff further proposes that certain transportation corridors be given high priority for programming projects,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby directs staff to set aside 20% of all Streets CFF revenue collected to be applied to major interchange projects,

BE IT FURTHER RESOLVED that the Council hereby directs staff to apply the following guiding principles relating to CIP project prioritization listed in the order of priority:

a. Address Critical Safety Issues

b. Legal Obligations
   i. Projects must be included in the program to use CFF funding.
   ii. Honor all commitments in existing executed agreements.

c. Maximize Traffic Benefits For Dollars Spent
   i. Phase projects to maximize traffic benefits per unit cost.
   ii. Utilize lower cost traffic improvements such as restriping and signal modifications where possible.
   iii. Project amenities will follow later.

d. Economic Development
   i. Projects to complement high priority economic development.

e. Segment Completion
   i. Projects that complete segments of previously phased work.

BE IT FURTHER RESOLVED that the Council hereby directs staff to consider the following transportation corridors a high priority when budgeting Streets CFF Capital Improvement Projects:

a. East-West Priority Corridors
   i. Pelandale Avenue
   ii. Briggsmore Avenue

b. North-South Priority Corridors
   i. Carpenter Road
   ii. Claus Road
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2005-392

A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION FOR THE 2005 BYRNE JUSTICE ASSISTANCE GRANT WITH THE U.S. DEPARTMENT OF JUSTICE FOR THE REPLACEMENT/UPGRADE OF THE MODESTO POLICE DEPARTMENT'S COMPUTER AIDED DISPATCH SYSTEM (CAD), INTEGRATED PUBLIC SAFETY SYSTEM, AND RECORDS MANAGEMENT SYSTEM (RMS), AND AUTHORIZING THE CITY MANAGER, OR HIS AUTHORIZED DESIGNEE, TO EXECUTE SAID APPLICATION

WHEREAS, the City of Modesto Police Department can make application to the U. S. Department of Justice for the 2005 Byrne Justice Assistance Grant, and

WHEREAS, the Police Department wishes to submit an application to assist in the funding for the Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS), and

WHEREAS, acceptance of this grant enhances Healthy and Safe Strategic Action Plan action, H.I.B.8., which calls for obtaining public service grants, and

WHEREAS, the total grant project will be $116,200, and

WHEREAS, there is no local match required for this program, and

WHEREAS, as required by the dictates of this program, the Police Department will present a specific budget for funding for the purchase of hardware that will be required to support the new Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS) to the Council of the City of Modesto, in a public hearing, after notification that the application has been accepted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby authorizes submittal of an application for the 2005 Byrne Justice Assistance

08/03/05/Police/K Rabb/Item No 14 1 2005-392
Grant for the purchase of assisting in funding the Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS).

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION FOR THE 2005 BYRNE JUSTICE ASSISTANCE GRANT WITH THE U.S. DEPARTMENT OF JUSTICE FOR THE REPLACEMENT/UPGRADE OF THE MODESTO POLICE DEPARTMENT'S COMPUTER AIDED DISPATCH SYSTEM (CAD), INTEGRATED PUBLIC SAFETY SYSTEM, AND RECORDS MANAGEMENT SYSTEM (RMS), AND AUTHORIZING THE CITY MANAGER, OR HIS AUTHORIZED DESIGNEE, TO EXECUTE SAID APPLICATION

WHEREAS, the City of Modesto Police Department can make application to the U. S. Department of Justice for the 2005 Byrne Justice Assistance Grant, and

WHEREAS, the Police Department wishes to submit an application to assist in the funding for the Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS), and

WHEREAS, acceptance of this grant enhances Healthy and Safe Strategic Action Plan action, H.I.B.8., which calls for obtaining public service grants, and

WHEREAS, the total grant project will be $116,200, and

WHEREAS, there is no local match required for this program, and

WHEREAS, as required by the dictates of this program, the Police Department will present a specific budget for funding for the purchase of hardware that will be required to support the new Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS) to the Council of the City of Modesto, in a public hearing, after notification that the application has been accepted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby authorizes submittal of an application for the 2005 Byrne Justice Assistance
Grant for the purchase of assisting in funding the Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS).

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

By: [Signature]
MICHAEL D. MILICH, City Attorney

ATTEST: [Signature]
JEAN ZAHR, City Clerk
A RESOLUTION APPOINTING TAMMY SPILLERS AND BRUCE NORRIS TO BOARD OF BUILDING APPEALS

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 July 11, 2005, and recommended appointment of TAMMY SPILLERS and BRUCE NORRIS to the Board of Building Appeals.

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

SECTION 1. TAMMY SPILLERS, with a term expiration of January 1, 2006, and BRUCE NORRIS, with a term expiration of January 1, 2009, are hereby appointed to the Board of Building Appeals.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Board of Building Appeals, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, 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: 

By: 

MICHAEL D. MILICH, City Attorney
A RESOLUTION APPOINTING NICK RAPPLEY 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, the Economic Development Committee met on July 11, 2005, and recommended appointment of NICK RAPPLEY, a northeast area resident, to the Community Qualities Forum.

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

SECTION 1. NICK RAPPLEY, a northeast area resident, is hereby appointed to the Community Qualities Forum with term expirations of January 1, 2008.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members 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 9th day of August 2005, 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

BSENT: Councilmembers: Dunbar

APPROVED AS TO FORM: 

By:  ____________________________
     MICHAEL D. MILICH, City Attorney

ATTEST: ________________________
        JEAN ZAHR, City Clerk

08/09/05/CMO/E Puckett/Item No 3
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-395

A RESOLUTION APPOINTING JEROLD ROSENTHAL 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, Councilmember Garrad Marsh has recommended JEROLD ROSENTHAL 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. JEROLD ROSENTHAL 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 9th day of August 2005, 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, City Clerk

By: MICHAEL D. MILICH, City Attorney

08/09/05/CMOE Puckett/Item No 4 1 2005-395
MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-396  

A RESOLUTION AUTHORIZING THE CESSATION OF SPECIAL TAXES FOR PARCELS ANNEXED TO BOTH CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1996-1 AND CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1, AND DIRECTING THE CITY CLERK TO RECORD A NOTICE OF CESSATION OF SPECIAL TAX

WHEREAS, on October 8, 1996, the City Council adopted Resolution No. 96-554, establishing the City’s Community Facilities District No. 1996-1 (Village One) (“District #1”) and authorizing the levy of special taxes within District #1 pursuant to Chapter 2.5 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”), which Resolution has been amended from time to time, and

WHEREAS, on October 8, 1996, the City Council adopted Ordinance No. 3005-C.S., levying the special taxes within District #1, which Ordinance has been amended from time to time, and

WHEREAS, on April 6, 2004, the City Council adopted Resolution No. 2004-199, establishing the City’s Community Facilities District No. 2004-1 (Village One #2) (“District #2) and authorizing the levy of special taxes within District #2 pursuant to the Act, and

WHEREAS, on April 27, 2004, the City Council adopted Ordinance No. 3345-C.S., levying the special taxes within District #2 and on July 12, 2005, the City Council adopted Ordinance No. 3392-C.S., levying the special taxes within Zone #2 of District #2; and
WHEREAS, following the formation of District #1 and District #2 (collectively “Districts”), the City Council has ordered annexations to each District, and

WHEREAS, certain parcels have been annexed to both Districts, and

WHEREAS, pursuant to Government Code Section 53330.5, the City Council may determine that a special tax shall cease to be levied when it is no longer needed to pay the costs and incidental expenses of services or of the construction of facilities authorized by the Act, and

WHEREAS, the special taxes to be levied on parcels within District #2 incorporate and include the costs and incidental expenses of services and the construction of facilities that were previously authorized in the special taxes to be levied on parcels within District #1, and

WHEREAS, the proceedings contemplated, and it is in the public interest, that for those parcels which are annexed to District #1 and subsequently annex to District #2, the special tax obligation authorized to be levied pursuant to Resolution No. 96-554, as amended, and Ordinance No. 3005-C.S., as amended, would no longer be needed, and would be permanently satisfied and cease to be levied, upon annexation of said parcels to District #2.

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

SECTION 1: The above recitals are true and correct.

SECTION 2: For those parcels which are annexed to District #1 and which subsequently annex to District #2, the special tax obligation authorized to be levied pursuant to Resolution No. 96-554, as amended, and Ordinance No. 3005-C.S., as
amended, is no longer necessary to pay the costs and incidental expenses for services or for the construction of facilities authorized for District #1, and shall be permanently satisfied and cease to be levied, upon annexation of said parcels to District #2.

SECTION 3: The City Clerk is hereby directed to record a Notice of Cessation of Special Tax for the special tax obligation authorized to be levied pursuant to Resolution No. 96-554, as amended, and Ordinance No. 3005-C.S., as amended, as to any parcel which is annexed to District #1 and subsequently annexes to District #2.

SECTION 4: The Notice of Cessation shall state that the obligation to pay the special tax authorized to be levied pursuant to City Council Resolution No. 96-554, as amended, and Ordinance No. 3005-C.S., as amended, has ceased and that the lien imposed by the Notice of Special Tax Lien recorded in the records of the County Recorder of Stanislaus County, State of California, is extinguished.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

08/09/05/CM/T Rocha/Item No 6
WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2004-2005,

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following votes:

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

ATTEST: JEAN ZAHN, City Clerk

APPROVED, AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-398

A RESOLUTION APPROVING A POLICY FOR INVESTMENT OF
PUBLIC FUNDS, POLICY NO. 1.019

WHEREAS, pursuant to Section 2-3.401 of the Modesto Municipal Code, it is the
function of the City of Modesto ("City") Finance Department to deposit and invest funds
in accordance with sound treasury management, and

WHEREAS, the City is also governed by Sections 53600 et seq. of the California
Government Code, which requires that local agencies annually adopt an investment
policy, and

WHEREAS, the City Council approved a contract on February 3, 2004 with
Public Financial Management (PFM), an investment services advisor, to provide
investment management, research and supervision of the City's Managed Funds, and

WHEREAS, PFM has reviewed the City's Investment Policy and is not
recommending changes to the City's general investment philosophy, and

WHEREAS, a copy of the policy is marked Attachment "A", attached hereto and
incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of
Modesto hereby approves the Policy for Investment of Public Funds, Policy No. 1.019.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST:  
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By:  
MICHAEL D. MILICH, City Attorney
PURPOSE
The purpose of this document is to identify various policies and procedures that enhance opportunities for a prudent and systematic investment policy and to organize and formalize investment-related activities.

BACKGROUND
Under Section 2-3.401 of the Municipal Code, it is the function of the Finance Department to deposit and invest funds in accordance with sound treasury management. As a charter city, Modesto operates its pooled idle cash investment under the “prudent investor” rule which states that:

“When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency.”

The City is also governed by Sections 53600 et seq. of the California Government Code. This affords the City a broad spectrum of investment opportunities, so long as the investment is deemed prudent and allowable under current legislation of the State of California and the charter of the City of Modesto.

On an annual basis, the Finance Director/Treasurer will render to the City Council the statement of investment policy. The report will be considered, with any changes, by the City Council at a public meeting.

