A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO FORMALLY SOLICIT REQUEST FOR BIDS FOR THE PURCHASE OF NINETEEN (19) MOTORCYCLE HELMET RADIO COMMUNICATION KITS FOR THE POLICE DEPARTMENT, FOR A TOTAL ESTIMATED COST OF $56,017

WHEREAS, the Police Department, Traffic Unit, transitioned from using Motorola mounted radios on their police motorcycles to using a “stand-alone” portable radio system, due to frequent repairs on the older mounted radios, which created excessive downtime for the motorcycles, and

WHEREAS, the stand-alone portable radio system consists of a Motorola HT1000 radio attached to a set of Set-Com Super Mic ear speakers, and

WHEREAS, the ear speakers are mounted inside of the officer’s motorcycle helmet, and relay to a push-to-talk switch on the motorcycle, which receives and transmits calls to dispatch and other officers, and

WHEREAS, traffic officers began experiencing problems in the clarity of the reception coming from the ear speakers, and

WHEREAS, a few of the portable radio systems were brought to Set-Com for analysis, and

WHEREAS, Set-Com acknowledged there seemed to be an unusual amount of distortion in the sound coming from the ear speakers, and

WHEREAS, Set-Com gave the Police Department six (6) new sets of ear speakers to test, and
WHEREAS, these speakers were installed in the motorcycle helmets and tested, and the results were the same, distorted sound, and

WHEREAS, the Police Department contacted Set-Com several times trying to remedy the clarity problems, but was met with very slow responses, and no corrective action taken from the vendor, and

WHEREAS, the Police Department then sought the help from a local communications company, which examined the Set-Com system and discovered that the distorted sound was due from an “impedance mismatch”, caused by the Set-Com Super Mic ear speakers, and

WHEREAS, in order to correct the problem the Super Mic system would have to be dismantled and rewired, and

WHEREAS, the Police Department determined that this was not a cost effective option, and

WHEREAS, the Police Department polled the law enforcement community and found many local law enforcement agencies using portable radio equipment produced by a company named PVP Communications, Inc., located in Torrance, CA, and

WHEREAS, the Police Department contacted PVP Communications, INC. to inquire about the possibility of testing their equipment, and

WHEREAS, PVP Communications, Inc. provided the Police Department with sample equipment to test of the newest technology, “Blue-Tooth” wireless, which is proximity based, and
WHEREAS, the system senses when an officer is on his/her motorcycle, in proximity to the radio, and automatically switches to the portable radio when the officer walks away from the motorcycle, and

WHEREAS, the officer does not plug any connections into the motorcycle, thus eliminating the issue of worn out connectors (the most common reason why police motorcycles are taken out of service), and

WHEREAS, the Blue-Tooth wireless system links to a Kenwood 90 series radio, and

WHEREAS, the Kenwood radio is more weather resistant than the Motorola HT1000 currently in use, and its cost is about one-third the cost of the Motorola radio, and

WHEREAS, the Kenwood is easier to repair than the Motorola, which in turn reduces overall repair costs, and

WHEREAS, if the radio’s circuit board is completely disabled due to water damage, the face of the radio is simply removed and the circuit board replaced, at a cost of about $200.00, and

WHEREAS, the Police Department contacted several law enforcement agencies using the Kenwood radio on their police motorcycles and found no reports of weather related problems, and

WHEREAS, the Police Department has thoroughly tested the Blue-Tooth system and is very pleased with the overall test results, and

WHEREAS, motorcycle officers can clearly hear themselves speak through their helmet speakers when communicating to dispatch and other officers, and
WHEREAS, the Blue-Tooth wireless system is “cutting-edge” technology, and
WHEREAS, the cost of the Blue-Tooth wireless system is about $150.00 per unit more
than the Set-Com system currently in use, however the Police Department believes that
officer safety and confidence in their equipment is worth the extra cost, and

WHEREAS, because of the successful test results from the new Blue-Tooth
wireless technology, providing the motorcycle officers with reliable and dependable
transmission quality, and due to the inability of Set-Com to remedy the quality problems
of their equipment, the Police Department recommends discontinuing the use of all Set-
Com systems and converting all of their motorcycles over to the Blue-Tooth wireless
system, and

WHEREAS, Modesto Municipal Code, Section 8-3.203, generally requires all
purchases, which meet or exceed $50,000.00 for material, equipment or contractual
services to be formally bid, and

WHEREAS, the issuance of a formal Request for Bid for the purchase of nineteen
(19) motorcycle helmet radio communication kits will conform to Modesto Municipal
Code Section 8-3.203,

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

SECTION 1. The City Clerk is hereby authorized to call for public competitive
sealed bids for the purchase of nineteen (19) motorcycle helmet radio communication
kits, 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 by the Purchasing Division and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmemeber Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-290

A RESOLUTION AUTHORIZING THE RENEWAL OF AN ANNUAL MAINTENANCE CONTRACT FOR NOVELL SOFTWARE, FOR A TOTAL COST OF $53,977.51 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, the Information Technology Department (IT), purchases annual maintenance agreements on most of its software applications for the purpose of receiving technical support and to keep current with software releases, and

WHEREAS, this annual maintenance contract for Novell software products (ZEN, GroupWise, NetWare) will provide the City with uninterrupted technical support and future Novell product upgrades as they occur, and

WHEREAS, IT has budgeted for this item in its annual FY 04/05 budget, and

WHEREAS, all purchases which meet or exceed $50,000.00 must be approved by Council, and

WHEREAS, at its May 23, 2005, meeting the Finance Committee supported Staff’s recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the renewal of the annual maintenance contract for Novell software in the amount of $53,977.51 and authorizes the City Manager to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 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, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
WHEREAS, the City of Modesto has been providing the Down Payment Assistance Program (DPAP) since 1994; to help low and moderate income households purchase a home in Modesto, and

WHEREAS, the DPAP has been amended a number of times; the last amendment was approved by the City Council on October 7, 2003, by Resolution No. 2003-529, and

WHEREAS, staff recommends that the Down Payment Assistance Program be further amended to provide better guidelines and a better format to expedite the loan process, and make it consistent with the new pre-qualifying format, and

WHEREAS, staff is recommending the following modifications to the guidelines:

1. Change verbiage on the purchase price section of the terms and conditions to read: "The loan limit allowed under this program shall not exceed the FHA mortgage limit amount for the City of Modesto by the U.S. Department of Housing and Urban Development for the City of Modesto". (The current FHA mortgage limit allowed for Modesto is $280,700).

2. Allow one to three-year interest buy-downs under the CalHFA program, instead of the one-year interest buy-down.

3. Require participants to select a "certified" home inspection service, complete a home inspection and pay for this inspection from private funds, regardless of the outcome of the loan.

4. Consider ratios in excess of 43% on an exception basis depending upon the overall strength of the application.

5. Applicants with no credit history must submit utility bills, cell phone bills and letters of credit from the utility companies.

6. Eligible participant(s) must contribute with a minimum initial investment of 1.5% of the sales price. Proof of the availability of these funds shall be submitted to the City of Modesto.
7. The definition of a "first-time homebuyer" is an individual (and his or her spouse) who have not owned a home during the three year period prior to purchase of a home with assistance under CDBG.

and,

WHEREAS, the Housing Rehabilitation Loan Committee met on April 14, 2005, and the Citizens Housing and Community Development Committee met on May 6, 2005, and approved staff's recommendations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the revised guidelines for the City of Modesto Down Payment Assistance Program as shown on Exhibit "A", attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that Modesto City Council Resolution No. 2003-529 is hereby rescinded effective June 8, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 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, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: [Signature]

APPROVED AS TO FORM:

By: [Signature]

MICHAEL D. MILICH, City Attorney
City of Modesto - Down Payment Assistance Program

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For More Information Please Call: (209) 577-5247
INTRODUCTION

The City of Modesto Parks, Recreation & Neighborhoods Department offers a Down Payment Assistance Program (DPAP) to assist low-income families purchase a home. With funding from the Community Development Block Grant (CDBG) Program and through partnerships with local lenders we can make homeownership dreams a reality for low and moderate-income families.

The DPAP is designed to assist families that have adequate incomes to afford monthly mortgage payments, but have not been able to save enough money for the down payment and closing costs associated with buying a home. Eligible homes must be located within Modesto city limits and can be either new or existing homes. The program helps homebuyers by providing financial assistance in way of a low interest loan toward down payment and closing costs.

The City of Modesto believes that affordable homeownership opportunities can provide the foundation whereby individual families, and entire neighborhoods, can achieve a sense of stability and community pride.

For more information please contact:

City of Modesto, Parks, Recreation and Neighborhoods Department
1010 10th Street, Suite # 4300,
Modesto, CA 95354.
Phone Number (209) 577-5247,
Fax Number (209) 544-3982.

MAXIMUM LOAN AMOUNT

There is no application fee to apply for a DPAP loan. The maximum loan for each household is determined as follows: For households earning up to 80% of area median income (AMI), the maximum loan is up to $60,000. The current income eligibility limits for low-income households are:

<table>
<thead>
<tr>
<th>HOUSEHOLD SIZE</th>
<th>INCOME LIMIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Person</td>
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<tr>
<td>7 Person</td>
<td>$52,300</td>
</tr>
<tr>
<td>8 Person</td>
<td>$55,650</td>
</tr>
</tbody>
</table>

(Effective February, 2005 and updated annually)

TERMS AND CONDITIONS

A. **Purchase Price**

The loan limit allowed under this program shall not exceed the FHA mortgage limit amount for the City of Modesto. This loan limit shall be modified based upon information available from FHA Mortgage Limits provided by the U.S. Department of Housing and Urban Development.

The current loan limit amount for the City of Modesto is: $280,700.

B. **Terms**

- The loan shall not accrue interest during the first five years of the term of the loan.
• During the first five years of the term of the loan, applicants shall make monthly payments of 1% annually of the original loan amount. These payments will go towards the principal of the loan.

• On the sixth year interest will start to accrue at a 3% annually on the balance of the loan. For example: The principal balance on a $60,000 loan would only be $57,000.00. The payments under these conditions will be approximately $270.30.

• Applicants can qualify for a grant of 1/5 of the balance of the loan and amortize the balance under a new agreement if they meet the following conditions:
  i. Must reside in the property purchased with the assistance of the DPAP for 10 consecutive years,
  ii. Have a good payment history, which includes no late payments, missed payments, or payment arrangements.

Other repayment provisions include the following:

1. The total amount of the loan, plus accrued interest, becomes due and payable at the time of sale or transfer of ownership, refinancing of the property, upon death of owner(s), or upon change of use of the property (if applicant moves out and rents the property).

2. No prepayment penalty. There is no charge or penalty for making full or partial payments on the loan.

3. The DPAP loan is generally not assumable. However, if the subsequent purchaser of the home is otherwise eligible for the Down Payment Assistance Program, the applicant may apply to the City for a waiver of the non-assumption of the loan.

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SILENT SUBORDINATE MORTGAGE/SUBORDINATION POLICY

The DPAP loan is silent, subordinate mortgage secured by a promissory note and City or Agency trust deed, and is recorded junior to the primary mortgage.

Subordination Policy:

Subordinations are not generally allowed. Any first lien on the property ("First Lien") held by an individual lender or investor (the "Lender") shall be prior and superior to the City Loan Agreement, the Declaration of Conditions, Covenants and Restrictions and the City Deed of Trust. However request for subordinations could be approved under the following conditions:

- The new loan shall not be larger than the original first loan.
- The new loan shall bear a fixed interest rate.
- The buyers shall not be allowed to take cash out.
- The buyers shall be responsible for paying the closing costs associated with the refinance.
- The City loan shall not be subordinated to a lower position than the original rank.
- The lender/title company shall provide a copy of cost comparison showing the original terms and the proposed new terms.
- The lender/title company shall be responsible for preparing the subordination instrument at the sole costs of the borrowers.
- The lender/title company shall submit a Good Faith Estimate.
- The lender/title company shall submit a Closing Statement of the new loan.

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PARTICIPANT ELIGIBILITY REQUIREMENTS

Eligible participants must meet the following eligibility criteria in order to participate.
ATTACHMENT “A”

1. Participant(s) must qualify as a low or moderate-income household. To qualify under these criteria, participant(s) must be household(s) whereby total annual income does not exceed 80 percent (80%) of the area median income (AMI). This is adjusted for family size for Modesto at the time the household initially occupies the property, or at the time the City funds are invested, whichever is later (see income limits previously specified). CDBG funds can only be used to assist households at or below 80% of AMI.

Section 8 income guidelines are used to determine annual income, which is defined as the gross amount of income of all adult household members that is anticipated to be received during the coming twelve-month period. Income re-certification will be required if more than 180 days have elapsed from the date of the original certification and the date of loan closing or occupancy of the property.

2. The applicant must obtain the maximum loan amount from the first mortgage loan. The City of Modesto will determine the loan amount or gap by calculating the difference between the home sales price and the base loan amount obtained from the first mortgage loan.

3. Participant(s) must complete a homebuyer-counseling workshop from an agency approved by the City, prior to participating in the program.

4. Participant(s) or any household member cannot have owned a home during the three-year period prior to the purchase of a home with CDBG assistance. (Exceptions are: death of spouse, recorded dissolution of marriage and relocation due to employment)

5. Eligible participant(s) must contribute with a minimum initial investment of 1.5% of the sales price.

6. Participant(s) must have sufficient income and credit to qualify for a mortgage loan through a reputable lender.

7. There are some credits issues that applicants must allow for certain time to pass before they can qualify for a DPAP loan. These exceptions are as follows:
   • Two years from the date of discharge for a Bankruptcy, Chapter 7 or Chapter 13. (Applicant should have good credit since to qualify for the program)
   • Three years from the date of foreclosure. (Applicant should have good credit since to qualify for the program).

8. Applicant’s FICO (Fair Isaac Company) score must be 610 or higher.

9. Participant(s) must occupy the property as a principal residence. This means that the participant(s) household must use the property as its primary place of residence.

Note: Use of the property for rental purposes, including temporary leases, is not allowed and, if at any time during the loan term, the property is no longer the principal residence of the participant(s), the loan will become immediately due and payable in full. The loan documents (loan agreement, deed of trust, promissory note) executed by the City and the participant(s) will incorporate this requirement. The property must be occupied within 60 days of loan closing.

When making eligibility decisions, only the household composition, employment data, or other relevant information as presented in the original DPAP application will be considered. Applicants will not be allowed to make any material changes in the DPAP application in an attempt to reverse a City loan denial.
ATTACHMENT “A”

LOCAL RESIDENCY REQUIREMENT

In order to be eligible to apply for the Down Payment Assistance Program, the applicant must meet the income eligibility requirements and must have:

- resided in the City of Modesto, including unincorporated areas, with a Modesto address, for the past six (6) consecutive months, or

- resided in the City of Modesto’s sphere of influence, with a Modesto address, for the past six (6) consecutive months, or

- been employed in The City of Modesto for the past six (6) consecutive months.

ELIGIBLE HOMES

Homes considered for purchase with a City DPAP loan must meet the following requirements:

1. The home to be purchased must be owner-occupied, vacant or occupied by the tenant making the purchase.

   Homes are considered vacant if they have been unoccupied for at least 6 months prior to date that the purchase agreement was signed. Acquisition of a house must not result in the displacement of any tenants residing in the unit. DPAP loans cannot be used to assist in the purchase of tenant-occupied properties, unless the tenant is to be the purchaser.

2. A professional home inspector must inspect the property. Items identified as potential health or safety risks to the occupants must be corrected prior to any commitment of City funds. Also, any housing code violations as determined by a professional property inspector must be corrected if they are determined to pose a health or safety risk.

3. The purchase price of the home must not exceed the current FHA Mortgage limits.

4. The property must be appraised by a licensed real estate appraiser and the appraised value of the property must equal or exceed the purchase price.

5. Houses built prior to January 1978 must be inspected for lead-based paint by a Certified Risk Assessor/Inspector. Proof of corrections or of passing must be provided to the City prior to any commitment of City funds.

   The City can refuse to participate in the purchase of homes that are clearly not in good repair, determined to contain illegal additions or conversions, or if lead-based paint is found on the property (common in homes built before 1978) and the hazard is not properly abated.

COMBINING THE DPAP LOAN WITH OTHER PROGRAMS AND SUBSIDIES

The DPAP loan may also be combined with other homebuyer programs and subsidies, such as approved sweat-equity programs, FHA 203K loans, HUD homes, Stanislaus County public facilities fees (PFF) waivers/deferrals, City of Modesto CFF waivers/deferrals, and ADDI Program. Homebuyers are encouraged to request that participating lenders apply for PFF waivers/deferrals on their behalf, since such studies may allow homebuyers to qualify for a higher mortgage.
A household's assets (i.e., cash or non-cash items that can be converted to cash) are recognized when determining program eligibility and need for assistance. Households can have no more than $15,000 in liquid assets to be eligible for the program. Should the household's assets be greater than $15,000, the household is not eligible to participate. Also, ownership of any real estate asset will disqualify an applicant from participating in the program. Examples of assets to be considered include:

- Savings account and the average 6-month balance of checking account(s).
- Stocks, bonds, certificates of deposit, money market funds, and other investment funds.
- Inheritance, lump-sum insurance payments, already received.
- Settlements for personal or property damage already received.
- Cash value of trusts that are available to the household.
- Marketable securities, stocks, bonds and other forms of capital investment, including tax-exempt securities other than an Individual Retirement or Keogh plans.
- Contributions to company retirement/pension funds that can be withdrawn without retiring or terminating employment.
- Assets that, although owned by more than one person, allow unrestricted access by the applicant.
- Lump-sum receipts such as inheritances, jewelry, coin collections, antique cars, capital gains, etc.
- Personal property held as investment such as gems, jewelry, coin collections, etc.
- Cash value of life insurance policies.

DPAP loans may be used to cover all reasonable closing costs the buyer is responsible for paying. Examples (list not inclusive) include:

- Loan origination fee
- Loan discount fee,
- Appraisal fee,
- Title report/insurance,
- Credit report,
- Pre-paids,
- Professional home inspections, and other normal settlement charges.

Reimbursement for loan origination fee is limited to 1 percent (of base loan) and reimbursement for loan discount fee is limited to actual cost (applies to CHFA 1-year to 3-year buy-downs only). DPAP loans cannot be used to pay off previous debts incurred by the buyer.
DPAP loans cannot be used with variable rate loans (first mortgage) or used to pay discount points on 3-2-1 interest-rate buy-downs. The only buy-downs allowed under the DPAP program are (1) one-year to (3) three-year interest rate buy-downs under the CHFA program, and (2) interest-rate buy-downs that offer a permanent rate reduction for the life of the first mortgage loan. Lenders must submit a copy of the buy-down agreement and calculation showing the actual cost of the interest rate buy-down. All loans must be delivered at par with no rebate or overage to the originator.

CO-SIGNER RESTRICTIONS

The City loan shall not be used to assist in the purchase of any home in which ownership in the property is granted to any party other than the borrower(s) (participant) approved by the City loan. In some instances, the first mortgage lender may require a co-signer as a condition of the participant's loan approval. When co-signers are required, such co-signers cannot hold title to the property being purchased with DPAP assistance. Co-signers must sign the City's Promissory Note, as they, along with the borrower(s), will be held equally responsible for repayment of the City loan. Co-signers, as used in this section, are non-household members. As such, co-signers' income and other criteria (e.g., real estate ownership) are not considered in determining the household's eligibility. The City reserves the right to request co-signer information supplied to the first mortgage lender as part of the loan application.

HOMEBUYER COUNSELING WORKSHOP

Program participants will be required to complete a homebuyer-counseling workshop from an agency approved by the City. The purpose of the workshop is to provide the homebuyer with step-by-step guidance to successfully purchase and maintain ownership of a home. The workshop also helps homebuyers by educating them on how to obtain mortgage financing they can afford. Subjects covered include shopping for a home, shopping for a mortgage loan, home maintenance, and budgeting, and on-going financial costs.

The workshop provider upon the participant’s completion of the class will issue a certificate of completion. Participant must present the certificate (evidence of program completion) to the City of Modesto for inclusion in the City DPAP loan application. The workshop provider may charge participants a nominal fee. This fee is non-refundable and is not reimbursable as an eligible closing cost.

PROFESSIONAL HOME INSPECTION

To give homebuyers a better understanding of the quality and condition of their future home, the City requires that all existing homes considered for purchase have a professional home inspection. Real estate purchase agreements must contain a 17-days right of rescission to review the results of the home inspection. Professional home inspections generally cover the inspection of items such as the home's foundation, drainage, attic, crawl space, electrical systems, walls, heating, floors, roof, tiling, painting, siding, plumbing, insulation, porches, patios, decks, hot water heaters, fireplaces, kitchens, appliances, garages, baths, overview of the site, landscaping, retaining walls, and fences.

Participants will be required to select and pay for the home inspection up front.
CONDITIONS FOR DISBURSING FUNDS

Before disbursing any funds the homebuyer must:

1. Meet all the Down Payment Assistance Program eligibility requirements.
2. Execute City loan documents (loan agreement, promissory note, subordinate trust deed) assuring compliance with the applicable requirements of the program.
3. Meet all the conditions outlined in the City conditional letter of credit.
4. Submit all the documents required by the City of Modesto.
5. Secure permanent financing (first mortgage).

APPLICATION PROCESS

1. Prospective homebuyer (Participant) contacts City of Modesto, Parks, Recreation and Neighborhoods, at (209) 577-5247 to see if they meet basic program qualifications Participant completes homebuyer-counseling workshop and has the voucher certified by a workshop provider.
2. Participant must provide to the City a Certificate of Completion of the homebuyer-counseling workshop.
3. Participant works with a lender to apply for a first mortgage and to complete a DPAP application. While qualifying the participant for a first mortgage, the lender will also assist them in completing the DPAP application, verify the information, and submit the complete loan application package to the City for approval.
4. Staff will review application and prepare proper documents to submit loan to the Housing Rehabilitation Loan Committee (HRLC) for pre-qualification.
5. Participant shops for a home. A real estate agent can assist participant in selecting a home, and will execute a purchase contract and determine if household has adequate resources to qualify for a loan. The purchase offer will allow for a 17-day review of home inspection report. Participant is not obligated to use the lender referred to by the real estate agent. Any reputable lender can participate in the program.
6. Upon approval of the DPAP application, the City will issue a conditional letter of commitment good for 45 days from the date of issuance.
7. Staff will prepare the necessary loan documents for the silent subordinate mortgage.
8. Staff will schedule an appointment and will meet with applicant(s) to sign loan documents.
9. The down payment assistance funds will be provided to a title company at escrow, to be applied toward the purchase of the home.
10. Escrow agent shall record the City’s Deed of Trust, the Declaration of Conditions, Covenants and Restrictions and send certified documents to the City of Modesto within seven (7) working days from the date of closure.
11. If there are any cancellations or disqualifications of the first mortgage loan the lender shall immediately notify the City in writing and shall include the reason for this action.