INVESTMENT REPORT
The Finance Director/Treasurer shall provide the City Council with a monthly report of investment transactions. In addition, the Finance Director/Treasurer shall render a quarterly report to the City Council, City Manager and the internal auditor within 30 days following the end of the quarter. The report shall contain the following:

1. The type of investment, issuer, purchase date, date of maturity, credit rating, overall portfolio yield based on cost, total par and dollar amount invested on all securities, investments and monies.
2. The weighted average maturity of the portfolio.

3. A description of any funds, investments or programs that are under management of contracted parties, including lending programs. Funds and investments held by contracted parties shall be reported at market value and the source of valuation shall be reported.

4. The market value as of the date of the report, and the source of the valuation.

5. A statement of compliance with the investment policy or manner in which the portfolio is not in compliance.

6. A statement denoting the City’s ability to meet its expenditure requirements for the next six months or provide an explanation as to why sufficient money shall, or may, not be available.

INVESTMENT CRITERIA
Public funds are invested in the following manner in order of priority:

1. Safety of Principal
   The duty of the Finance Director/Treasurer is to protect, preserve and maintain cash and investments on behalf of the citizens of the community. To guard against loss of principal, only prudent and safe investments will be considered.

2. Liquidity
   The receipt of revenues and maturities of investments should be scheduled so that adequate cash will be available to meet disbursements. An adequate portion of the portfolio should be maintained in liquid short-term instruments which can be readily converted to cash if necessary.

3. Yield
   Yield is the potential dollar earnings, or rate of return, an investment can provide. Yield becomes a consideration only after the basic requirements of safety and liquidity have been met.

SAFEKEEPING AND CUSTODY
All security transactions entered into by the City shall be conducted on a delivery-versus payment basis. Securities will be held by third party custodian designated by the Finance Director/Treasurer and evidenced by safekeeping receipts.

The only exception to the foregoing are Local Agency Investment Pools, Certificates of Deposit, and money market funds since the purchased securities are not deliverable. In all cases, purchased securities shall be held in the City’s name.
PERFORMANCE STANDARDS

The investment portfolio shall be designed with the objective of obtaining a rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow needs. The City will measure the portfolio's performance against a market benchmark that is commensurate with the City's investment risk constraints and the cash flow characteristics of the portfolio.

AUTHORIZED INVESTMENTS

Commencing with Section 53601 of Article 1, Chapter 4 of the Government Code of the State of California, surplus money may be invested in the following:

A. City of Modesto bonds. Bonds issued by the City.

B. U.S. Treasury securities. United States Treasury notes, bonds, bills or certificates of indebtedness or those for which the faith and credit of the United States are pledged for the principal and interest.

C. State of California securities. Registered State of California warrants, treasury notes or bonds, provided that the securities are rated AAA by a nationally recognized statistical rating agency.

D. California municipal securities. Bonds, notes, warrants or other evidence of indebtedness of any local agency within California, provided that the securities are rated AAA by a nationally recognized statistical rating agency.

E. Federal Agency securities. Obligations issued by a federal agency or United States government-sponsored enterprise.

F. Bankers' Acceptances. Bankers' Acceptances issued by domestic or foreign banks, which are eligible for purchase by the Federal Reserve System, the short-term paper of which is rated in the highest category by a nationally recognized statistical rating agency.

Purchases of Bankers' Acceptances may not exceed 180 days maturity or 40 percent of the City's surplus money. The maximum amount permitted to be invested in the Banker's Acceptances of any one commercial bank is the greater of 10 percent of the City's surplus funds or $1 million.

G. Commercial Paper. Commercial paper of "prime" quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical rating organization. The entity that, issues the commercial paper shall meet all of the...
following conditions in either paragraph (1) or paragraph (2):

(1) The entity meets the following criteria: (a) is organized and operating within the United States as a general corporation. (b) Has total assets in excess of $500 million. (c) Has debt other than commercial paper, if any, that is rated "A" or higher by a nationally recognized statistical-rating organization (NRSRO).

(2) The entity meets the following criteria: (a) is organized within the United States as a special purpose corporation, trust, or limited liability company. (b) Has program wide credit enhancements including, but not limited to, over collateralization, letters of credit, or surety bond.

Investments in commercial paper are limited to a maximum of 25% of the portfolio. Purchases shall not exceed 10 percent of the outstanding paper of the issuing corporation. The maximum investment maturity is restricted to 270 days.

H. Certificates of Deposit. FDIC insured or fully collateralized time certificates of deposit in financial institutions located in California. Eligible investments are restricted to those issuing institutions that have been in business at least five years. The maximum term for deposits shall be one year. Investments in certificates of deposit are further limited to 20% of surplus funds. All time deposits must be collateralized in accordance with California Government Code section 53561. The City, at its discretion, may waive the collateralization requirements for any portion of the deposit that is covered by federal insurance.

I. Negotiable Certificates of Deposit. Negotiable certificates of deposit issued by a nationally- or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank; provided that the senior debt obligations of the issuing institution are rated "AA" or better by Moody's or Standard & Poor's. Investments in negotiable certificates of deposit are limited to 30 percent of the portfolio.

J. Repurchase Agreements. Repurchase Agreements used solely as short-term investments not to exceed 90 days.

The following collateral restrictions will be observed: Only U.S. Treasury securities or Federal Agency securities as described in 1 and 2 will be acceptable collateral. All securities underlying Repurchase Agreements must be delivered to the City's custodian bank versus payment or be handled under a tri-party repurchase agreement. The total of all collateral for each Repurchase Agreement must equal or exceed, on the basis of market value plus accrued interest, 102 percent of the total dollar value of the money invested by the City for the term of the investment. For any Repurchase Agreement with a term of more than one day, the value of the underlying securities must be reviewed on a regular basis.
Market value must be calculated each time there is a substitution of collateral.

The City or its trustee shall have a perfected first security interest under the Uniform Commercial Code in all securities subject to Repurchase Agreement.

The City may enter into Repurchase Agreements with (1) primary dealers in U.S. Government securities who are eligible to transact business with, and who report to, the Federal Reserve Bank of New York, and (2) California and non-California banking institutions having assets in excess of $1 billion and in the highest short-term rating category as provided by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

The City will have specific written agreements with each firm with which it enters into Repurchase Agreements.

K. Reverse Repurchase Agreements. The City may invest in reverse repurchase agreements only with "primary dealers" with which the City has entered into a master repurchase agreement contract. The City may invest in reverse repurchase agreements with the following conditions: The City may only use reverse repurchase agreements to (1) cover a temporary cash shortage, or (2) augment earnings. Reverse repurchase agreements may not be used to leverage the portfolio.

In addition, if a reverse repurchase agreement is authorized, it may be utilized only if the security to be sold on reverse repurchase agreement has been owned and fully paid for by the City for a minimum of 30 days prior to the sale; the total of all reverse repurchase agreements on investments owned by the City does not exceed 20% of the portfolio; and the agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of the security using a reverse repurchase agreement and the final maturity date of the same security. The proceeds of the reverse repurchase agreement may not be invested in securities whose maturity exceeds the term of the Reverse Repurchase Agreement.

L. Medium-term corporate notes. Medium-term corporate notes defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the U.S. or any state and operating within the U.S. Medium-term notes shall be rated in a rating category "AA-" or its equivalent or better by a nationally recognized rating service. Purchase of medium-term corporate notes may not exceed 30 percent of the City's investment portfolio.

M. Money market funds. Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (money market funds).

N. State of California Local Agency Investment Fund (LAIF).

O. Mortgage and asset-backed securities. Any mortgage pass-through security,
collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable-backed bond that has been issued by a Federal Agency and has a maximum of five years maturity.

**MAXIMUM MATURITY**
Investment maturities shall be based on a review of cash flow forecasts. Maturities will be scheduled so as to permit the City to meet all projected obligations.

Maximum maturity of an authorized investment is limited to five years.

Proceeds of sales or funds set aside for the repayment of any notes (e.g., Tax and Revenue Anticipation Notes) shall not be invested for a term that exceeds the term of the notes.

**INELIGIBLE INVESTMENTS**
Any security type or structure not specifically approved by this policy is hereby specifically prohibited. Security types which are thereby prohibited include, but are not limited to,

- Investment in inverse floaters, range notes, or interest only strips that are derived from a pool of mortgages is prohibited.
- Investment in any security that could result in a zero interest accrual if held to maturity is prohibited.

**RESTRICTIONS SET BY THE FINANCE DIRECTOR/TREASURER**
A. Prior approval of the Finance Director/Treasurer is required for the following transactions:

- Sale of securities
- Swaps and trades
- Purchase of collateralized mortgage obligations (CMO)
- Purchase of mortgage-backed obligations
- Purchase of corporate notes
- Purchase transaction in excess of $3 million

B. The following investments are not deemed appropriate for the City and will not be utilized:

- Futures and options
- Small Business Administration notes

**AUTHORIZED INVESTMENT PERSONNEL**
Pursuant to the Government Code, the City Council delegates the authority to invest or to
reinvest funds, or to sell or exchange securities so purchased, to the Finance Director/Treasurer
for a one-year period. The Finance Director/Treasurer is charged with the responsibility for
carrying out the policies of the City Council and shall assume full responsibility for investment
transactions until the delegation of authority is revoked or expires.

Idle cash management and investment transactions are the responsibility of the Finance
Department, which is under the control of the Finance Director/Treasurer. The Finance
Director/Treasurer may designate an individual(s) ["Designee"] to be responsible for the daily
management of the City’s portfolio of treasury investments. The Designee may also be directed
to monitor and forecast the City’s cash flows, and prepare periodic investment reports that are
submitted to the City Council. The Accounting Division of the Finance Department monitors all
treasury transactions and prepares accounting records of all investment transactions as to type of
investment, amount, yield, and maturity. No other person has authority to make investment
transactions without the written authority of the Finance Director/Treasurer. Pursuant to
Government Code chapter 53600, all persons investing monies are trustees and therefore
fiduciaries subject to the prudent investor standard. Financial market security transactions will be
executed by delivery versus payment and the securities will be held by a third party custodian.

Subject to required procurement procedures, the City may engage the support services of outside
professionals in regard to its financial program, so long as it can be demonstrated or anticipated
that these services produce a net financial advantage or necessary financial protection of the
City’s resources.

POLICY REVIEW

The investment policy shall be adopted by resolution of the City Council on, at minimum, an
annual basis. This investment policy shall be reviewed at least annually to ensure its consistency
with the overall objectives of preservation of principal, liquidity and yield, and its relevance to
current law and financial and economic trends. Any amendments to the policy shall be
forwarded to City Council for approval.

This policy and the internal controls related to the investment of City funds will be reviewed by
the City’s independent external auditors in the conduct of their annual audit of the City.
APPENDIX A - GLOSSARY

**Bankers Acceptances (BAs)**
Bankers Acceptance is a time bill of exchange drawn on and accepted by a commercial bank to finance the exchange of goods. When a bank “accepts” such a bill, the time draft becomes, in effect, a predated certified check payable to the bearer at some future specified date. Little risk is involved for the investor because the commercial bank assumes primary liability once the draft is accepted.

**Certificates of Deposit (CDS)**
A certificate of deposit is issued against funds deposited in a commercial bank for a definite period of time and earning a specified rate of return. They are issued in two forms, negotiable and non-negotiable:

- **A negotiable certificate of deposit** may be sold by one holder to another prior to maturity. This is possible because the issuing bank agrees to pay the amount of the deposit, plus earned interest, to the Bearer of the certificate at maturity.