12. Any material change in income, assets, household composition, or other eligibility determination occurring after application, but prior to closing, shall be immediately reported to the lender and the City for review.

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**DEBT RATIO’S GUIDELINES**

Following are the two types of debt ratios the City of Modesto will use:

- **Front-End Ratio:** The standard guideline is 31%. The front-end ratio is the gross income divided by the new PITI (Principal, interest, taxes and insurance). Homeowners Association (HOA), mortgage payment.

  The typical debts used to determine the qualifying front-end ratios are the current and or future house payment.

- **Back-end ratio:** The standard guideline is 43%. This is the gross income divided by the new PITI mortgage payment and also the minimum monthly payments from the applicant’s liabilities.

  The typical debts used to determine the qualifying back-end ratio’s are the minimum required monthly payments on all of the following:

  - Auto loans
  - Student loans
  - Personal loans
  - Charge cards
  - Child Support

---

**RECERTIFICATION**

1. Annual:

   - Borrower shall be required to submit an annual affidavit of occupancy;
   - Lender shall, upon receipt provide, City with any Notice of Default on taxes;
   - City shall be named as a beneficiary on hazard insurance policies and shall be notified of modifications or cancellations of insurance coverage.

2. Periodic Recertification:

   - The City may require periodic recertification other than at annual where change in occupancy or other circumstances may necessitate and eligibility review.

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**VIOLATIONS AND PENALTIES**

The acceleration clause shall be invoked if the borrower willfully and knowingly makes a false statement or representation, or knowingly fails to disclose a material fact for the purpose of qualifying for the program, or, in completing certifications, affidavits, or recertification documents. The City shall demand full repayment of principal and interest rate from the date of violation.
DETERMINING ANNUAL INCOME

Section 8 income guidelines are used to calculate annual income to determine program eligibility. Annual income is defined as the "gross" amount of income of all adult household members, which are anticipated to be received during the coming 12-month period. The following definitions are key to understanding the requirements for calculating Annual Income.

1. **Gross amount.** For those types of income counted, gross amounts (before any deductions have been taken) are used.

2. **Income of all adult household members.** The definition of Annual Income contains income "inclusions"—types of income to be counted—and income "exclusions"—types of income that are not considered (e.g., income of minors); and

3. **Anticipated to be received.** Annual income is used to determine eligibility and a household's expected ability to pay, rather than past earnings, are used to estimate housing assistance needs.

Annual gross income shall be determined in accordance with the Code of Federal Regulations (CFR), Title 24, Part 5, Section 5.609(b)

### 24 CFR PART 5 ANNUAL INCOME INCLUSIONS AND EXCLUSIONS

The following items shall be **included** in determining Annual Income:

1. All wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services (before any payroll deduction);

2. Net income from the operation of a business or profession;

3. Interest, dividends, and other net income of any kind from real or personal property. Income shall include the greater of the actual income derived from all assets or a percentage of such assets based on the current passbook saving rate, as determined by HUD.

4. Lottery winnings paid in periodic payments.

5. All gross periodic payments received from Social Security, annuities, insurance policies, retirement funds, pension, disability or death benefits, and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment (except Social Security).

6. Payments in lieu of earnings such as unemployment, worker's compensation and severance pay;

7. Welfare assistance;

8. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;

9. All regular pay, special pay, and allowances of a member of the Armed Forces.

The following items shall be **excluded** in determining Annual Income:

1. Income from employment of children (including foster children) under the age of 18 years.
2. Payment received for the care of foster children.

3. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers compensation), capital gains and settlement for personal or property losses.

4. Amounts received by the family that are specifically for, or in reimbursement of the cost of medical expenses for any family member.

5. Income of a live-in aide.

6. Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran, for use in meeting the costs of tuition, fees, books, equipment, material, supplies, transportation, and miscellaneous personal expenses of the student.

7. The special pay to a family member serving in the armed forces who is exposed to hostile fire.

8. Amounts received under training programs funded by HUD.

9. Temporary, nonrecurring, or sporadic income (including gifts).

10. Lump sum payment of SSI and Social Security benefits.

11. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act.

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**DOCUMENTS NEEDED TO PRE-QUALIFY FOR THE DPAP**

The loan approval process depends on the applicant's documentation. To ensure a smooth transaction, it is imperative that the applicants have all their documents gathered prior to the initial loan application. Following is a list of all the documents they will need.

1. **Down Payment Assistance Application**

2. **Employment Information:**
   - Most recent two years complete tax returns with all schedules.
   - Most recent two years W-2’s, 1099’s, etc.
   - Most recent pay stubs covering one-month period.
   - Verification of Employment for all adults wage earners in the applicant’s household.
   - If applicable: Self-employed will need three years tax returns and YTD Profit & Loss Statement.
   - If applicable: Statement under penalty of perjury of unemployment status for unemployed adults.

3. **Savings Information:**
   - Most recent three months complete bank statements for any and all accounts with all pages.
   - Most recent statement from retirement, 401k, mutual funds, money market, stocks, etc.
   - If you are receiving a “gift”, you must provide the complete paper trail of the money’s being given to you. Typically we will need the person’s bank statement that is giving you the money.
   - Documentation of other income sources and asset information.

4. **Credit Information:**
   - Most recent statements from your bills, indicating minimum payment and account numbers.
• Name, address and phone number of your landlord or 12 months cancelled rent checks.
• If applicable: should you have no credit. Copies or your most recent utility bills, cell phone bills and letters from the utility companies addressing your payment history will be needed.
• If applicable: copy of complete Bankruptcy and discharge papers.
• If applicable: if you co-signed for a mortgage, car, credit card, etc. need 12 months cancelled checks, front and rear, indicating you are not making payments.
• Copy of drivers license
• Copy of Social security card
• If applicable: Copy of complete Divorce, Palimony, Alimony papers
• If applicable: copy of green card or work permit

5. First Mortgage Loan Documents
• Copy of Credit Reports (for each adult applicant). First Mortgage loan application loan application, signed by lender and applicant
• Good Faith Estimate of settlement charges.
• Truth in Lending Disclosure Statement.
• Mortgage Credit Analysis worksheet.
• If applicable: for FHA loans include case number.
• If applicable: Copy of CHFA Buy down agreement.

DOCUMENTS NEEDED AFTER PRE-QUALIFICATION

After pre-qualifying for the DPAP and before disbursement of funds, applicant(s) have 30 days to submit the following documentation:

1. First Mortgage Loan Documents
• Copy of the California Residential Purchase Agreement and Joint Escrow Instructions signed by the buyer and the seller. If applicable copy of the attachments/amendments.
• Copy of current appraisal and legal description.
• First Mortgage approval letter with any conditions attached.

2. Reports
• Home Inspection Report
• Termite Pest Control Report
• If the home was built before 1978 please submit a Lead Based Paint Inspection Report.

NOTE: The mortgage lender must submit the HUD-1 report to the City of Modesto within 5 days of closing of escrow.

EQUAL CREDIT OPPORTUNITY ACT

This Down Payment Assistance Program will be implemented in ways consistent with the City of Modesto's commitment to Fair Housing. No person shall be excluded from participation in, denied the benefits of, or be subjected to discrimination under the program on the basis of race, color, ancestry, religion, sex, marital status, physical or mental disability (including AIDS and HIV diagnosis), national origin, familial status (children), age, sexual orientation, source of income or other arbitrary reason.

CONFLICT OF INTEREST

In accordance to title 24, Section 570.611 of the Code of the Federal Regulations, no member of the governing body and no official, employee or agent of the local government, nor any other person who exercises policy or decision-making responsibilities (including members of the loan committee and officers, employees and agents of the loan committee, the administrative agent, contractors and similar agencies) in connection with the planning and implementation of the program shall directly or indirectly be eligible for this program.
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-292

A RESOLUTION APPROVING THE DRAFT REQUIREMENTS FOR THE CITY OF MODESTO FIRST TIME HOMEBUYER MORTGAGE ASSISTANCE PROGRAM, FUNDED THROUGH STATE CALHOME FUNDS

WHEREAS, on October 3, 2003, the City of Modesto submitted an application to the State Department of Housing and Community Development applying for a $300,000 grant to fund the City’s First Time Homebuyer Mortgage Assistance Program, funded through State CalHome funds, and

WHEREAS, on February 4, 2004, staff was notified that the City of Modesto was awarded $300,000, and

WHEREAS, CalHome requires that each City develop the guidelines for this program based on CalHome regulations; a draft of the guidelines have been submitted and approved by the Department of Housing and Community Development, and

WHEREAS, the pertinent areas of this program are:

1. CalHome funds may be used only to provide secondary mortgage assistance in connection with a primary loan to purchase a principal place of residence.

2. The maximum loan amount for households earning up to the 80% of the area median income (AMI) is up to $60,000.

3. Principal and interest payments shall be deferred for the term of the loan.

4. The CalHome loan shall be repaid upon sale, transfer or lease of the property, borrower’s failure to occupy the property as their principal place of residence, maturity date or default of the loan.

5. The term of the loan shall be for 30 years.

6. No initial investment is required to receive the CalHome funds.

7. Loan to Value shall not exceed 100% plus 5% of the sales price to cover closing cost.

8. The interest rate shall accrue at a 3% simple fixed interest per year.
and,

WHEREAS, the Housing Rehabilitation Loan Committee met on April 14, 2005, and the Citizens Housing and Community Development Committee met on May 6, 2005, and approved staff's recommendations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the draft guidelines for the City of Modesto First Time Homebuyer Mortgage Assistance Program funded through State CalHome funds as shown on Attachment "B", attached hereto and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 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, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: ____________________________

JUAN ZAHRA, City Clerk

APPROVED AS TO FORM:

By: ________________________________

MICHAEL D. MILICH, City Attorney
City of Modesto
CalHome Program Requirements

1. Overview

The State of California CalHome Program is one of the funding sources providing assistance to eligible Borrowers under this program.

2. Eligible Use of Funds

CalHome funds may be use only for the provision of permanent secondary mortgage assistance to first time homebuyers in connection with a new primary mortgage loan for the purchase of a principal place of residence.

3. Ineligible Uses of Funds

CalHome funds may not be use for:
   a. Refinancing existing loans
   b. Recurring loan costs
   c. Payoff of all or any portion of a Borrower’s consumer debt, liens or judgments.