- **A non-negotiable certificate of deposit** is collateralized and is not a money market instrument since it cannot be traded in the secondary market. It is issued on a fixed maturity basis and often pays a higher interest rate than is permissible on other savings or time deposit accounts.

**Collateralized Mortgage Obligation (CMO)**
A CMO is a pool of mortgages sold as a single investment with interest paid monthly, quarterly, or semi-annually. Mortgage securities pay a higher rate than U.S. Treasury securities due to risk of prepayment and default.

**Commercial Paper (CP)**
This is a short-term promissory note issued by a corporation to raise working capital. The interest rates tend to be higher than other investments of similar liquidity.

**Derivatives**
A financial instrument with a value derived from the value of one or more underlying assets or indexes of asset values. The term “derivative products” refers to instruments or features such as collateralized mortgage obligations (CMOs), interest-only (IOs) and principal-only (POs), forwards, futures, currency and interest rate swaps, options, floaters/inverse floaters, and caps/floors/collars.

**Federal Agency Securities**
Certain agencies created by Congress and sponsored by the federal government issue debt that is considered to be of prime quality and have a very high standing in the bond market. The major federal agencies are described as follows:

- **Federal National Mortgage Association** (FNMA, “Fannie Mae”) provides funds to the mortgage market primarily by purchasing loans from local lenders.
**Federal Home Loan Mortgage Corporation** (FHLMC, “Freddie Mac”) purchases conventional mortgages and sells mortgage-backed securities.

**Student Loan Marketing Association** (SLMA, “Sallie Mae”) facilitates that flow of private capital into various federally-guaranteed student loan programs maintained through banks, S&Ls, educational institutions and other participating lenders.

**Federal Farm Credit System** (FFCB) sells securities to provide mortgage loans and short-term and intermediate-term credit to farmers, ranchers, and agricultural cooperatives.

**Federal Home Loan Bank** (FHLB) acts as a credit reserve system for the thrift industry to stabilize the flow of funds to member savings and loan and savings banks.

**Futures**
Exchange traded contracts specifying a future date of delivery or receipt of a specific product (physical commodity or financial instrument). Futures are used by business as a hedge against unfavorable price changes, and by speculators who hope to profit from such changes.

**Local Agency Investment Fund (LAIF)**
State of California LAIF is designed to provide a convenient and safe means of investing temporarily idle monies by the State Treasurer. LAIF provides high liquidity and generally pays higher yields than can be realized by individual local agencies (for similar maturities) due to economies of scale.

**Medium-Term Notes**
Issued by corporations (in the form of secured or unsecured debt) for the purpose of raising working capital and purchasing capital assets.

**Options**
A right to buy (call) or sell (put) a fixed amount of a given stock at a specified price within a limited period of time. The purchaser hopes that the stock’s price will go up (if he bought a call) or down (if he bought a put) by an amount sufficient to provide a profit when he sells the option. If the price is static or moves in the opposite direction, the price paid for the option is lost entirely.

**Repurchase Agreement**
As authorized in Government Code Section 5360i(1), these investment vehicles are (generally short-term) agreements between the local agency and seller for the purchase of Government securities to be resold at a specific date and for a specific amount.

**Reverse Repurchase Agreement**
This transaction is the opposite of a repurchase agreement. The dealer buys securities with a contractual agreement to sell them back at a prearranged date. The local agency pays the dealer’s interest for the use of the funds. The money “borrowed” on a “reverse repo” can be reinvested in higher yielding instruments.
**U.S. Treasury Securities**
The highest quality, most liquid debt investments available in the fixed income market-place; unconditionally backed by the “full faith and credit” of the U.S. Government. Treasury bills are short-term instruments (maturity of three months to one year); Treasury notes and bonds are currently issued with maturities of two to ten years.
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-399

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO EXTEND AN ANNUAL PURCHASE AGREEMENT WITH BRISCO ENTERPRISES, OF MERCED, CA FOR A FOUR (4) MONTH EXTENSION PERIOD TO ALLOW FOR THE REMOVAL AND TRANSPORTATION OF WASTEWATER BIO-SOLIDS IN THE APPROXIMATE AMOUNT OF $121,000

WHEREAS, Resolution 2001-369 authorized an annual purchase agreement with Brisco Enterprises, of Merced, CA for the removal and transportation of wastewater bio-solids to the City’s compost facility for FY 2001/2002, with the option of three (3) additional, one-year contract extensions, and ·

WHEREAS, the annual purchase agreement expired June 30, 2005, and

WHEREAS, the annual purchase agreement should have been put in place to expire in October of 2005 to coincide with the bio-solids removal seasonal calendar, and

WHEREAS, the removal of dried bio-solids will provide renewed drying bed space for the revolving wastewater bio-solids process, and

WHEREAS, the Modesto Municipal Code (MMC) generally requires all purchases which meet or exceed $50,000 to be formally bid, and

WHEREAS, there are several exceptions to the MMC formal bidding requirements, and

WHEREAS, one exception is available that allows the Purchasing Supervisor to determine that calling for bids is undesirable due to demanding circumstances, and

WHEREAS, based on the short window of opportunity available for the removal and transportation of the wastewater bio-solids, the Purchasing Supervisor invoked that exception for this four (4) month extension request, and
WHEREAS, funds in the amount of $148,070 have been budgeted in FY 05/06 and are available in account number 6210-480-5213-0235,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is hereby authorized to extend the annual purchase agreement with Brisco Enterprises, of Merced, CA for a four (4) month period in the approximate amount of $121,000 for the removal and transportation of wastewater biosolids.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-400

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO ISSUE A FORMAL REQUEST FOR BID (RFB) FOR THE REMOVAL AND TRANSPORTATION OF WASTEWATER BIO-SOLIDS FOR AN INITIAL THREE (3) YEAR AGREEMENT AND WITH TWO (2) ONE-YEAR CONTRACT EXTENSION OPTIONS FOR AN ESTIMATED ANNUAL AMOUNT OF $165,000

WHEREAS, the Public Works Department requested the removal and transportation of wastewater bio-solids, and

WHEREAS, the Wastewater Treatment Plant located at 1221 Sutter removes de-watered bio-solids from drying beds located at the site, and

WHEREAS, the accumulated bio-solids are the result of the designed solids removal process, and

WHEREAS, removal of the dried bio-solids provides renewed drying bed space for this revolving process, and

WHEREAS, when dried, the bio-solids are removed from the beds and then transported to the Secondary Treatment Plant where they are screened, rototilled, hydrated and applied to the City's Ranch fields as a soil amendment, and

WHEREAS, the existing contract for the removal and transportation of primary wastewater bio-solids has expired, and

WHEREAS, the Modesto Municipal Code (MMC) generally requires all purchases which meet or exceed $50,000 to be formally bid, and

WHEREAS, by soliciting competitive bids for the removal and transportation of wastewater bio-solids, the Purchasing Division will comply with MMC formal bidding requirements,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is hereby authorized to solicit formal bids as follows:

SECTION 1. The City Clerk shall call for public competitive sealed bids for the removal and transportation of wastewater bio-solids services, for a three (3) year agreement, with two (2) one-year extension options, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed bids are opened, they shall be tabulated and analyzed and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-401

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR ROCK, SAND, AND GRAVEL FOR A TWO-YEAR PERIOD, WITH THREE (3), ONE-YEAR CONTRACT EXTENSION OPTIONS TO THORNBERRY OF CERES, CA, FOR AN ESTIMATED TOTAL ANNUAL COST OF APPROXIMATELY $200,000

WHEREAS, the Finance Department-Central Stores Division has requested the purchase of rock, sand, and gravel for FY 2005/2006, and

WHEREAS, the Central Stores unit of the Finance Department will stock said rock, sand, and gravel for use by City departments for rock well drainage, sand for parks, street maintenance operations and wastewater pond erosion control, and

WHEREAS, Central Stores will purchase the required rock, sand and gravel from account 7100-120-8311-0439 and departments will then purchase the rock sand and gravel from Central Stores with charges being made to appropriate accounts, and

WHEREAS, based on past usage and current pricing, the total cost for rock, sand, and gravel requirements for FY 2006 should be approximately $200,000, and

WHEREAS, on May 24, 2005, Council approved Resolution No. 2005-261 authorizing the Purchasing Supervisor to formally solicit bids for the purchase of rock, sand, and gravel, and

WHEREAS, the Purchasing Division solicited Request for Bid No. 0405-28 to nine (9) companies, posted the bid on the City’s web site, and formally advertised as required by law, and

WHEREAS, out of the nine (9) companies solicited, only one (1) chose to respond, and

WHEREAS, based on being the lowest responsive and responsible bidder, staff
recommends award of Bid No. 0405-28 to Thornberry of Ceres, CA, and

WHEREAS, this award of bid and contract complies with the Modesto Municipal Code, Section 8-3.20, regarding Formal Bid Procedures,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby awards Bid No. 0405-28 and contract for the purchase of rock, sand, and gravel to Thornberry of Ceres, CA for a two (2) year period, with three (3), one-year extension options for a total estimated annual cost of approximately $200,000.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue an annual purchase agreement to Thornberry of Ceres, CA for the purchase of rock, sand, and gravel for an initial two (2) year period, with three (3) one year extension options, for a total annual cost of approximately $200,000.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO SOLICIT REQUEST FOR BIDS (RFB) FOR MATERIAL HAULING SERVICES FOR AN INITIAL THREE (3)-YEAR PERIOD, WITH TWO (2) ONE-YEAR CONTRACT EXTENSION OPTIONS FOR AN ESTIMATED TOTAL ANNUAL COST OF $250,000.00

WHEREAS, the Public Works Department-Streets Division has requested material hauling service, and

WHEREAS, the Streets Division has fifty (50) years of deferred maintenance in paving residential streets, alleys, and major arterial and collector streets that are failing before capital improvement projects can be funded, and

WHEREAS, this can result in increased accidents and claims against the City of Modesto, and

WHEREAS, hundreds of City residential streets and alleys are beyond their service life, and

WHEREAS, in the past asphalt grindings were hauled away by using rented dump trucks or by borrowing dump trucks from other divisions, with the grindings then being stockpiled behind the Fire Training Center and used in the winter to reconstruct alleys, and

WHEREAS, the Streets Division currently does not have the staff or the trucks to haul away stockpiled materials, and

WHEREAS, the need and specifications for these materials have been developed over time through collaboration between staff in the Streets Division and the Purchasing Division, and
WHEREAS, by soliciting competitive bids for material hauling service, the Purchasing Division will comply with the Modesto City Code (MMC) regarding formal bid procedures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is hereby authorized to solicit formal Request for Bids for material (grindings and hot asphalt) hauling service as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for material hauling services for an initial three (3) year period, with two (2) one-year contract extension options, to be opened in the office of the City Clerk, 1010 10th Street, in the City of Modesto. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After bids are opened, they shall be tabulated and analyzed and a report submitted to the Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-403

A RESOLUTION APPROVING THE ESTABLISHMENT OF A FULL-TIME POSITION IN THE STANISLAUS COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCES TO ASSIST IN THE ADMINISTRATION OF THE WASTE-TO-ENERGY PROJECT, APPROVING AMENDMENT NO. 2 TO THE AGREEMENT BETWEEN THE CITY OF MODESTO AND COUNTY OF STANISLAUS RELATING TO ADMINISTRATION OF SERVICE AGREEMENT FOR SUPPLY AND ACCEPTANCE OF SOLID WASTE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on December 17, 1985, the City of Modesto and County of Stanislaus entered into an “Agreement Between the City of Modesto and County of Stanislaus Relating to Administration of Service Agreement for Supply and Acceptance of Solid Waste” (“AGREEMENT”), and

WHEREAS, the AGREEMENT established an Executive Committee to administer the Joint Powers Agreement, and

WHEREAS, the Executive Committee consists of two members of the Modesto City Council and two members of the County Board of Supervisors, and

WHEREAS, the Executive Committee advises the City Council and the Board of Supervisors on project matters, and

WHEREAS, Section 2. of the Agreement Between City of Modesto and County of Stanislaus Relating to the Administration of Service Agreement for Supply and Acceptance of Solid Waste states that, “Each of the parties hereto shall appoint sufficient personnel to act in a staff capacity for said Committee...”, and

WHEREAS, over the next few years, several major projects will place extraordinary demands on staff as the City and County consider an extension of the
current Service Agreement, a new operating agreement, and a new Power Purchase Agreement, and

WHEREAS, at the March 11, 2005, Waste-to-Energy Executive Committee meeting, City and County Solid Waste staff presented a joint proposal that the Committee approve a full-time position, funded by the project, to assist current staff with the management of the WTE facility operations and with the Service Agreement, operating agreement, and Power Purchase Agreement negotiations, and

WHEREAS, the recommendation was that the position be a County employee housed in the Stanislaus County Department of Environmental Resources, and that the position be at the Manager I-II level under Stanislaus County’s Job Classes and Salaries categories, and

WHEREAS, work assignments for this position would be jointly agreed upon by the City and County Solid Waste Managers, and

WHEREAS, the annual cost to the project for this position is expected to be approximately $147,000, to include salary, benefits, office space, auto use, equipment, and office supplies, and

WHEREAS, the cost of this position would be funded out of the Resource Recovery Account, and was included in the FY 2005-2006 Waste-to-Energy project budget approved by the City Council and Board of Supervisors, and

WHEREAS, the Solid Waste-to-Energy Executive Committee concurred with this recommendation, and unanimously approved forwarding this proposal to the City Council and Board of Supervisors, with a recommendation to amend the AGREEMENT to authorize the dedicated staff position, and
WHEREAS, the AGREEMENT can be modified and amended by mutual agreement of the parties, and

WHEREAS, the City Council must approve this Amendment for it to become effective,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby the establishment of a full-time position in the Stanislaus County Department of Environmental Resources to assist in the administration of the waste-to-energy project and approves Amendment No. 2 to the Agreement Between the City of Modesto and County of Stanislaus Relating to Administration of Service Agreement for Supply and Acceptance of Solid Waste, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference, as recommended by the City/County Solid Waste-to-Energy Executive Committee.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Amendment No.2 to the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 9th day of August 2005, by Councilmember Jackman,
who moved its adoption, which motion being duly seconded by Councilmember Marsh,
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: ____________________________
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By _________________________________
MICHAEL D. MILICH, City Attorney
Pursuant to Paragraph 11 of the Agreement Between City of Modesto and County of Stanislaus Relating to Administration of Service Agreement for Supply and Acceptance of Solid Waste (the "Administration Agreement"), the City of Modesto ("City") and the County of Stanislaus ("County") hereby modify the Administration Agreement as follows:

1. Section 2 of the Administration Agreement is amended to read as follows:

"There is hereby created a SOLID WASTE-TO-ENERGY EXECUTIVE COMMITTEE which shall consist of two (2) members of the MODESTO'S City Council and two (2) members of the COUNTY'S Board of Supervisors, as selected by their respective legislative bodies and serving at their pleasure. Said SOLID WASTE-TO-ENERGY EXECUTIVE COMMITTEE shall serve in an advisory capacity to the respective legislative bodies of the parties to this agreement and shall also act in an advisory capacity to the SOLID WASTE-TO-ENERGY staff as hereinafter described.

Said committee shall select a chairperson from among its members and shall adopt rules and regulations for holding its meetings and conducting its business. Each of the parties hereto shall appoint sufficient personnel to act in a staff capacity for said Committee.

There shall be established a full-time staff position dedicated to assist MODESTO and COUNTY staff with management of the Service Agreement. The position shall be a COUNTY employee classified as a Manager I or Manager II, commensurate with experience and ability. The position shall be funded from the SOLID WASTE-TO-ENERGY FUND. MODESTO and the COUNTY staff shall agree upon duties and performance objectives for the position, which may be revised from time to time as the deemed necessary by staff.

Signatures on Following Page
IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 to the Administration Agreement in duplicate on ____________.

COUNTY OF STANISLAUS

By: __________________________
    Jeff Grover, Chairman
    Board of Supervisors

"County"

ATTEST: Christine Ferraro Tallman,
    Clerk of the Board of Supervisors of the
    County of Stanislaus, State of California

By: __________________________
    Deputy Clerk

APPROVED AS TO CONTENT:
    Department of Environmental Resources

By: __________________________
    Sonya K. Harrigfeld
    Director

APPROVED AS TO FORM:
    Michael H. Krausnick
    County Counsel

By: __________________________
    John P. Doering
    Assistant County Counsel

CITY OF MODESTO

By: __________________________
    Jim Ridenour
    Mayor

"City"

ATTEST: Jean Zahr, City Clerk

By: __________________________
    Deputy Clerk

APPROVED AS TO CONTENT:
    Parks, Recreation and Neighborhoods Department

By: __________________________
    Bob Quintella
    Acting Director

APPROVED AS TO FORM:
    Michael D. Milich
    City Attorney

By: __________________________
    Rolland R. Stevens
    Assistant City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-404

A RESOLUTION APPROVING THE COMPLIANCE MEASURES FOR AB 2176 LARGE VENUE AND LARGE EVENT RECYCLING, APPROVING THE ADOPTION OF THE “GUIDELINES FOR GARBAGE ENCLOSURES AND CONTAINERS” AND FORMALLY ADOPTING THE CIWMB’S “MODEL ORDINANCE RELATING TO AREAS FOR COLLECTING AND LOADING RECYCLABLE MATERIALS IN DEVELOPMENT PROJECTS” PURSUANT TO PUBLIC RESOURCES CODE SECTION 42910

WHEREAS, the Integrated Waste Management Act, AB 939 (1989) mandated that all cities and Counties achieve and maintain a 50 percent solid waste reduction goal, and

WHEREAS, AB 75 (1999) mandated that all state operated facilities achieve and maintain a 50 percent solid waste reduction goal, and

WHEREAS, AB 2176 (2004) now mandates that operators of large venues and events must promote waste reduction planning for large venues and large events by making recycling available and convenient to the attendees of large venues and large events, and

WHEREAS, local agencies are required to identify the large venues and large events within their jurisdiction that meet the defined criteria of: (1) a large “venue” is a facility that annually averages at least 2,000 attendees and workers on-site per day of operation, or (2) a large “event” is an event that charges an admission price or is operated by a local agency, and serves an average of at least 2,000 attendees and workers per day of the event, and

WHEREAS, on and after July 1, 2005, local agencies are to provide waste diversion information to large venue and large event operators, and
WHEREAS, a working group was formed by staff representatives of the City of Modesto to determine what the large venue and large events in Modesto were and develop an informational brochure and permit form to be distributed to the large venue and large event operators, and

WHEREAS, beginning July 1, 2005, and annually thereafter, the operators of the large venue and large events are required to submit to the local agency, within 30 days of a request from the local agency, written documentation of waste reduction, reuse, recycling, and diversion programs, if any, that were implemented at the large venue or large event, and the type and weight of materials diverted and disposed of at the large venue or large event as outlined in the permit form, and

WHEREAS, on August 1, 2006, and annually thereafter, local agencies must provide a report to the CIWMB specifying the diversion accomplishments for the top 10% waste generating large venues and large events in their jurisdiction, and

WHEREAS, beginning December 1, 2008, the California Integrated Waste Management Board (CIWMB) will evaluate the reports submitted by the local agencies to determine if less than 75% of the identified 10% large venues and events have complied with the reporting requirements and if they find that to be the case, then the CIWMB will recommend further statutory requirements to the Legislature for approval, and

WHEREAS, this mandate also amends Public Resources Code section 42911 to state that (a) each local agency shall adopt an ordinance relating to adequate areas for collecting and loading recyclable materials in development projects, and (b) if a local agency has not adopted an ordinance for collecting and loading recyclable materials in
development projects on or before September 1, 1994, the model ordinance adopted pursuant to Public Resources Code section 42910 shall take effect on September 1, 1994, and shall be enforced by the local agency and have the same force and effect as if adopted by the local agency as an ordinance, and (c) on and after July 1, 2005, a local agency shall not issue a building permit to a development project, unless the development project provides adequate areas for collecting and loading recyclable materials, and

WHEREAS, the City of Modesto did not adopt their own ordinance on or before September 1, 1994, and is therefore subject to the Model Ordinance Relating to Areas for Collecting and Loading Recyclable Materials in Development Projects adopted pursuant to Public Resources Code section 42910, and

WHEREAS, a working group formed by staff representatives of various departments in the City of Modesto determined the Model Ordinance needed to have more specific guidelines and, therefore, developed the Guidelines for Garbage Enclosures and Containers, and

WHEREAS, this item has been reviewed by the local garbage collection companies, the Citizens Advisory Committee on Recycling on May 24, 2005, the Construction Liaison Committee on June 14, 2005, and the Economic Development Committee on July 11, 2005, and

WHEREAS, as a local government agency the City has an obligation to comply with all Federal and State legislation, and AB 2176 is consistent with the Council's strategic plan policy section II.C and II.C.3 which states the City of Modesto will maximize recycling recovery and participation and will develop and implement new programs which will increase resource recovery and diversion,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approves the compliance measures for AB 2176 Large Venue and Large Event Recycling and approves the formal adoption of the CIWMB "Model Ordinance Relating to Areas for Collecting and Loading Recyclable Materials in Development Projects" pursuant to Public Resources Code section 42910 and approves the adoption of the "Guidelines for Garbage Enclosures and Containers".