4. Eligible Households

1. To be eligible to receive CalHome funds an applicant household must:
   a. Be a very-low or low-income household (80% or less of the area median income as adjusted for household size) when considering the gross income of all household residents 18 years old or older.
      i) Gross income is as defined in the California Code of Regulations (CCR), Title 25, Section 6914 and is: “The anticipated income of a person or family for the 12 month period following the date of determination of income.”
      ii) Lender shall determine annual gross income in accordance with the CCR, Title 25, Section 6914.
   b. Include as Borrowers all persons who will be or are on title to the property.
   c. Be a first time homebuyer and occupy the property as principal place of Residence.

2. The following individual or individuals may not be excluded from consideration as a first time homebuyer under this section:
   a. A displaced homemaker, who, while a homemaker, owned a house with his or her spouse or resided in a house owned by the spouse. A displaced homemaker is an adult who has not, within the preceding two years, worked
on a full-time basis as a member of the labor force for a consecutive twelve-month period and who has been unemployed or underemployed, experienced difficulty in obtaining or upgrading employment and worked primarily without remuneration to care for his or her home and family;

b. A single parent who, while married owned a house with his or her spouse or resided in a house owned by the spouse. A single parent is an individual who is unmarried or legally separated from a spouse and has one or more minor children for whom the individual has custody or joint custody or is pregnant; or

c. An individual or individuals who owns or owned, as a principal place of residence during the three-year period before the purchase of a house with CalHome assistance, a dwelling unit whose structure is:

1) Not permanently affixed to a permanent foundation in accordance with state or local regulations; or
2) Not in compliance with state, local or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

5. Eligible Property

1. Property purchased with CalHome funds must be located within the City of Modesto limits.

2. Property type must be:
   a. Single-family housing
   b. Condominium unit; or
   c. Manufactured housing unit on a permanent foundation

3. Eligible property must have the following occupancy characteristics:
   a. Currently occupied by the owner-seller of the property; or
   b. Vacant for six months prior to acceptance of a contract to purchase.

6. Maximum Sales Price / Value Limit

The maximum sales price/value limit for a home purchased with the assistance of CalHome funds shall be the current FHA mortgage limit of a single family home in Modesto. The FHA mortgage limits are provided by the U.S. Department of Housing and Urban Development.
7. **Maximum Loan Amount**

The maximum loan amount for households earning up to 80% of the area median income (AMI) is up to $60,000.

Applicant will receive the minimum amount of financing to ensure affordable monthly housing costs as defined by the first mortgage lender (the first lender shall make the largest first loan possible given the ability of the Borrower to repay in order to keep the CalHome loan amount at the minimum amount necessary).

8. **Loan Documentation**

All CalHome loans shall be evidenced by the following documents and provisions:

a. Promissory Note, payable to the City of Modesto in the principal amount of the loan and stating the terms and rate interest.

b. Deed of Trust, securing the Note; this deed shall be recorded and shall secure the City's financial interest in the property.

c. Other appropriate security instruments naming the City of Modesto as beneficiary.

9. **Loan Terms**

1. **Security:**

   a. CalHome loans shall be secured by the property or leasehold interest, as applicable.
   
   b. The lien securing repayment of the CalHome loan shall be subject only to liens, encumbrances and other matters of record reviewed and approved by the City.

2. **Deferment:**

   a. Principal and interest payments shall be deferred for the term of the CalHome loan.

3. **Repayment:**

   a. The CalHome loan principal and interest shall be repayable upon:

      1. Sale, transfer or lease of the property.
      
      2. Borrower's failure to occupy the property as Borrower's principal place of residence (Borrower must certify occupancy annually).
3. The CalHome maturity date.

4. The maturity date, or full repayment, of any debt secures by lien on the property that is senior to the CalHome deed of trust.

5. Upon default of the CalHome promissory note, deed of trust or other recorded documents pertaining to the property.

b. If it is determined by the City that repayment of the loan at maturity will cause a hardship to the Borrower, the City may, at its option, elect to:

1. Approve a one-time additional deferral period of up to 30 years in length at 0% interest, or;

2. Convert the debt (principal and accrued interest) to a 15 year amortized loan at 0% additional interest.

4. Assumability:

a. CalHome loans are not assumable.

5. Transfer of Interest Exceptions:

a. The following transfers of interest shall not require repayment of the CalHome loan:

1. Transfer to a surviving joint tenant by devise, descent or operation of the law on the death of a joint tenant.

2. A transfer, in which the transferee is a person who occupies or will occupy the property, which is:

   i. A transfer in which the spouse becomes an owner of the property.

   ii. A transfer resulting from a decree of dissolution of marriage, legal separation agreement, or from incidental property settlement agreement by which the spouse becomes an owner of the property.

3. A transfer into an inter vivos trust in which the Borrower is and remains the beneficiary and occupant of the property.

6. Loan Term:

a. The CalHome loan term shall be for 30 years, except upon the
occurrence of any condition requiring repayment as noted above.

b. When the United States Department of Agriculture, Rural Housing Services (ESDA-RHS) 502 mortgage loans are in first lien position; the CalHome loan term shall be the term of the 502 mortgage (30 to 38 years).

7. Prepayment:
   a. A Borrower may prepay the CalHome loan, in part or whole, at any time without penalty.

8. Interest:
   a. Interest shall accrue at a 3% simple fixed interest per annum.

9. Restrictions on Sale:
   a. In any loan transaction in which the CalHome loan is the only secondary financing, the Borrower cannot be restricted from selling the home at its fair market value at any time.
   
   b. Subsequent buyers, unless assisted with a CalHome loan under this Program, do not need to meet the Eligible Household requirements set forth above.
   
   c. Resale restrictions required by other secondary financing sources used in conjunction with a CalHome loan shall prevail.

10. Loan-to-Value Limits

   The loan-to-value (LTV) ratio for a CalHome loan, when combined with all other indebtedness to be secured by the property, shall not exceed 100% of the sales price plus a maximum of up to 5% of the sales price to cover closing cost.

11. Downpayment

   No downpayment shall be required of an eligible Borrower in order to receive CalHome funds under this program.

12. First Mortgage Underwriting Requirements

   1. In addition to the first mortgage requirements of the primary lender, the following First Time Homebuyer Program requirements shall also apply to first mortgages issued in conjunction with a FTH second mortgage:
a. Borrower shall obtain the maximum first mortgage loan with a term and interest rate from a mortgage lender consistent with affordable housing costs as defined in herein.

b. First mortgage loans shall not include provisions for negative amortization, principal increases, balloon payments, deferred interest or temporary buy-downs.

c. Front End Ratio:

1. For purposes of qualifying a Borrower for a first mortgage, and as defined herein means the ratio between monthly household income and monthly housing cost, including first mortgage principal, interest, taxes and insurance.

2. This ratio shall not exceed that set by the primary mortgage lender.

d. Back End Ratio:

1. For purposes of qualifying a Borrower for a first mortgage, and as defined herein means the ratio between monthly household income and monthly housing cost plus all payments on long-term installment debt.

2. This ratio shall not exceed that set by the primary mortgage lender.

e. Credit Worthiness Criteria:

1. Borrower’s FICO (Fair Isaac Company) score must be 610 or higher.

13. Appraisal

1. Prior to close of escrow an appraisal which meets must the following criteria must be obtained:

a. The appraisal shall be prepared by a state-licensed residential property appraiser.

b. The appraisal shall use the sales of comparable properties approach to determine value.

c. Maximum appraised home values at time of purchase shall not exceed the purchase price/value limits established by the State of California Department of Housing and Community Development as published in the latest Notice of Funding Availability (NOFA).
14. Cash-Out of Escrow

Borrowers may not receive cash out of escrow from any loan package containing secondary CalHome financing.

15. Title Insurance

The Borrower shall provide the City of Modesto with an ALTA title insurance policy in the amount of the CalHome loan at Borrower’s expense.

16. Hazard Insurance

1. Borrower must provide and maintain fire and flood (if the property is located in a 100 year floodplain) insurance in an amount at least equal to the replacement value of the improvements.

2. The City of Modesto must be named as an additional loss payee on the policy.

17. Financing Subordinate to CalHome Loans

1. Fees and/or charges for subordinate loan financing shall be consistent with reasonable loan origination fees for first mortgage financing as determine by the City based on industry standards.

2. Balloon payments due before the maturity date of the CalHome loan are not permitted.

3. All subordinate financing shall defer principal and interest payments for the term of the CalHome loan.

18. Homebuyer Education

1. Borrowers will be required to complete a Homebuyers Education Workshop from an Agency approved by the City.

2. The purpose of the workshop is to provide the Borrower with a step-by-step guidance to successfully purchase and maintain ownership of a home. The workshop also helps homebuyers by educating them how to obtain mortgage financing they can afford. Subjects covered in the workshop include shopping for a home, shopping for a mortgage loan, home maintenance, budgeting, and ongoing financial cost.

3. The workshop provider upon the Borrower’s completion of the class will issue a Certificate of Completion. The Borrower must present the Certificate to the City for inclusion in the loan application.

4. City may, at its option, request a grant from the Department of Housing and
Community Development for providing homebuyer education to Borrowers up to the maximum amount as published in the latest NOFA. The sum of loans made under this Program plus grants received may not exceed the total funding made available to City under the terms of the Standard Agreement between the City and the Department.

19. Re-Use Account

1. All repayments of CalHome loan principal and interest shall be received by the City and deposited into a separate reuse account maintained by City’s Finance Department.

2. The reuse account shall be an interest bearing account into which all earned interest shall be deposited.

3. All funds deposited into the reuse account shall be the property of the City.

4. A line item for reuse of CalHome funds will be inserted into City’s fiscal year budget allocating and approving use of funds for CalHome eligible activities.

5. All reuse funds shall be expended in accordance with the CalHome Regulations and the Standard Agreement between the City and the Department. Reuse funds may be used for:

   a. Additional CalHome mortgage assistance.

   b. Costs of homebuyer education for each first time homebuyer receiving mortgage assistance from the reuse account.

   c. CalHome loan processing activity delivery fees as applicable.

   d. Cost (up to 5% of the reuse funds deposited) of loan servicing contracted by City.

6. City shall allow the Department full access to the reuse account records for the purpose of determining City’s compliance with CalHome Regulations.
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-293

A RESOLUTION APPROVING THE GUIDELINES FOR THE CITY OF MODESTO AMERICAN DREAM DOWN PAYMENT ASSISTANCE INITIATIVE (ADDI) PROGRAM, FUNDED THROUGH HOME FUNDS

WHEREAS, the American Dream Down Payment Assistance Initiative (ADDI) was signed into law by President Bush on December 16, 2003, under the American Dream Down Payment Act (Public Law 108-186) (ADDI statute), and

WHEREAS, these funds were allocated to participating HOME program jurisdictions to assist low-income families become first-time homebuyers, and

WHEREAS, staff developed the guidelines for this program based on the ADDI regulations found in 24CFR Part 92.600 (Subpart M of the HOME Rule), and

WHEREAS, the pertinent areas of this program are:

1. Under ADDI, the definition of a “first-time homebuyer” is an individual (and his or her spouse) who have not owned a home during the three year period prior to purchase of a home with assistance under ADDI.

2. The unit must be a single-family residence, condominium unit, cooperative unit, or manufactured housing on its own lot and affixed to a permanent foundation.

3. The amount of ADDI assistance provided to any low-income family cannot exceed the greater of 6% of the purchase price of a single family housing unit or $10,000.

4. The loans are 0% interest.

5. Repayment is required upon the sale, refinance, and transfer of the property or the maturity of the loan.

6. Household annual gross income must not exceed the maximum income level provided by the U.S. Department of Urban and Housing Development.

and,
WHEREAS, the Housing Rehabilitation Loan Committee met on April 14, 2005, and the Citizens Housing and Community Development Committee met on May 6, 2005, and approved staff's recommendations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the guidelines for the City of Modesto American Dream Down payment Assistance Initiative (ADDI) funded through HOME funds as shown on Attachment “C”, attached hereto and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 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, 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
Attachment C
City of Modesto
HOME
American Dream Down Payment Initiative (ADDI)

Purpose of the Program:

The American Dream Down Payment Initiative provides down payment assistance towards the purchase of single family housing to eligible households who are first-time homebuyers.

Assistance:

The assistance is provided in the form of a deferred loan and will be secured by a deed of trust.

The amount of ADDI assistance provided to any low-income family cannot exceed the greater of six percent of the purchase price of a single family housing unit or $10,000.00.

The loan could be used in combination with other down payment assistance provided by the City of Modesto and can be recorded in third position if necessary.

Benefits:

Benefits of this Program include:
- No monthly payments.
- 0% interest.
- Lower housing payments.
- Reduce debt-to-income ratio makes it easier to qualify for a home loan with a private lender.
- Repayment only upon the sale, refinance, transfer of the property or maturity of the loan.
- Tax write-offs in the form of interest deductions.
- Property value appreciation and accumulation of equity.

Eligibility:

Applicant Criteria:

- Household annual gross income cannot exceed the maximum income level (See chart below)

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Attachment C

FY-2005 Income limits subject to change

- Applicant must live in the City of Modesto, including unincorporated areas/sphere of influence, with a Modesto address, for the past six (6) consecutive months, or been employed in the City of Modesto for the past six (6) consecutive months.

- Participant(s) must complete a homebuyer-counseling workshop from an agency approved by the City, prior to participating in the program.

- Participant(s) or any household member cannot have owned a home during the three-year period prior to the purchase of a home with assistance under ADDI.

- Eligible participant(s) earning up to 80% of the Area Median Income must contribute with a minimum initial investment of 1.5% of the sales price.

- Maximum loan amount must not exceed the FHA mortgage limits established for the City.

Property Criteria:

- The home to be purchased must be owner-occupied, vacant or occupied by the tenant making the purchase.

  Homes are considered vacant if they have been unoccupied for at least 6 months prior to date that the purchase agreement was signed. Acquisition of a house must not result in the displacement of any tenants residing in the unit. DPAP loans cannot be used to assist in the purchase of tenant-occupied properties, unless the tenant is to be the purchaser.

- Participant(s) must occupy the property as a principal residence. This means that the participant(s) household must use the property as its primary place of residence.

  Note: Use of the property for rental purposes, including temporary leases, is not allowed and, if at any time during the loan term, the property is no longer the principal residence of the participant(s), the loan will become immediately due and payable in full. The loan documents (loan agreement, deed of trust, promissory note) executed by the City and the participant(s) will incorporate this requirement. The property must be occupied within 60 days of loan closing.

- The unit must be a single-family residence, condominium unit, cooperative unit, or manufactured housing on its own lot and affixed to a permanent foundation.

- The property must be located in a residentially zoned area within the city limits.
Attachment C

- The home must undergo a professional property inspection. If the home was built prior to 1978, a Lead Based Paint inspection is also required.

The City can refuse to participate in the purchase of homes that are clearly not in good repair, determined to contain illegal additions or conversions, or if lead-based paint is found on the property (common in homes built before 1978) and the hazard is not properly abated.

Application Process:

1. Prospective homebuyer (Participant) contacts City of Modesto, Parks, Recreation and Neighborhoods, at (209) 577-5247 to see if they meet basic program qualifications Participant completes homebuyer-counseling workshop and has the voucher certified by a workshop provider.

2. Participant must provide to the City a Certificate of Completion of the homebuyer-counseling workshop.

3. Participant works with a lender to apply for a first mortgage and to complete a DPAP application. While qualifying the participant for a first mortgage, the lender will also assist them in completing the DPAP application, verify the information, and submit the complete loan application package to the City for approval.

4. Staff will review application and prepare proper documents to submit loan to the loan committee for pre-qualification.

5. Participant shops for a home. A real estate agent can assist participant in selecting a home, and will execute a purchase contract and determine if household has adequate resources to qualify for a loan. The purchase offer will allow for a 17-day review of home inspection report. Participant is not obligated to use the lender referred to by the real estate agent. Any reputable lender can participate in the program.

6. Upon approval of the DPAP application, the City will issue a conditional letter of commitment good for 45 days from the date of issuance.

7. Staff will prepare the necessary loan documents for the silent subordinate mortgage.

8. Staff will schedule an appointment and will meet with applicant(s) to sign loan documents.

9. The down payment assistance funds will be provided to a title company at escrow, to be applied toward the purchase of the home.

10. Escrow agent shall record the City's Deed of Trust, the Declaration of Conditions, Covenants and Restrictions and send original documents to the City of Modesto within seven (7) working days from the date of closure.
Attachment C

11. If there are any cancellations or disqualifications of the first mortgage loan the lender shall immediately notify the City in writing and shall include the reason for this action.

12. Any material change in income, assets, household composition, or other eligibility determination occurring after application, but prior to closing, shall be immediately reported to the lender and the City for review.
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-294

A RESOLUTION APPROVING A FIVE-YEAR LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND CLEARWIRE LLC, A NEVADA LIMITED LIABILITY COMPANY, FOR A CELLULAR TOWER SITE LOCATED ON A PORTION OF BEYER COMMUNITY PARK, WITH FOUR FIVE-YEAR OPTIONS TO EXTEND THE LEASE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LEASE AGREEMENT

WHEREAS, Clearwire LLC (Clearwire), a Nevada limited liability company, desires to lease a cellular tower site located on a portion of Beyer Community Park for a period of five years, with four five-year options to extend the lease, for the installation of phone equipment, and

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

WHEREAS, Clearwire will provide a one-time payment of $10,000 to be used towards the Parks, Recreation and Neighborhoods Department’s Youth Financial Assistance program, and

WHEREAS, Clearwire will collocate on an existing ball field light pole,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Five-Year Lease Agreement between the City of Modesto and Clearwire LLC, a Nevada limited liability company, for a cellular site located on a portion of Beyer Community Park, with four five-year options to extend the lease.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Lease Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 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, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-295

A RESOLUTION APPROVING A FIVE-YEAR LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND CLEARWIRE LLC, A NEVADA LIMITED LIABILITY COMPANY, FOR A CELLULAR TOWER SITE LOCATED ON A PORTION OF DAVIS COMMUNITY PARK, WITH FOUR FIVE-YEAR OPTIONS TO EXTEND THE LEASE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LEASE AGREEMENT

WHEREAS, Clearwire LLC (Clearwire), a Nevada limited liability company, desires to lease a cellular tower site located on a portion of Davis Community Park for a period of five years, with four five-year options to extend the lease, for the installation of phone equipment, and

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

WHEREAS, Clearwire will provide a one-time payment of $10,000 to be used towards the Parks, Recreation and Neighborhoods Department’s Youth Financial Assistance program, and

WHEREAS, Clearwire will collocate on an existing ball field light pole,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Five-Year Lease Agreement between the City of Modesto and Clearwire LLC, a Nevada limited liability company, for a cellular site located on a portion of Davis Community Park, with four five-year options to extend the lease.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Lease Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 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, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr

JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-296

A RESOLUTION APPROVING A FIVE-YEAR LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND CLEARWIRE LLC, A NEVADA LIMITED LIABILITY COMPANY, FOR A CELLULAR TOWER SITE LOCATED ON A PORTION OF CREEKSIDES GOLF COURSE, WITH FOUR FIVE-YEAR OPTIONS TO EXTEND THE LEASE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LEASE AGREEMENT

WHEREAS, Clearwire LLC (Clearwire), a Nevada limited liability company, desires to lease a cellular tower site located on a portion of Creekside Golf Course for a period of five years, with four five-year options to extend the lease, for the installation of phone equipment, and

WHEREAS, the City of Modesto is willing to lease a portion of Creekside Golf Course to Clearwire for said use for the sum of $850.00 per month with a rental increase equal to the Consumer Price Index for the San Francisco/Oakland/San Jose Metropolitan Statistical Area (MSA) at the beginning of each renewal period, and

WHEREAS, Clearwire is also willing to pay the City a lump sum of $12,000 for the purpose of supporting golf programs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Five-Year Lease Agreement between the City of Modesto and Clearwire LLC, a Nevada limited liability company, for a cellular site located on a portion of Creekside Golf Course, with four five-year options to extend the lease.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Lease Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 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, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: [Signature]
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-297

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE
BRIGGSMORE AVENUE WIDENING, OAKDALE ROAD TO CLAUS ROAD
PROJECT, AWARDING THE BID AND APPROVING A $2,793,535 CONTRACT
WITH GEORGE REED, INC., FOR THE PROJECT TITLED, “BRIGGSMORE
AVENUE WIDENING, OAKDALE ROAD TO CLAUS ROAD,” AND
AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, City staff has reviewed the plans and specifications, for the
Briggsmore Avenue Widening, Oakdale Road to Claus Road project and recommends
approval to the City Council, and

WHEREAS, the bids received for “Briggsmore Avenue Widening, Oakdale Road
to Claus Road” were opened at 11:00 a.m. on May 10, 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
$2,793,535 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 the Briggsmore Avenue
Widening, Oakdale Road to Claus Road project.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of
$2,793,535, and hereby awards George Reed, Inc, the contract titled “Briggsmore
Avenue Widening, Oakdale Road to Claus Road.”

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 7th day of June 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, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: (Signature)
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By (Signature)
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-298

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT FY 2005 BUDGET TO CLOSE CIP PROJECTS 1410-430-N495 (BRIGGSMORE – OAKDALE TO ROSELLE), AND 1410-430-A216 (BRIGGSMORE – ROSELLE TO CLAUS), RETURN FUNDS TO RESERVE BALANCE, AND RE-APPROPRIATE FUNDS TO ESTABLISH 1410-430-H719 (BRIGGSMORE - OAKDALE TO CLAUS)

WHEREAS, the 1410-430-N495 (Briggsmore – Oakdale to Roselle) and 1410-430-A216 (Briggsmore – Roselle to Claus) are current FY2005 Capital Improvement projects, and

WHEREAS, combining the two projects will provide an economy of scale for construction costs, and

WHEREAS, certain budgetary transactions are necessary to combine two projects, and

WHEREAS, the two projects will be closed, taken to CFF Reserves, then re-opened as a new Capital Improvement project 1410-430-H719 (Briggsmore – Oakdale to Claus), and

WHEREAS, once opened as a new Capital Improvement project, a construction contract can be executed to draw from these funds,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves funding transfers as set forth herein to provide $3,279,535 to fully fund the Briggsmore – Oakdale to Claus project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 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, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-299

A RESOLUTION FINDING THAT THE PROJECT IS WITHIN THE SCOPE OF
THE VILLAGE ONE SPECIFIC PLAN (SCH NO. 90020181)

WHEREAS, on September 11, 1990, the City Council of the City of Modesto
certified the Final Program Environmental Impact Report for the Village One Specific
Plan (SCH# 90020181), and

WHEREAS, the Public Works Department, by Initial Study, EA/ET 2001-30,
reviewed the proposed Briggsmore Avenue Widening – Oakdale Road to Claus Road,
and made the determination that the proposed project will have no additional significant
effect on the environment that was not identified in the Master Environmental Impact
Report (MEIR); and further, that no new or additional mitigation measures or alternatives
may be required, and that, therefore, the proposed project is within the scope of the
project covered by the MEIR, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the Council has reviewed and considered the Initial Study prepared for the proposed
Briggsmore Avenue Widening – Oakdale Road to Claus Road, a copy of which is
attached hereto as Exhibit “A”, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

A. The proposed Briggsmore Avenue Widening – Oakdale Road to Claus Road is within the scope of the project covered by the Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181).