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-405

A RESOLUTION APPROVING AVOID THE TWELVE GRANT PROJECT IN
THE AMOUNT OF $516,052.99 FROM THE STATE OF CALIFORNIA OFFICE
OF TRAFFIC SAFETY AND AUTHORIZING THE CITY MANAGER TO
EXECUTE THE GRANT

WHEREAS, The City of Modesto Police Department desires to undertake a
certain project designated as Avoid the Twelve from the State of California Office of
Traffic Safety (hereafter referred to as OTS), and

WHEREAS, the goal of the grant in the amount of $516,052.99 is to reduce
alcohol related injuries and death within Stanislaus County and raise the awareness of the
genral public regarding the problems with drinking and driving, and

WHEREAS, said project will be funded by a grant from the State of California
Office of Traffic Safety, and

WHEREAS, said project was accepted for funding for a period of three years
commencing on October 1, 2005 and ending on September 30, 2008, and

WHEREAS, the monies provided in this grant will provide for overtime Police
and Sheriff Departments personnel in the Stanislaus County to conduct DUI checkpoints,
and strike teams during Year-end Campaign, Memorial Day, Labor Day, Stanislaus
County Fair, and Independence Day during prime DUI times, and

WHEREAS, the City of Modesto, in partnership with 11 agencies in this county,
including Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock, Waterford,
Highway Patrol, Sheriff’s Office, and the California State University Police, will come
together for causes that affect each area of the county, and
WHEREAS, the Safety and Communities Committee unanimously supported this action at its meeting of August 1, 2005.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the three-year grant from the State Office of Traffic Safety in the amount of $516,052.99 and approves the “Avoid the Twelve” project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the grant contract with OTS, including any extensions or amendments thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2005-406

A RESOLUTION AMENDING THE FISCAL YEAR 2005/06 BUDGET TO
RECOGNIZE REVENUE FOR MULTI-YEAR GRANT AND APPROPRIATE
FUNDS FOR THE AVOID THE TWELVE GRANT

WHEREAS, the City of Modesto Police Department, in partnership with 11 law
enforcement agencies including Ceres, Hughson, Newman, Oakdale, Patterson,
Riverbank, Turlock, Waterford, Highway Patrol, Sheriff’s Office, and the California
State University Police, will unite in “Avoid the Twelve” to combat drunk drivers and
raise the awareness of the general public regarding the problems associated with drinking
and driving, and

WHEREAS, the Modesto Police Department will have a Project Manager who
will oversee administration and implementation of this county-wide program, and

WHEREAS, the City of Modesto Police Department will administer the
reimbursement of the various law enforcement agencies that participate in the project,
and

WHEREAS, the funds will be used for the DUI and Strike Team participants, and
education material, and

WHEREAS, the grant will commence on October 1, 2005 and end on September
30, 2008, and

WHEREAS, the City shall be compensated $516,052.99 from the State of
California Office of Traffic Safety for this program, and

WHEREAS, there is no local match required for this program, and

WHEREAS, the Safety and Communities Committee unanimously supported this
action at its meeting of August 1, 2005,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto

that the 2004/05 Annual Budget is hereby amended as follows:

Appropriate:

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<td>$516,052.99</td>
<td>Avoid the Twelve Grant</td>
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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 August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: Dunbar

**ATTEST:**

**APPROVED AS TO FORM:**

By: [Signature]

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-407

A RESOLUTION ACCEPTING A $100,000 GRANT ENTITLED THE MODESTO ABC PROJECT FROM THE STATE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL FOR THE REDUCTION OF CRIME AND EXCESSIVE CALLS FOR SERVICE IN AND AROUND MODESTO'S DISORDERLY AND DISRUPTIVE ABC LICENSED ESTABLISHMENTS AND TO REDUCE SALES OF ALCOHOL TO MINORS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the City of Modesto Police Department desires to undertake a certain project designated as the Modesto ABC Project to be funded in part from funds made available through the Grant Assistance to Local Law Enforcement Agencies Project administered by the Department of Alcoholic Beverage Control (hereafter referred to as ABC), and

WHEREAS, acceptance of said $100,000 grant will allow agencies in Stanislaus County and other outlying areas to work in collaboration to proactively address alcohol related crimes in Stanislaus County.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the $100,000 grant entitled the Modesto ABC Project from the State Department of Alcoholic Beverage Control.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract, including any extensions or amendments thereof and any subsequent contract with the State in relation thereto.

BE IT FURTHER RESOLVED that any liability arising out of the performance of this contract, including civil court actions for damages, shall be the responsibility of the
grant recipient and the authorizing agency. The State of California and ABC disclaim responsibility for any such liability.

BE IT FURTHER RESOLVED that grant funds received hereunder shall not be used to supplant expenditures controlled by this body.

BE IT FURTHER RESOLVED that this award is not subject to local hiring freezes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2005-408

A RESOLUTION AMENDING THE FISCAL YEAR 2005/2006 OPERATING BUDGET ESTIMATING REVENUE AND APPROPRIATING FUNDS

WHEREAS, the Police Department acquired a grant award in the sum of $100,000 from the State Department of Alcoholic Beverage Control for a project to reduce crime and excessive calls for service in and around Modesto's disorderly and disruptive ABC licensed establishments and to reduce sales of alcohol to minors, and

WHEREAS, there is no local match required for this program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2005/2006 Annual Budget is hereby amended as indicated below to initiate said grant project:

<table>
<thead>
<tr>
<th>Expense</th>
<th>To: 0410-190-2992-0130</th>
<th>$92,500</th>
<th>Officers' Overtime Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0410-190-2992-0262</td>
<td>2,500</td>
<td>Officers' Operating Expenses</td>
</tr>
<tr>
<td></td>
<td>0410-190-2992-0356</td>
<td>2,500</td>
<td>Program Equipment</td>
</tr>
<tr>
<td></td>
<td>0410-190-2992-0207</td>
<td>2,500</td>
<td>Required Conferences</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$100,000</td>
<td></td>
</tr>
</tbody>
</table>

| Revenue | To: 0410-190-2992-3190 | $100,000 | ABC Grant Funds |

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 August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-409

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH STANTEC CONSULTING, INC., FOR ADDITIONAL ENGINEERING DESIGN SERVICES IN THE AMOUNT OF $36,794, FOR THE PROJECT TITLED “REPLACEMENT OF THE ROSE/CELESTE SEWAGE LIFT STATION,” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO THE AGREEMENT, INCREASING THE TOTAL ESTIMATED COST OF THE SERVICES TO $276,295

WHEREAS, the Public Works Department has determined that landscaping and an ornamental fence are necessary for the project titled “Replacement of the Rose/Celeste Sewage Lift Station”, and

WHEREAS, City staff desires to have the force main work separated from the lift station work and bid as an alternate, and

WHEREAS, the Public Works Director has recommended accepting the proposal of Stantec Consulting, Inc., for additional design services in an amount not to exceed $36,794,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to Agreement with Stantec Consulting, Inc., for additional engineering design services for the project titled “Rose/Celeste Sewage Lift Station” in an amount not to exceed $36,794.

BE IT FURTHER RESOLVED that the City Manager, or his designee, 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 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-410

RESOLUTION ACCEPTING A FEDERAL AVIATION ADMINISTRATION GRANT AGREEMENT OFFER NO. DTFA08-05-C-31607 AND AMENDING THE CAPITAL IMPROVEMENT BUDGET TITLED AIRPORT EXPANSION AND RESURFACING

WHEREAS, the City of Modesto has submitted to the Federal Aviation Administration (FAA) a Project Application for a grant of Federal funds for the Aircraft and Transient Apron project associated with the Modesto City-County Airport/Planning Area, and

WHEREAS, the Federal Aviation Administration has approved the Aircraft and Transient Apron project No. 03-06-0153-29 for the Airport, and

WHEREAS, the City accepts all conditions of the Agreement and authorizes the City Manager to execute the Agreement with the Federal Aviation Administration, and

WHEREAS, funds from the Federal Aviation Administration Grant in the amount of $1,450,000 will be placed in the Airport Expansion and Resurfacing account 6320-440-M275, and

WHEREAS, City matching funds in the amount of $72,500 will be transferred from the Airport Reserves and Passenger Facility Fees to the Airport Expansion and Resurfacing account 6320-440-M275,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes and directs the City Manager, or his designee, to accept all Grant conditions and execute the Agreement with the FAA.

BE IT FURTHER RESOLVED that the Council hereby directs staff to amend the Budget to reflect the FAA Grant and transferred funds.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-411

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE "EXTEND CORPORATE AND RECONSTRUCT TRANSIENT AIRCRAFT APRONS" PROJECT, ACCEPTING THE BID AND APPROVING A $1,269,726 CONTRACT WITH GEORGE REED, INC., FOR THE PROJECT TITLED, "EXTEND CORPORATE AND RECONSTRUCT TRANSIENT AIRCRAFT APRONS," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, the "Extend Corporate and Reconstruct Transient Aircraft Aprons" project will refurbish and extend the aircraft parking area between the terminal and the tower, and

WHEREAS, the project will also increase safety and security, and provide taxi and parking facilities for more and larger aircraft, and

WHEREAS, City staff has reviewed the project plans and specifications and recommends approval to the City Council, and

WHEREAS, the sole bid received for "Extend Corporate and Reconstruct Transient Aircraft Aprons" was opened at 11:00 a.m. on April 19, 2005, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $1,269,726 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 approves the plans and specifications for said project, and accepts the bid of George Reed, Inc, in the amount of $1,269,726, and hereby awards George Reed, Inc., the contract titled "Extend Corporate and Reconstruct Transient Aircraft Aprons"
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 August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
RESOLUTION ADOPTING RECOMMENDATIONS CONTAINED IN THE ATTACHED MEMO REGARDING SEWER RATE ALTERNATIVES-POLICY ISSUES FROM FORESIGHT CONSULTING DATED JULY 11, 2005 AND DIRECTING STAFF TO PROCEED WITH THE SEWER RATE STUDY BASED ON THOSE RECOMMENDATIONS

WHEREAS, Council has directed staff to proceed with steps necessary to conduct a Sewer Rate Study, and

WHEREAS, Council has approved a contract with Foresight Consulting for services related to producing a Cost of Service Study to determine the appropriate level of sewer rates for the City, and

WHEREAS, there are a number of policy level decisions which must be made in order to conduct a Cost of Service Study, and

WHEREAS, Foresight Consulting, under the direction of the Sewer Rate Task Force comprised of key staff from affected departments, has produced the attached report, entitled “Sewer Rate Alternatives – Policy Issues,” dated July 11, 2005, and marked as Exhibit “A,” with the Task Force’s recommendations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the recommendations contained in the attached Exhibit “A” from Foresight Consulting, dated July 11, 2005, entitled “Sewer Rate Alternatives-Policy Issues,” and directs staff to conduct the Sewer Rate Study based upon said recommendations.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, by Councilmember Hawn, 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
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich
MICHAEL D. MILICH, City Attorney
Sewer Rate Alternatives – Policy Issues

EXECUTIVE SUMMARY AND RECOMMENDATIONS

After reviewing a number of alternatives for both rate structures and alternative cost-of-service methodologies, Foresight recommends the Sewer Rate Task Force consider approving the following two policy/rate alternatives in developing the City's new sewer rates:

1. Use a Fixed-Charge Rate Structure – Continue using a fixed-charge rate structure like the one the City is currently using. This includes:
   - Flat rates for all single-family residential customers, with no distinction between metered and flat rate water customers.
   - Multi-Family rates based on number of dwelling units.
   - Commercial, including schools and churches, and minor industrial rates based on water consumption and the strength characteristics (flow, BOD and TSS) typical of businesses in each of the City's non-residential classes (Sewer Groups 1 through 4).
   - Major industrial rates based on monitored and metered sewer effluent, with monthly bills calculated using the number of units and unit costs for each strength component.

For information purposes, the following table shows the number of units, annual revenue, and the customer classes included in the City's current rate structure.