B. The proposed construction of Briggsmore Avenue Widening – Oakdale Road to Claus Road will have no new additional significant effect on the environment not addressed in the Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181).

C. No new or additional mitigation measures are required for the proposed Briggsmore Avenue Widening – Oakdale Road to Claus Road.

D. No new environmental document or findings pursuant to Section 21081 shall be required by the California Environmental Quality Act (per section 21157.1) for the Farmland Stabilization Initiative.

E. There are no specific features unique to this proposed Briggsmore Avenue Widening – Oakdale Road to Claus Road that require project specific mitigation measures. All certified mitigation measures identified in the Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181) will apply to all projects within the Village One Specific Plan including this project as appropriate.

F. This Initial Study provides substantial evidence to support findings “A, B, C, D and E” 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 7th day of June 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, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
EXHIBIT "A"

INITIAL STUDY

EA/ET 2001-30
City of Modesto

Initial Study

PURCHASE OF PROPERTY FOR THE
BRIGGSMORE AVENUE/CLAUS ROAD URBAN INTERCHANGE
WITHIN THE VILLAGE ONE COMMUNITY FACILITIES DISTRICT

EA/ET 2001-30
August 29, 2001

I. PURPOSE

On September 11, 1990, the Modesto City Council certified a Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181). This Program EIR analyzed the impacts of build-out of the Village One Specific Plan, which includes the area in which this project is proposed.

Subsequently, on May 24, 1994, the City Council certified a Supplement to the Village One Program EIR. This supplement updated and modified the original EIR.

Sections 15168(c) and 15162 of the CEQA Guidelines allows the approval of subsequent projects within the scope of the Project EIR without further environmental review, provided the following findings are made:

1. The proposed Specific Plan Amendment is consistent with the Modesto Urban Area General Plan.

2. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, the project is within the scope of the projects covered by the Program EIR and no new environmental document or findings are required by CEQA.

3. The project will have no new effects which were not examined in the Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR ("Program EIR") and no new mitigation measures would be required.

4. There are no substantial changes proposed in the project which will require major revisions of the Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR.

5. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR.

6. No new information, which was not known and could not have been known at the time the Village One Specific Plan Program EIR was certified as complete, has become available.
7. There are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Program EIR will be sufficient for this project.

8. All feasible mitigation measures set forth in the Program EIR which are appropriate to the project shall be incorporated in the project.

9. The Initial Study, Environmental Assessment No. EA/ET 2001-30, provides the substantial evidence to support findings 2-8 noted above.

II. PROJECT DESCRIPTION

A. Project title:
   Purchase of property for the Briggsmore Avenue/Claus Road Urban Interchange within the Village One Community Facilities District.

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

C. Contact person and phone number:
   Dean Phillips, Engineering and Transportation Department, 209 577 5260

D. Project Location:
   The project is located at the Briggsmore Avenue and Claus Road intersection, within the Village One Specific Plan.

E. Project Sponsor:
   City of Modesto, 1010 Tenth Street, Modesto, CA 95353

F. General Plan Designation:
   Village Residential (VR)

G. Current Zoning:
   Specific Plan-Holding (SP-H) Zone

H. Description of Proposed Project:
   The purchase of real property located in the Village One Specific Plan Area that is to be improved as the Briggsmore Avenue/Claus Road Urban Interchange totaling 27.84 acres for this acquisition.

I. Surrounding land uses:
   The project is bounded on the north, south and west by developing single-family subdivisions designated in the Village One Specific Plan for residential development, and on the east by a proposed industrial area.

J. Other public agencies whose approval is required:
   None
III. ANALYSIS OF CONFORMANCE WITH SECTION 15168(C) FINDINGS

Following is an analysis of how the project is within the scope of the Village One Program EIR and how there are no substantial changes proposed in the project which would require major revisions of the Village One Program EIR, broken down by each impact area identified in the Village One Program EIR:

A. Traffic and Circulation

Impacts to traffic and circulation are discussed on pages III-40 through III-44 of the Supplemental EIR. The land to be acquired is consistent with the Village One Specific Plan in land use and intensity. It also provides a circulation system in accordance with the Specific Plan for the Claus Road Expressway. Therefore, impacts to traffic and circulation for this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

B. Degradation of Air Quality

Impacts to air quality are analyzed on pages III-45 through III-54 of the Supplemental EIR. Air quality impacts for this project are directly related to traffic impacts. Because traffic impacts for this project are within the scope of those in the Village One EIR, air quality impacts are also within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

C. Generation of Noise

Noise impacts are analyzed on pages III-55 through III-67 of the Supplemental EIR. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the noise impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

D. Vegetation and Wildlife

Impacts to vegetation and wildlife are analyzed on pages III-68 through III-79 of the Supplemental EIR. The project is located in an area analyzed by the Village One EIR separating residential and industrial development. Therefore, the impacts to vegetation and wildlife of this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

E. Land Use

Land use impacts are analyzed on pages III-80 through III-94 of the Supplemental EIR. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the land use impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.
F. Population, Employment and Housing

Impacts to population, employment and housing are analyzed on pages III-95 through III-99 of the Supplemental EIR. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the impacts to population, employment and housing of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

G. Urban Design and Visual Quality

Impacts to urban design and visual quality are analyzed on pages III-101 through III-103 of the Supplemental EIR. The development proposed by this precise plan is consistent with the Village One Specific Plan in terms urban design. Therefore, the impacts to urban design and visual quality of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

H. Geology and Soils

Impacts to geology and soils are analyzed by the Supplemental EIR on pages III-105 through III-108. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the impacts to geology and soils of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

I. Hydrology

Hydrology impacts are analyzed on pages III-109 through III-119 of the Supplemental EIR. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the impacts to hydrology of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

J. Public Services

Impacts to public services are analyzed on pages III-121 through III-158 of the Supplemental EIR. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the impacts to public services of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

K. Fiscal Impacts

Fiscal impacts are analyzed on pages III-159 through III-160 of the Supplemental EIR. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the fiscal impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.
L. Cumulative Impacts

Cumulative impacts are analyzed on page III-161 of the Supplemental EIR. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the cumulative impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

M. Growth Inducing Impacts

Growth inducing impacts are analyzed by the Supplemental EIR on page III-161. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the growth-inducing impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

IV. ANALYSIS OF CONFORMANCE WITH SECTION 15182 FINDINGS

A. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report

The Village One Program EIR was certified by the Modesto City Council on September 11, 1990, and the Supplemental EIR was certified on May 24, 1994. Since then, there have been no substantial changes with respect to the circumstances under which this project is being undertaken which will require major revisions in the Village One Program EIR.

B. No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available

The Village One Program EIR was certified by the Modesto City Council on September 11, 1990, and the Supplemental EIR was certified on May 24, 1994. Since then, there is no new information, which was not known at the time the Program EIR was certified, has become available, that would change the conclusions of the EIR.

V. MITIGATION MEASURES

Since the project is within the scope of the Village One Specific Plan Program EIR, there are no additional mitigation measures needed for the project. All feasible mitigation measures set forth in the Program EIR which are appropriate to the project shall be incorporated in the project.

VI. CONCLUSIONS/DETERMINATIONS OF FINDINGS

1. The proposed Specific Plan Amendment is consistent with the Modesto Urban Area General Plan.
2. As per Sections 15168 (c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, the project is within the scope of the projects covered by the Program EIR and no new environmental document or findings are required by CEQA.

3. The project will have no new effects which were not examined in the Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR ("Program EIR") and no new mitigation measures would be required.

4. There are no substantial changes proposed in the project which will require major revisions of the Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR.

5. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR.

6. No new information, which was not known and could not have been known at the time the Village One Specific Plan Program EIR was certified as complete, has become available.

7. There are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Program EIR will be sufficient for this project.

8. All feasible mitigation measures set forth in the Program EIR which are appropriate to the project shall be incorporated in the project.

9. The Initial Study, Environmental Assessment No. EA/ET 2001-30, provides the substantial evidence to support findings 2-8 noted above.

Signature:

Dean Phillips,
Sr. Civil Engineer
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-300

A RESOLUTION ACCEPTING THE WORK BY MAGNUM ENTERPRISES, INC., FOR THE “MODESTO FIRE STATION NO. 11” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $1,722,737.99 PER THE CONTRACT. TOTAL PROJECT COST IS $2,150,090.36

WHEREAS, a report has been filed by the Public Works Director that the project titled “Modesto Fire Station No. 11” has been completed by Magnum Enterprises, Inc., in accordance with the contract agreement dated April 6, 2004,

NOW, THEREFORE, BE IT RESOLVED by the Council that the “Modesto Fire Station No. 11” project be hereby accepted from said contractor, Magnum Enterprises, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $1,722,737.99 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZAHR, City Clerk

APPROVED AS TO FORM:
By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-301

A RESOLUTION APPROVING AND AUTHORIZING SUBMISSION OF THE CITY’S TRANSPORTATION DEVELOPMENT ACT TRANSIT CLAIM FOR FISCAL YEAR 2005/06 IN THE AMOUNT OF $5,515,801 TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG)

WHEREAS, the greatest portion of the City’s funding for the Transit Service Program is made available under the Transportation Development Act (TDA), which includes Local Transportation Fund (LTF) funds and State Transit Assistance Fund (STA) funds, and

WHEREAS, StanCOG has informed the Finance Department that LTF and STA funding has been apportioned by the State to StanCOG for allocation to public transit agencies pursuant to Sections 99233.3 and 99234 of the California PUC, and

WHEREAS, the City has developed an application for Fiscal Year 2005/06 TDA reimbursement pursuant to Section 99233.3 of the California PUC, and

WHEREAS, the City’s Transit TDA Claim for Fiscal Year 2005/06 is $5,515,801, composed of $4,520,139 in LTF funds and $995,662 in STA funds, and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2005/06 is $11,297,766, and

WHEREAS, the added Transit Capital Budget for Fiscal Year 2005/06 is $393,500, and

WHEREAS, Council action authorizing submission of the Claim is required by StanCOG pursuant to Section 99261 of the California Public Utilities Code before any TDA funding can be released to the City,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the annual TDA transit claim in the amount of $5,515,801.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute and submit the TDA transit claim to StanCOG for Fiscal Year 2005/06.