<table>
<thead>
<tr>
<th>Summary of Sewer Units and Charges (2003)</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Modesto</td>
</tr>
<tr>
<td>Billing Class</td>
</tr>
<tr>
<td>Residential</td>
</tr>
<tr>
<td>Residential</td>
</tr>
<tr>
<td>Multi-Family</td>
</tr>
<tr>
<td>Residential Subtotal</td>
</tr>
<tr>
<td>Commercial</td>
</tr>
<tr>
<td>Sewer Group 1</td>
</tr>
<tr>
<td>Sewer Group 2</td>
</tr>
<tr>
<td>Sewer Group 3</td>
</tr>
<tr>
<td>Sewer Group 4</td>
</tr>
<tr>
<td>Sewer Only</td>
</tr>
<tr>
<td>Churches</td>
</tr>
<tr>
<td>Commercial Subtotal</td>
</tr>
<tr>
<td>Industrial</td>
</tr>
<tr>
<td>67</td>
</tr>
<tr>
<td>TOTAL</td>
</tr>
</tbody>
</table>

Note: There are three outdated classes totaling 25 units and <$9,000 revenue not shown. These three classes will be combined into existing classes.
Although there are many alternatives the City could use to bill its sewer customers for sewer system costs, the following are the reasons we are recommending using a fixed-charge rate structure for Modesto’s customers:

- It is simple and easy to understand.
- It is consistent with the City’s historical rate practices and the water rate policies.\(^1\)
- It is more reliable from a revenue generation standpoint than a volume-based, conservation-oriented sewer rate structure.

2. Use a Uniform-Service Charge Approach in Cost-of-Service Rate Calculations – The City should use this approach because it develops and applies the same flow, BOD and TSS unit costs to all customer classes. This includes:

- Cost allocations based on the measured or best available estimates of total annual flow, BOD, and TSS generated by each customer class.\(^2\)
- Grouping of similar residential and non-residential customers into customer classes but recognizing strength and effluent generation differences between these groupings.
- Charging major industrial, and larger commercial customers as appropriate, based on their individually metered and monitored wastewater strengths, again applying exactly the same unit costs to industrial and all other customer classes.
- Treating all customers as part of the same service area and as using all the system facilities in that all customers do actually use, and have paid for, all collection, treatment and disposal facilities. Therefore, all customers should share in the future regulatory risks and costs of necessary capital improvements based on their proportional use of the system.

The following are the primary reasons we are recommending using this uniform-service charge approach in developing the City’s sewer rates:

- It applies exactly the same unit costs for flow, BOD, and TSS to all customers and customer classes\(^3\) and, therefore, is consistent with Prop 218 requirements and cost-of-service principles.
- It is consistent with the City’s historical cost allocation practices.
- It protects all customers from the risk of changing regulations and capital improvements that could otherwise have dramatic impacts on any one customer class under a non-uniform cost-of-service approach.

These alternatives and recommendations have been discussed in depth with the Sewer Rate Task Force, including a review of a number of technical issues such as the availability of data, the City’s historical rate and cost allocation practices, historical investments by various customer classes, possible changes and rate impacts that might occur in a changing regulatory environment, and legal implications related to compliance with Prop 218.

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\(^1\) While we note that City’s new water rate structure makes a distinction between charges to metered and flat rate residential customers, this same approach is not supportable for sewer rates because we have no data that would indicate a difference between the amounts of effluent generated by metered versus flat rate single-family customers. We believe the reason metered residential customer use less water than flat-rate customers is due almost exclusively to landscape watering.

\(^2\) See page 6 of this memo for a more detailed discussion of peak system cost allocation issues.

\(^3\) The combination of unit costs and the estimated strength characteristics for each customer class are based on typical strengths recommended in the State’s revenue program guidelines with minor adjustments based on actual flow and loadings received at the City’s treatment facilities. That is, the “mass balance” of flow and loadings received at the WWTP will be consistent with those reflected in the sewer rates.
The remainder of this memo provides an overview of some of the rate structure alternatives and cost-of-service allocation methodologies that were reviewed and evaluated during the process of developing these recommendations.

**INTRODUCTION**

The Sewer Rate Task Force has recently resolved a number of policy issues related to the sewer rate study. However, the rate structure and actual cost-of-service methodology is still under discussion in terms of the "nuts-and-bolts" of the calculations.

There are two general rate alternative issues that need to be considered:

1. **Rate structure** alternatives, which deal with the type of charges used to calculate monthly sewer bills for each customer class.
2. **Cost-of-service** alternatives, which are independent of the rate structure and deal with the methodology of how costs are allocated to wastewater customers and treatment parameters (flow, BOD, and TSS).

**RATE STRUCTURE ALTERNATIVES**

Two Primary Rate Structure Alternatives – Of the many types of rate structures the City could consider, the two relevant rate structure alternatives are:

- **Volume-Based Charges** – which reflect water consumption records of individual customers and are typically combined with a fixed monthly charge.
- **Fixed Charges** – which are based on typical or average levels of effluent generation and strength for various customer classes. Fixed charges do not vary by customer within each customer class nor do they reflect water consumption differences of individual customers.

**Background** – Most California agencies charge residential customers a fixed rate for wastewater collection, treatment, and disposal services instead of rates based on the volume of water used. According to the California Water Resources Control Board, more than 77 percent of California agencies charge fixed rates for sewer services to residential customers. However, many city systems serving large populations tend to charge sewer service rates based on volume. Of the six largest California jurisdictions, the cities of Sacramento and San Jose charge a fixed rate while the cities of Los Angeles, San Diego, San Francisco, and Oakland use a volume-based sewer service charge.

Historically, utilities began charging for services without the benefit of metering water volume, and therefore, utilities had no choice but to charge a fixed rate or fee for water and sewer services. Additionally, agencies that don’t provide both water and sewer services typically don’t have direct access to water volume data. Therefore, it is much easier for them to charge fixed rates for sewer services rather than volume-based rates.

Fixed rate and volume-based rate structures each have advantages and disadvantages, are intended to achieve different goals and objectives, and represent different rate structures. In general, fixed rates are based on average water use and effluent strengths or equivalent dwelling units and are simple in design, easy to understand, and generate more stable revenues. Because revenues are based on the either the averages or the number of dwelling
units (i.e., a typical single family residence) rather than volume, reductions in volume due to water conservation, weather, or other causes do not reduce sewer utility revenues.

In contrast, volume-based rates contribute to, and in fact are typically designed with the intent of encouraging customers to use less water. Customer decisions about their water consumption are based primarily on the individual's habits, economic status, and hard-scape water needs (e.g., lawn area, number of showers, toilets, etc.). However, volume-based sewer charges would mean that Modesto residents would have volume-based charges for both water and sewer. As a result, water consumption would be the dominant factor in the size of the customer's combined water and sewer service bill.

1. Fixed Charge Rate Structures

Although fixed-charge residential rates can be set in a number of ways, including block rates and combined water and sewer bills, the most logical and most commonly used approach is to use the average water consumption. This average consumption can factor in the estimated effluent factor and/or be based on the average winter usage.

The data for the typical flow for a single family residence in Modesto needs to be updated as a part of the sewer rate analysis. However, the water consumption data used for the water rates adopted last fall indicated that flat-rate (unmetered) water customers used approximately 17% more than metered customers. Possibly the more important question in developing sewer rates for Modesto is how the winter consumption for flat-rate and metered residential customers compares. If the more recent data indicates the relative levels of effluent generated by flat-rate and metered customers is quite different, that would suggest the City should consider assessing a different fixed charge sewer rate to flat and metered customers.

Since sewer system costs are typically largely made up of fixed costs, using fixed charges and average costs has the advantage of providing a more reliable (less variable) revenue source. The down-side is that customers who use very little water may complain that they are paying as much as customers that consume large amounts of water, such as larger houses with many occupants.

2. Volume-Based Rate Structures

Alternative Volume-based Rate Structures for Residential Customers – Volume-based charges for residential customers can be structured several different ways. Most jurisdictions group residential customers into one rate class, assuming that the wastewater strength, biological oxygen (BOD), and total suspended solids (TSS) do not vary significantly among residential customers.

Volume-based sewer service charges are generally set as a charge per hundred cubic feet (hcf), or one unit, of water consumed. Agencies can apply these sewer service charges as a uniform volume rate or as a block rate. Although block rates is a commonly used methodology for water rates, it is quite uncommon for sewer rates and therefore is probably not a reasonable rate alternative for Modesto.

Although residential customer charges are based on estimated wastewater strengths, large industrial and food processing customers who have their effluent individually metered and monitored for strength characteristics are charged separately for each constituent (flow, BOD and TSS).
The Use of Effluent Factors – Because not all water used by a customer is discharged to the sewer system, volume-based sewer service charges often incorporate an "effluent factor" that estimates the percentage of the metered water volume that is returned to the sewer system. The volume-based sewer charge is per hcf of water consumption but includes (i.e., accounts for) the effluent factor. For example, if a single-family residential customer has an effluent factor of .80, this assumes that 80% of every unit of water used by the customer is returned to the sewer system. Since different customer classes have different effluent factors, these differences are built in to the volume-based charge for each customer class.

According to a recent Black & Veatch Wastewater Rate Study for the City of San Francisco, most California agencies use a flow factor of 60 to 70 percent, although the Los Angeles flow factors range from 80 percent in dry winters to 92 percent in wet winters.

Winter Water Use as the Basis for Sewer Charges – Many California agencies that use a volume-based sewer rate base their residential charges on water consumption during the winter months when outdoor irrigation is at a minimum and, therefore, the highest percentage of the water is returned to the sewers. Winter is typically defined as the lowest three or four months of water consumption. The use of winter consumption is typically restricted to residential customers, while non-residential customers that discharge larger volumes of wastewater and/or higher levels of pollutants are billed based on either their metered effluent flow and strength, average flow and strengths for their customer class, or by a multiplier of the typical (average) equivalent dwelling units.

3. Other Rate Structure Considerations

Conservation Issues in Redesigning Sewer Rates – Using a volume-based sewer rate structure to meet water conservation goals has two problems. First, a consumer's use of sewer services generally hinges on their decision to use potable water, and they otherwise do not control the amount of effluent they generate. Because of this, the water rate structure is a more direct mechanism to meet water conservation goals than the sewer rate structure.

Second, because sewer service systems have high fixed costs, short-run decreases in water consumption result in a shortfall in the required revenues. In the long-run, decreases in effluent volume spreads fixed costs over fewer units of flow, resulting in a higher cost per unit of service (though the same may not be true for BOD and TSS). Therefore, customers who reduce water use also reduce wastewater volume, with the result that the cost per unit of sewer flow increases. After this adjustment, customers often realize there is little or no actual decrease in their sewer bill.