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

Nees: Council members: None

Absent: Council members: None

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION ESTABLISHING THE CALCULATION FOR THE APPROPRIATION LIMIT FOR THE FISCAL YEAR 2005-2006 ANNUAL BUDGET

WHEREAS, the Annual Budget of the City of Modesto is recommended for adoption, and Proposition 4 of the California State Constitution requires the City to establish an appropriation limit calculation for the Fiscal Year 2005-2006, and

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

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

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

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

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

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

Appropriations from nontax revenues, including the City’s enterprise funds, are not subject to the limit. Enterprise fund expenditures for fiscal year 2004/05 are estimated to be $102 million. We are significantly below the limit when we exclude these expenditures from the calculation.
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-302

A RESOLUTION APPROVING AMENDMENTS TO THE AGREEMENT WITH CAROLLO ENGINEERING FOR PROVISION OF ADDITIONAL PROFESSIONAL ENGINEERING SERVICES IN SUPPORT OF PHASE I OF THE WASTEWATER MASTER PLAN (WWMP) UPDATE, AS WELL AS DELETE THE ENVIRONMENTAL WORK FROM THE PHASE I AGREEMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENTS TO THE AGREEMENT

WHEREAS, on January 26, 2004 the City Council approved an agreement in the amount of $998,200 with Carollo Engineering to prepare Phase I of the Wastewater Master Plan (WWMP) Update, and

WHEREAS, the Phase I scope of work included an evaluation of the City’s collection system, and Phase II, scheduled to commence in Fiscal Year 2005-2006, would provide for an evaluation of the City’s wastewater treatment and disposal systems, and

WHEREAS, Phase II, the assessment of the treatment and disposal system, was delayed until the 2005-06 budget year, and

WHEREAS, much of the data obtained during the WWMP update is being utilized as part of a separate, but related, effort to update the wastewater system rates and connection fees, and

WHEREAS, the rate/connection fee work required refining estimates for the capital improvement program, which was work beyond that originally budgeted within the Phase I WWMP Update agreement, and

WHEREAS, this additional work totaled $134,915 and has been completed under the existing Phase I agreement, and
WHEREAS, additionally, the rate and connection fee updates require analysis of data from the treatment and disposal components of the wastewater system totaling $163,485, a portion of which has already been completed, and

WHEREAS, the total cost for additional services provided as part of this proposed amendment to the Phase I agreement is $298,400, and

WHEREAS, removal of the CEQA sub-consultant work in the amount of $155,000 from the Phase I agreement is also necessary, as this work needs to be accelerated and completed prior to final adoption of the connection fees, and

WHEREAS, the net value of these amendments to the agreement is an increase in the amount of $143,400, and

WHEREAS, funds are budgeted in account 6210-430-A209 for these amendments to the agreement, and

WHEREAS, the Finance Committee, at its May 23, 2005 meeting, recommended approval of these amendments to this agreement to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendments to the Agreement with Carollo Engineering in the amount of $143,400 to provide professional engineering services in support of Phase I of the Wastewater Master Plan (WWMP) Update, as well as delete the environmental work from the Phase I Agreement.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute the agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 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: Dunbar, Hawn, Jackman, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By  
MICHAEL D. MILICH, City Attorney
A RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERING FOR PROFESSIONAL ENGINEERING SERVICES TO DEVELOP THE WASTEWATER JUSTIFICATION AND COST ALLOCATION FOR THE PROPOSED WASTEWATER SYSTEM IMPROVEMENTS STUDY (ENGINEER’S REPORT), APPROVING THE TRANSFER OF FUNDS FROM THE SEWER FUND RESERVE TO FUND THIS AGREEMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, a number of the City’s wastewater collection, disposal and treatment system and associated rates and connection fees are necessary in order to gather a full assessment of the City’s wastewater system needs and funding/financing mechanism, and

WHEREAS, the first portion of the Wastewater Master Plan (WWMP) Update was launched in early 2004, and

WHEREAS, Phase II of the WWMP Update, the assessment of the treatment and disposal system, was delayed until the 2005-06 budget year, and

WHEREAS, both Phase I and Phase II, based on an RFP process, were to be completed by Carollo Engineering, and

WHEREAS, data collected as part of the WWMP update serves as the foundation for the system’s future capital improvement program and supporting rate/fee increases, and

WHEREAS, earlier this year, the City began the process of evaluating the need for rate and connection fee increases to support existing and future needs of the wastewater system, and
WHEREAS, on April 18, 2005, the Finance Committee received preliminary findings from Carollo Engineering on the wastewater system as part of the Wastewater Master Plan update, and

WHEREAS, these preliminary findings included a projected CIP budget to be used to determine future rate and connection (development impact) fee increases, and

WHEREAS, preparation of the Engineer’s Report is the next step in the rate/connection fee increase project, and

WHEREAS, the Engineer’s Report will utilize the preliminary WWMP findings to provide justification for the identified capital improvements and an allocation of these associated costs to existing and future customers, and

WHEREAS, staff has negotiated a contract with Carollo Engineering to prepare the Engineer’s Report on a time and materials basis, not to exceed $127,048, and

WHEREAS, Sewer Fund Reserve funds are needed to fund this agreement, and

WHEREAS, the Finance Committee, at its May 23, 2005 meeting, recommended approval of this agreement to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Carollo Engineering in an amount not to exceed $127,048, for professional engineering services to develop the Wastewater Justification and Cost Allocation for the proposed Wastewater System Improvements Study (Engineer’s Report).

BE IT FURTHER RESOLVED that the Council approves the transfer of funds from Sewer Fund Reserve to fund this agreement.
BE IT FURTHER RESOLVED that the City Manager, or his authorized designee,
is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 27th day of June 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: Dunbar, Hawn, Jackman, Keating, Marsh,
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION APPROVING AN AMENDMENT TO AN AGREEMENT WITH FORESIGHT CONSULTING FOR THE REVISED SCOPE OF WORK RELATED TO THE WATER AND WASTEWATER USER FEE AND INFRASTRUCTURE FEE STUDY, AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE AGREEMENT, AND APPROVING TRANSFER OF FUNDS FROM THE WATER AND SEWER FUND RESERVES TO SUPPORT THE AMENDMENT

WHEREAS, in December 2003, Foresight Consulting was selected to conduct the Water and Wastewater User Fee and Infrastructure Fee Study, and

WHEREAS, in October 2004, Council approved an amendment to the original agreement, which amendment totaled $232,950, and

WHEREAS, based upon staff’s experience during the Water rate/connection fee increase process, the existing agreement budget is insufficient to complete all of the sewer rate/fee increase work, and

WHEREAS, the additional work to be performed totals $142,050, bringing the total agreement amount to $375,000, and

WHEREAS, $33,300 from the Water Fund Reserves and $108,750 from Sewer Fund Reserves are needed to fund this amendment, and

WHEREAS, the Finance Committee, at its May 23, 2005 meeting, recommended approval of this agreement to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment to the agreement with Foresight Consulting, in the amount totaling $375,000 for services related to the Water and Wastewater User Fee and Infrastructure Fee Study.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment to the Agreement.

BE IT FURTHER RESOLVED that the Council approves the transfer of funds from the Water Fund Reserves in the amount of $33,300 and from the Sewer Fund Reserves in the amount of $108,750.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 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 votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-305

A RESOLUTION REQUIRING THAT CANDIDATES FOR THE NOVEMBER 8, 2005 REGULAR MUNICIPAL ELECTION PAY A $500 DEPOSIT AS A CONDITION OF HAVING HIS OR HER CANDIDATE STATEMENT INCLUDED IN THE VOTER PAMPHLET AND REQUIRING THE CITY CLERK TO BILL SUCH CANDIDATES FOR THEIR PRO RATA SHARE OF THE ACTUAL COST OF THE PRINTING OF SUCH STATEMENTS AFTER THE ELECTION

WHEREAS, pursuant to Section 85300 of the Political Reform Act, added by Proposition 73 of the June 1988 Statewide Primary Election, Public Funds; Prohibition, “No public officer shall expend and no candidate shall accept any public monies for the purpose of seeking elective office”.

WHEREAS, State Elections Code Section 13307(e) provides that before the opening of the nomination period, the Council must determine whether the candidates shall pay for their statements and it was determined that candidates will be charged a $500.00 deposit at the time of filing their nomination form, and

WHEREAS, the City Clerk was directed, pursuant to Election Code 13307(c) to bill the candidate for any additional actual expense or refund any excess paid depending on the final actual cost.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby declares that candidates for election in the Regular Municipal Election to be held on November 8, 2005 shall be required to pay a $500 deposit as a condition of having his or her candidate statement included in the voter pamphlet.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr

City Clerk

APPROVED AS TO FORM:

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

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

WHEREAS, based upon a resolution adopted by the legislative body of the Community Facilities District on December 11, 2003 and an election held on December 11, 2003 authorizing the issuance of bonds by the Community Facilities District, the Community Facilities District is now authorized to issue bonds in one or more series, pursuant to the Act, in an aggregate principal amount not to exceed $25,000,000; and

WHEREAS, the legislative body of the Community Facilities District has heretofore attempted to provide for the financing of certain public improvements related
to the development of the land within its boundaries and incidental expenses associated therewith by adopting a resolution authorizing the sale and issuance of Special Tax Bonds, approving documents relating thereto and authorizing and directing certain related actions, but the sale of the said Bonds did not take place pursuant to said resolution; and

WHEREAS, the legislative body of the Community Facilities District intends to again attempt to provide the financing of the purchasing, constructing, expanding, improving or rehabilitating certain public improvements related to the development of the land within its boundaries and appurtenances and appurtenant work in connection with the foregoing (the “Facilities”) and the incidental expenses incurred and to be incurred in connection with financing the facilities, including costs associated with the creation of the Community Facilities District and the issuance of bonds and the establishment of a bond reserve fund (the “Incidental Expenses”) through the issuance of bonds designated as the “City of Modesto Community Facilities District No. 2003-1 (Fairview Village) Special Tax Bonds Series 2005” (the “Bonds”); and

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

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

1. the Trust Indenture, dated as of May 1, 2005, by and between The Bank of New York Trust Company, N.A. as trustee (the “Trustee”), and the Community Facilities District (the “Indenture”);
2. the Continuing Disclosure Agreement, dated as of May 1, 2005 by and among Goodwin Consulting Group, as dissemination agent, the Trustee and the Community Facilities District (the “Continuing Disclosure Agreement”);

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

4. the Bond Purchase Agreement relating to the Bonds (the “Bond Purchase Agreement”) by and between the Community Facilities District and UBS Financial Services Inc. (the “Underwriter”);

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

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

SECTION 2. The proposed forms of the Indenture and the Continuing Disclosure Agreement are hereby approved; and the District Administrator and the City Clerk are hereby authorized and directed for and in the name and on behalf of the Community Facilities District to execute, acknowledge and deliver to the respective other parties, the Indenture and the Continuing Disclosure Agreement in substantially said forms, with such additions thereto, completions thereof and/or changes therein as the officers executing the same may approve as necessary or desirable (consistent with the provisions of this Resolution and with form of the Bond Purchase Agreement approved
pursuant hereto), such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 3. The issuance of the Bonds pursuant to the Indenture in an aggregate principal amount (not in excess of $5,000,000) approved by the District Administrator or his or her designee (the “District Administrator”) as being necessary and appropriate in order to provide financing for the Facilities and the Incidental Expenses and to fund the various funds and accounts created by the Indenture in the amounts described in the Preliminary Official Statement (or as determined by the District Administrator), is hereby authorized. The Bonds shall mature on the dates and in the amounts, and bear interest at the rates, set forth in the Bond Purchase Agreement to be executed on behalf of the Community Facilities District in accordance with Section 8 hereof. The sum of (i) the aggregate principal amount of the Bonds so authorized plus (ii) the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Act on property within the Community Facilities District or a special assessment levied on such property (as shown in the Preliminary Official Statement under the caption “THE COMMUNITY FACILITIES DISTRICT – Direct and Overlapping Debt”) does not exceed one-third of the value of the property within the Community Facilities District that will be subject to the Special Tax, as such value is estimated in an appraisal prepared for the Community Facilities District by Bender Rosenthal, Inc. of Sacramento, California (a copy of which is set forth in Appendix B to the Preliminary Official Statement).