Using Base Rates to Cover Fixed Costs – Agencies that base sewer service charges on the volume of water used often apply a base rate or fixed monthly charge in addition to the volume rate. The fixed charge is often intended to recover customer service and administrative costs. Fixed charges can include:

- A minimum volume of water consumption, typically set well below the average residential consumption level
- Minimal administrative and overhead charges in order to not penalize low-volume customers and to emphasize the water-conservation aspect of the rate structure

**Cost-of-Service Alternatives**
There are a number of cost-of-service variations that should be considered, each of which could be used in combination with either a volume-based or fixed-charge rate structure:

**Uniform Service Approach** – Under this approach, all customers are considered a part of the entire sewer collection-treatment-disposal system as opposed to treating individual customer classes as if they were the exclusive customers of any specific system components. For example, the Sewer Rate Task Force has discussed whether the cannery seg customers should be considered the sole customers of the City’s 6.5-mile long outfall line and the Jennings Road Treatment Facility. The conclusion was that (1) they are not the sole users of these facilities, and (2) these facilities have been jointly funded by all system customers, not just the cannery seg customers. This is a strong argument for using a uniform service approach rather than separating out, and treating individual customer classes differently.

Additionally, the uniform service approach is consistent with the City’s water rate policies and would avoid several problems that would occur if each system component was allocated to each customer class. For example, a uniform service approach does not factor in seasonal peak demands of different customer class, which would be a significant change from the City’s historical rate practices.

**Non-Uniform System Approach** – In contrast to the uniform service approach, a non-uniform system approach could treat cannery seg customers as if they were the exclusive users of the City’s 6.5-mile long outfall line and the Jennings Road Treatment Facility. This approach could also allocate cannery seg customers smaller or a zero percent share of costs for other facilities such as the primary treatment plant.

As the Sewer Rate Task Force has discussed, this may appear to offer short-term advantages to wet industry or other customers. Unfortunately, it also exposes those customers to some substantial risks, including major rate increases should one or more of the larger customers withdraw from the system or if the SWQCB significantly increases the permit requirements related to land-application or adopts other more stringent discharge requirements.

**Peak System Cost Allocation** – “Peak design” factors can be an important factor in how capital costs are allocated. Customers like food processors often generate significant amounts of effluent only during the summer months, and nothing the rest of the year. Conversely, there is also a considerable peak in flow caused by the inflow and infiltration of rain water into the system. This could be attributed largely to the residential classes by virtue of their relatively large area. Peaking factor can have a significant impact on how the system is sized (designed) to handle those peaks. Currently, the City uses an allocation methodology that treats all customer classes equally, without regard to peaking factors.

Full consideration of those peaking factors could result in higher sewer charges for customers with high peaking factors, such as wet industry customers. Higher charges to high-peak customers would also reduce the total amount paid by customer classes with minimal peak uses, such as commercial customers. When cities adopt cost-of-service goals and objectives, the use of peaking factors must be balanced against those overall goals and objectives. AWWA rate methodologies do not mandate the inclusion of peaking factors, although AWWA does recognize it as a valid factor in setting rates.

**PROP 218 COMPLIANCE**

Proposition 218 (Prop 218), generally known as the “the right to vote on new taxes” law, requires that any fee imposed as an incident of property ownership shall not “...exceed the proportional cost of the service attributable to the parcel.” Municipal sewer utilities, such as the City of Modesto, have the choice of either taking a legally conservative approach to this law by assuming it applies to any changes in its sewer rates, or assuming it does not apply. The City
has approached the recent changes to the water rates by assuming Prop 218 does apply, or at least decided to comply with Prop 218 requirement whether or not they apply, and that this law furthermore includes a prohibition against any water (or sewer) utility customer or customer class subsidizing any other customer(s) or customer class.

To address the concern about possible cross-class subsidies, the sewer rate methodology the City chooses to use will need to conform to commonly accepted industry rate-making practices by providing cost-of-service based rates for each customer class. This includes the AWWA and State revenue program guidelines discussed below.

**RATE METHODOLOGIES: AWWA AND STATE REVENUE PROGRAM GUIDELINES**

American Water Works Association (AWWA) – The AWWA Rate Manual (M1) presents a few key principles that are relevant to the sewer rate study, and which were included in the final report for the water rate study adopted by the City last fall:

A water rate structure is a fee or schedule of fees designed, among other things, to recover the utility's costs. The design, however, is a function of many diverse and sometimes competing objectives. A properly selected rate structure should support and optimize a blend of various utility objectives and should work as a public information tool in communicating these objectives to customers.

No one rate structure meets all utility objectives equally, and not all objectives are valued the same by the utility or its customers. Rate objectives common to many utilities and their customers include

- Yielding necessary revenue in a stable and predictable manner
- Minimizing unexpected changes to customer bills
- Discouraging wasteful use and promoting justified uses
- Promoting fairness and equity
- Maintaining simplicity, certainty, convenience, feasibility, and freedom from controversy

Recognizing and recovering the costs associated within different types of demand from appropriate customer classes avoids subsidies among customer classes and minimizes potential subsidies within customer classes.

AWWA also considers uniform (fixed rate) charges to be simple, generally perceived as equitable because all rate payers pay the same price for each unit of use, and as providing relatively stable revenues.

In view of these general rate principles, a fixed-charge sewer rate structure appears to be consistent with AWWA methodologies and principles.

State Revenue Program Guidelines – The State provides a general rate methodology that has historically been applied to almost all municipal wastewater treatment systems. This was because almost every treatment plant received Federal Clean Water Grant funding when they were constructed, upgraded or expanded. However, most plants have long since retired those obligations and now rely on non-Federal sources of funding.

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As the local funding agency for the Clean Water program, the State Water Resources Control Board has historically had an oversight role in reviewing and approving revenue programs. As long as the programs submitted to the State were generally compliant with State guidelines, the State would approve those rate structures and revenue programs. "Generally compliant" typically meant there were no overt subsidies of one customer class over another, sewer revenues were being used to support the O&M and capital requirements of the sewer enterprise (and not the city's general fund), and cost allocations, particularly for capital facilities, were fairly consistent with the "guidelines" the state provided.

Most revenue programs today are no longer even submitted to the State for review unless the City is applying for State Revolving Fund Loan proceeds or has outstanding Clean Water Grant funding. Because of this, the State's guidelines are not a significant concern with respect to how Modesto's sewer rate program is developed. However, the details of the cost allocations and rate structure will be consistent enough so that the State would not have a concern if the revenue program was submitted for their review.
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-413

A RESOLUTION APPROVING THE SOLICITATION OF BIDS TO REMOVE TWO STRUCTURES LOCATED AT 2500 SYLVAN AVENUE FOR THE SYLVAN AVENUE WIDENING ROADWAY PROJECT

WHEREAS, Council Resolution No. 2004-451 adopted the 2004/2005 Capital Improvement Program, and

WHEREAS, the 2004/2005 Capital Improvement Program included a project titled, “Sylvan – South Side Symphony Park,” and

WHEREAS, two existing structures need to be removed or demolished prior to the roadway widening, and

WHEREAS, the City recently purchased both structures, and

WHEREAS, the City estimates that moving the structures would be less expensive than demolition, and

WHEREAS, staff requests authority to formally solicit bids for the removal of both structures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the solicitation of bids to remove two structures located at 2500 Sylvan Avenue for the Sylvan Avenue Widening Roadway project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-414

A RESOLUTION AMENDING THE SYLVAN – SOUTH SIDE SYMPHONY PARK BUDGET BY $540,000 FROM CFD RESERVES TO FULLY FUND THE SYLVAN AVENUE ROADWAY WIDENING PROJECT

WHEREAS, Council Resolution No. 2004-451 adopted the 2004/2005 Capital Improvement Program, and
WHEREAS, the 2004/2005 Capital Improvement Program included a project titled “Sylvan – South Side Symphony Park,” and
WHEREAS, two existing structures need to be removed or demolished prior to the roadway widening, and
WHEREAS, the City recently purchased both structures, and
WHEREAS, concurrent with this resolution, by Resolution No. 2005-413, Council authorized staff to formally solicit bids for the removal of both structures, and
WHEREAS, once the structures are removed the City will solicit formal bids to widen the south side of Sylvan Avenue, and
WHEREAS, a budget adjustment of $540,000 from CFD Reserves is needed to fully fund the Sylvan Avenue Roadway Widening project, and
WHEREAS, when the State of California releases $285,000 held in Escrow, the funds will backfill CFD Reserves,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves funding transfers as set forth herein to allow for structure removal and to fully fund the Sylvan – South Side Symphony Park project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-415

A RESOLUTION AMENDING SECTIONS 1 AND 2 OF RESOLUTION NO. 2003-624
ENTITLED “A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR
PLANNED DEVELOPMENT ZONE, P-D(563). (PRATT)” (SIMVOULAKIS)

WHEREAS, the Modesto City Council, by Ordinance No. 3337-C.S., which was
introduced on November 25, 2003, finally adopted on December 11, 2003, and which
became effective on January 10, 2004, granted Planned Development Zone, P-D(563), to
allow a two-story professional office building, property located on the east corner of 16th
and G streets, and

WHEREAS, City Council Resolution No. 2003-624 adopted by the City Council
on November 25, 2003, approved the development plan for Planned Development Zone,
P-D(563), and contained the conditions of approval thereof, and

WHEREAS, a verified application for an amendment to Planned Development
Zone, P-D(563), was filed by George Simvoulakis on March 11, 2005, to allow the office
building to be developed as a condominium, and

WHEREAS, after a public hearing held on June 20, 2005, in the Tenth Street
Place Chambers located at 1010 10th Street, Modesto, California, it was found and
determined by the Planning Commission, by its Resolution No. 2005-31, that an
amendment to P-D(563) as requested is required by public necessity, convenience, and
general welfare for the following reasons:

1. The proposed office condominium development is consistent with
the expanding commercial core of downtown Modesto.

2. The proposed office development is consistent with the current
General Plan land use designation for the site.
3. The proposed project is within the scope of the General Plan Master EIR (SCH No. 1999082041).

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

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

6. There are no specific features unique to this project that require project specific mitigation measures. All certified mitigation measures identified in the MEIR will apply Citywide, including this project as appropriate.

WHEREAS, said matter was set for a public hearing of the City Council on August 9, 2005, at 5:30 p.m., the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of George Simvoulakis for an amendment to Planned Development Zone, P-D(563) to allow for an office condominium should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2005-31 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3393-C.S. on August 9, 2005, amending Section 2 of Ordinance No. 3337-C.S. to allow for an office condominium including uses allowed in the Professional Office, P-O Zone.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Section 1 and 2 of Modesto City Council Resolution No. 2003-624 entitled “A Resolution Approving a Development Plan for Planned Development Zone, P-D(563). (Pratt)” are hereby amended to read as follows:
SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(563), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and elevations titled “Commercial Office Building 16th and G Streets” as amended in red, stamped approved by the City Council.

2. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhoods Director. Provision shall be made for the installation and maintenance of one deciduous shade-giving tree for every eight parking stalls, evenly distributed. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

3. Prior to the issuance of Certificate of Occupancy, landscaping and the irrigation system shall be installed in accordance with the approved plan.

4. Prior to the issuance of Certificate of Occupancy, a six-foot-high, solid double-sided alternating-board fence with decorative masonry pilasters at 16-foot on centers shall be constructed along the southeast property line.

5. All landscaping, fences, and walls shall be maintained in accordance with the approved plan and the premises shall be kept free of weeds, trash, and other debris.

6. Prior to occupancy of any building, irrigation, electrical, gas and domestic water lines shall be removed, relocated, or protected as required by the City Engineer or designee and/or the utility companies, and easements for utility lines to remain shall be dedicated.

7. Street improvements consistent to Standard Specifications shall be provided prior to the occupancy of any structures or when requested by the City Engineer or designee to alleviate a health, safety, or traffic problem in the area.

8. Prior to issuance of a building permit, improvement plans for required improvements, including, but not limited to, improving the alley access to/from G Street to the City’s Standard for a commercial drop-curb type, shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.
9. All existing street and property monuments within or abutting this project site shall be preserved. If, during construction of on-site or off-site improvements, monuments are damaged or destroyed, the applicant/developer shall retain a qualified licensed land surveyor or civil engineer to reset those monuments per City Standards and file the necessary information with the County Recorder’s Office as required by AB1414.

10. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building Inspection all fire hydrants as required by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures.

11. Ten-foot-wide public utility easements, and planting easements located within the ten-foot-wide public utility easements, shall be dedicated along all street frontages as required by the City Engineer or designee.

12. Prior to the issuance of a building permit, the developer shall submit a plan for approval by the Public Works Director; or designee to provide on-site treatment of stormwater in accordance with the guidance manual for new development stormwater quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.

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

14. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

15. All signs shall comply with the sign requirements of the P-O Zone.
16. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Public Works Director or designee. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community and Economic Development Department Director.

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

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

"SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(563):

The entire construction program be accomplished in one phase, construction to begin on or before June 20, 2008 and completion to be not later than June 20, 2009."

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

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

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance amending Planned Development Zone, P-D(563), becomes effective.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 9th day of August 2005, by Councilmember Jackman,
who moved its adoption, which motion being duly seconded by Councilmember Marsh,
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: [Signature]
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: [Signature]
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-416

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING PLANNED DEVELOPMENT ZONE, P-D(563), TO ALLOW AN OFFICE CONDOMINIUM, PROPERTY LOCATED ON THE EAST CORNER OF 16TH AND G STREETS (SIMVOULAKIS)

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

WHEREAS, on November 25, 2003, by Ordinance No. 3337 C.S., the City Council report for P-D(480) to P-D(563) for a two-story downtown professional; office building and surface parking on the east corner of 16th and G Streets, and

WHEREAS, George Simvoulakis has proposed that the P-D(563) Zone be amended to rezone from Planned Development Zone, P-D(480), to Planned Development Zone, P-D(563), in the City of Modesto ("the project") to allow the approved office building to be developed as an office condominium, and

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

WHEREAS, the City’s Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2003-82 reviewed the proposed
P-D(563) project to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new or additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on July 20, 2005, the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on August 9, 2005, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the P-D(563) project, a copy of which is attached hereto as Exhibit "A", and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The proposed project is within the scope of the General Plan Master EIR (SCH No. 1999082041).

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

3. No new mitigation measures or alternatives will be required as a result of the proposed project that were not previously considered in the General Plan Master EIR.
4. There are no specific features unique to this project that require project specific mitigation measures. All certified mitigation measures identified in the MEIR will apply Citywide, including this project as appropriate.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: [Signature]
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]
MICHAEL D. MILICH, City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2003-82
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. 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 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:
P-D - 16th Street Office

B. Lead agency name and address:
City of Modesto, PO Box 642, Modesto, CA 95353

C. Contact person and phone number:
Josh Bridegroom, Community and Economic Development Department, (209) 571-5540

D. Project Location:
East corner of 16th and G Streets.

E. Project Sponsor:
Mike Pratt, 1720 G Street, Modesto California 95354

F. General Plan Designation:
Redevelopment Planning District

G. Current Zoning:
P-D(480)

H. Description of Proposed Project:
This is an application to rezone P-D(480) to Planned Development to allow for the development of a 22,726-square-foot, two-story office building. The project is proposed to gain access to 16th Street via a new drive approach at the south corner of the property and access to G Street via the existing alley at the north corner of the property. The applicant is proposing 40 parking stalls in conjunction with this development.

I. Surrounding land uses:
The project is surrounded by 16th Street to the northwest, a commercial parking lot, multi-family residence and vacant lot to the northeast, a single-family residence to the southeast, and G Street to the southwest.

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 with the analysis contained within the Master EIR.

A. Traffic and Circulation

The General Plan designates the project site as redevelopment planning district. The project is consistent with this designation in land use and intensity. However, the number of parking spaces proposed is five fewer than what is required by City Standards. This was determined to have a less than significant impact on traffic and circulation, as the overall traffic volume generated by this project is still consistent with the assumptions in the MEIR. Therefore, there would be no change needed in the Traffic and Circulation section of the EIR. Therefore, 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 still valid.

B. Degradation of Air Quality

The air quality impacts for this project are directly related to the traffic impacts. Since the traffic impacts are less than significant, there would be no change needed in the Degradation of Air Quality section of the EIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through IV-2-26) are therefore still valid.

C. Generation of Noise

The General Plan MEIR assumed that there would be further development and thus, noise generation within the Baseline Developed Area. This project will not generate noise greater than what was anticipated by the EIR, in that it is in an area that was anticipated to transition into high-intensity office and commercial uses. Therefore, the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are still valid.

D. Loss of Productive Agricultural Land

This area is located in an urbanized portion of Modesto, and there are no agricultural lands affected by this project. The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through IV-4-12) are still valid.

E. Increased Demand for Water Supplies

The General Plan MEIR assumed that there would be further development and thus, increased demand for Water Supplies within the Baseline Developed Area. The proposed
office complex is consistent with the General Plan designation for the site in both land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through IV-5-13) are still valid.

**F. Increased Demand for Sanitary Sewer Services**

The project is consistent with the General Plan Designation for the site in land use and intensity and will therefore not increase demand for sanitary sewer service beyond that projected by the MEIR. Therefore, the Existing 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 still valid.

**G. Loss of Sensitive Wildlife and Plant Habitat**

The project is located in a built-up urban area and is not located in a Potential Biological Resource Study Area, as presented in Figure V-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. Therefore, 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 1995 MEIR, as sited in the 2003 MEIR. Figure 8-1 of the 1995 MEIR, as sited in the 2003 MEIR, indicates that the area where the project is proposed, 16th and G Streets, is also outside the Archaeological Resource Study Area, which shows areas that may require additional site-specific investigations. Therefore, 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 still valid.

**I. Increased Demand for Storm Drainage**

The General Plan MEIR assumed that there would be further development and thus, increased demand for Storm Drainage within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site, and the project complies with the adopted storm drainage policies from the various agencies listed in the MEIR. For example, the project will provide on-site treatment of storm water in accordance with the City's guidance manual for new development stormwater quality control measures. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Storm Drainage (pages V-9-1 through V-9-13) are still valid.

**J. Flooding and Water Quality**

The General Plan designates the project site as redevelopment planning district. The project is consistent with this designation in land use and intensity and will therefore not generate drainage, flooding or water quality problems greater than projected by the MEIR. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages V-10-1 through V 10-16) are still valid.

**K. Increased Demand for Parks and Open Space**
The General Plan MEIR assumed that there would be further development and thus, increased demand for Parks and Open Space within the Baseline Developed Area. The proposed two story office building is consistent with the General Plan in terms of land use and intensity. In addition, the proposed office is relatively high in density, thereby promoting the reservation of open space. 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) are still valid.

L. Increased Demand for Schools

This project, being non-residential, would not generate any additional demand for schools. Therefore, 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

The General Plan MEIR assumed that there would be further development and thus, increased demand for police services within the Baseline Developed Area. The proposed office building is consistent with the General Plan with regard to land use and intensity. Furthermore, office buildings generally do not generate very much demand for police services. Therefore, 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 still valid.

N. Increased Demand for Fire Services

The General Plan MEIR assumed that there would be further development and thus, increased demand for fire services within the Baseline Developed Area. The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Fire Services to a less than significant level. Therefore, 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 still valid.

O. Generation of Solid Waste

The General Plan MEIR assumed that there would be further development and thus, increased generation of solid waste within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site. Furthermore, the site plan for the proposed office project was referred to the appropriate waste management company and they did not express any concerns with the proposal. Therefore, 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 still valid.

P. Generation of Hazardous Materials

The General Plan MEIR assumed that there would be further development and thus, increased generation of hazardous materials within the Baseline Developed Area. This two story office project is consistent in land use and intensity with the General Plan designation for the site. Furthermore, general offices typically do not generate much hazardous material. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages
Q. **Landslides and Seismic Activity**

This proposed office development will result in no additional potential for exposing people to landslides or earthquake-related hazards such as liquefaction beyond those identified in the MEIR, in that it is consistent with the general plan designation for the site. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity (pages V-16-1 through V-16-15) are therefore still valid.

R. **Energy**

The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Energy to a less than significant level. The proposed office building at 16th and G Streets is consistent with the general plan designation for the site. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages V-17-1 through V-17-12) are still valid.

IV. **CONCLUSIONS/DETERMINATIONS OF FINDINGS**

A. The proposed project is within the scope of the General Plan Master EIR (SCH No. 1999082041).

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

D. There are not specific features unique to this project that require project specific mitigation measures. All certified mitigation measures identified in the MEIR will 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:

JOSH BRIDEGROOM
Assistant Planner
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-417

A RESOLUTION ESTABLISHING A USER FEE FOR THE TENNIS COURT LIGHTING SYSTEM LOCATED AT DOWNEY PARK

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has installed a SkyLogix lighting system for tennis court lighting at Downey Park, and

WHEREAS, the use of the lighting system has been determined to cost $5.00 per hour, per set of tennis courts, and

WHEREAS, the Finance Committee met on June 27, 2005, and supported the request for a user fee, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on August 9, 2005 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 user fees for the tennis court lighting system located at Downey Park,

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

SECTION 1. FEE. An hourly user fee for the tennis court lighting system located at Downey Park is established at $5.00 per hour.

SECTION 2. EFFECTIVE DATE. The fee established by this resolution shall become effective on or after September 1, 2005.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: _______________________
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: _______________________
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-418

A RESOLUTION APPOINTING BILL ZOSLOCKI 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 August 8, 2005, and recommended appointment of BILL ZOSLOCKI to the Airport Advisory Committee.

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

SECTION 1. BILL ZOSLOCKI is hereby appointed to the Airport Advisory Committee with a term expiration of January 1, 2007.

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 6th day of September, 2005, 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

09/06/05/CM/Packet/Item No 2 1 2005-418
A RESOLUTION APPOINTING JULIE WALTON TO THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

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 August 8, 2005, and recommended appointment of JULIE WALTON to the Citizens Advisory Committee on Recycling.

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

SECTION 1. JULIE WALTON, is hereby appointed to the Citizens Advisory Committee on Recycling 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 Citizens Advisory Committee on Recycling, 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 September, 2005, 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

09/06/05/CM/E Puckett/Item No 2  1  2005-419
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-420

A RESOLUTION APPOINTING MARY DEWING TO THE TUOLUMNE RIVER REGIONAL PARK CITIZENS 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 August 8, 2005, and recommended appointment of MARY DEWING to the Tuolumne River Regional Park Citizens Advisory Committee.

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

SECTION 1. MARY DEWING is hereby appointed to the Tuolumne River Regional Park Citizens Advisory Committee with a term expiration of January 1, 2007.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the Tuolumne River Regional Park Citizens 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 6th day of September, 2005, 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