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

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

SECTION 6. The proposed form of the Preliminary Official Statement is hereby approved with such changes thereto as may be approved by the District Administrator in order to make such Preliminary Official Statement final as of its date, except for the omission of certain information, as permitted by Section 240.15c2-12(b)(1) of Title 17 of the Code of Federal Regulations (the "Rule"); and the distribution of the Preliminary Official Statement in connection with the sale of the Bonds, with such changes included, is hereby authorized. The District Administrator is authorized and directed to execute and deliver a certificate relating to compliance with the Rule. The District Administrator is further authorized and directed, to execute and deliver to the Underwriters a final Official Statement in substantially the form of the Preliminary Official Statement hereby approved with such changes as may be approved by the District Administrator as
necessary or desirable, such approval to be conclusively evidenced by the execution and delivery thereof; and the distribution of such final Official Statement in connection with the sale of the Bonds is hereby authorized.

SECTION 7. In accordance with the provisions of Section 53360.4 of the Act, the City Council hereby finds and determines that a negotiated sale of the Bonds to the Underwriters in accordance with the terms of the Bond Purchase Agreement will result in a lower overall cost to the Community Facilities District than a sale conducted pursuant to Section 53360 of the Act.

SECTION 8. The proposed form of the Bond Purchase Agreement and the sale of the Bonds pursuant thereto are hereby approved, provided that (a) the aggregate purchase price of the Bonds (exclusive of any original issue discount) shall not be less than ninety-seven and one-quarter percent (97.25%) of the original aggregate principal amount of the Bonds, (b) any original issue discount shall conform to the City’s policies with respect thereto, (c) the true interest cost of the Bonds shall not exceed six and three quarters percent (6.75%), (d) the final maturity of the Bonds shall be not later than September 1, 2035 and (e) the maturity dates and purchase price of and interest rates and original issue discount applicable to the Bonds shall have been approved by the District Administrator; and, subject to such approval, the District Administrator and the City Clerk are hereby authorized and directed to evidence the Community Facilities District’s acceptance of the offer made by said Bond Purchase Agreement by executing and delivering to the Underwriters said Bond Purchase Agreement in said form with such changes therein as the officers executing the same may approve as necessary or desirable, such approval to be conclusively evidenced by the execution and delivery thereof.
SECTION 9. In the event that the District Administrator is unavailable to execute and deliver any of the documents that the District Administrator is authorized to execute and deliver pursuant to the terms of this Resolution, then each of the City Manager and the designee of the District Administrator is hereby authorized and directed to do so.

SECTION 10. The District Administrator and other officers of the Community Facilities District of the City of Modesto are hereby authorized and directed, jointly and severally, to execute and sign any and all approvals, certificates, statements, requests, requisitions and orders of the Community Facilities District in connection with the issuance of the Bonds; and any action specifically authorized or directed by this Resolution to be undertaken by any of such officers may be undertaken by either of the others with the same force and effect as if it had been undertaken by the officer specifically authorized or directed to do so.

SECTION 11. If and to the extent that any provision of this Resolution or of any of the documents approved pursuant hereto is inconsistent with the City’s policies and procedures for the formation, annexation and administration of community facilities districts, said policies and procedures are hereby waived.

SECTION 12. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any remaining provisions of this Resolution.

SECTION 13. This Resolution shall take effect from and after its adoption.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), held on the 14<sup>th</sup> day of June 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

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION AMENDING SECTION 8 OF RESOLUTION 2003-330, ENTITLED "A RESOLUTION GRANTING SALARY AND BENEFIT CHANGES TO UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES, INCLUDING CHARTER OFFICERS AND EXECUTIVES," TO GRANT HEALTH BENEFIT CHANGES TO UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES INCLUDING CHARTER OFFICERS AND EXECUTIVES, FOR FY 05-06 AND FY 06-07 EFFECTIVE JULY 26, 2005

WHEREAS, the City Council desires to amend Section 8 of Resolution 2003-330, to increase the City's contribution to health, dental and vision benefits for FY 05-06 and FY06-07 for unrepresented Management and Confidential employees including Charter Officers and Executives, and

WHEREAS, contributions for employees with Family coverage shall increase by $35/month effective July 26, 2005 and by $45/month effective July 25, 2006; contributions for employees with Employee Only coverage shall increase by $57/month effective July 26, 2005 and by $45/month effective July 25, 2006; and contributions for employees who Opt Out of health coverage shall increase by $7/month effective July 26, 2005 and by $5/month effective July 25, 2006,

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

The City's contributions to unrepresented non-sworn employees' health, dental and vision benefits are hereby increased to the following amounts:

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<thead>
<tr>
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<th>Effective July 26, 2005</th>
<th>Effective July 25, 2006</th>
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<tbody>
<tr>
<td>Family</td>
<td>$712/month</td>
<td>$757/month</td>
</tr>
<tr>
<td>Employee Only</td>
<td>$435/month</td>
<td>$480/month</td>
</tr>
<tr>
<td>Opt Out</td>
<td>$385/month</td>
<td>$390/month</td>
</tr>
</tbody>
</table>
The City’s contributions to unrepresented sworn Fire management and unrepresented sworn Police management employees’ health, dental and vision benefits are hereby increased to the following amounts:

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<tr>
<th></th>
<th>Effective July 26, 2005</th>
<th>Effective July 25, 2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family</td>
<td>$767/month</td>
<td>$812/month</td>
</tr>
<tr>
<td>Employee Only</td>
<td>$435/month</td>
<td>$480/month</td>
</tr>
<tr>
<td>Opt Out</td>
<td>$385/month</td>
<td>$390/month</td>
</tr>
</tbody>
</table>

Effective July 26, 2005, the City’s contribution toward unrepresented employees with Family coverage shall not exceed the actual premium amount for the lowest cost health (HMO Plan) dental and vision plans offered by the City, regardless of the health plan selected by the employee or the contribution amounts listed above.

Effective July 26, 2005, the City’s contribution toward unrepresented employees with Employee Only coverage shall not be less than the actual premium amount for the lowest cost health, (HMO Plan), dental and vision plans offered by the City, regardless of the health plan selected by the employee or the contribution amounts listed above.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June 2005, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION AMENDING THE FISCAL YEAR 05-06 OPERATING BUDGET TO TRANSFER $17,500 FROM 0100-800-8000-8003, GENERAL FUND RESERVE, AND $8,500 FROM OTHER FUND RESERVES, TO VARIOUS HEALTH BENEFITS ACCOUNTS TO PROVIDE FUNDING FOR INCREASED HEALTH BENEFITS FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES

WHEREAS, the City Council desires to increase the City's contribution to unrepresented Management and Confidential employees Health, Dental and Vision benefits, and

WHEREAS, the FY 05-06 costs associated with these increases are estimated at $26,000, effective July 26, 2005, and

WHEREAS, these increased expenditures have not yet been budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2005-06 Operating Budget is hereby amended to transfer $17,500 from 0100-800-8000-8003, the General Fund Reserve, and $8,500 from other Fund reserves to various health benefit accounts.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June 2005, by Councilmember O'Bryant, 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

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-309

A RESOLUTION AMENDING THE FY05 OPERATING BUDGET APPROVING
THE APPROPRIATION OF $110,000 FROM THE GENERAL FUND RESERVE
AND TRANSFERRING THOSE FUNDS TO FUND 0700-160-1605 IN ORDER TO
FULLY FUND ELECTRICAL UTILITY COSTS FOR THE REMAINDER OF
FISCAL YEAR 2004/2005

WHEREAS, electrical utility costs within the City of Modesto have increased
over the course of the past two calendar years, and

WHEREAS, the City of Modesto experienced new building growth, adding more
streetlights and traffic signals into our utility system, and

WHEREAS, expenditures for Fiscal Year 2004/2005 do not reflect utility costs for
April, May, or June 2005, and

WHEREAS, the increase this year is estimated to be $110,000 over our utilities
budget, and

WHEREAS, the Finance Committee, at their May 23, 2005, meeting, reviewed
and concurs with staff's recommendation to amend the FY05 Operating budget
approving the appropriation of $110,000 from the General Fund Reserve and transferring
those funds to Fund 0700-160-1605 in order to fully fund electrical utility costs for the
remainder of Fiscal Year 2004/2005, and

WHEREAS, existing policy requires City Council approval to appropriate funds
from reserve to Operating budget,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves amending the FY05 Operating budget approving the appropriation

06/14/05 PW/J Barnes/Item No 5 1 2005-309
of $110,000 from the General Fund Reserve and transferring those funds to Fund 0700-160-1605 in order to fully fund electrical utility costs for the remainder of Fiscal Year 2004/2005.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the appropriation in the amount of $110,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 

MICHAEL D. MILICH, City Attorney

06/14/05/PW/J Barnes/Item No 5
A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS AND
AWARDING THE BID AND APPROVING A $294,860 CONSTRUCTION
CONTRACT WITH COLLINS ELECTRICAL FOR THE PROJECT ENTITLED
“TRAFFIC SIGNAL MODIFICATIONS AT 4 LOCATIONS: 9th/G STREETS,
9th/H STREETS, 9th/J STREETS, AND YOSEMITE BOULEVARD/LA LOMA
AVENUE,” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE
CONTRACT AGREEMENT

WHEREAS, City staff has reviewed the plans and specifications for the project
Streets, and Yosemite Boulevard/La Loma Avenue” and recommends approval to the
City Council, and

WHEREAS, the bids received for the “Traffic Signal Modifications at 4
Locations” project were opened at 11:00 a.m., on April 26, 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
$294,860 received from Collins Electrical be accepted as the lowest responsible bid, and
the contract be awarded to Collins Electrical,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it approves the plans and specifications for the “Traffic Signal Modifications at 4
Locations; 9th/G Streets, 9th/H Streets, 9th/J Streets, and Yosemite Boulevard/La Loma
Avenue” project.

BE IT FURTHER RESOLVED that the Council accepts the bid of Collins
Electrical in the amount of $294,860, and hereby awards Collins Electrical the contract
for “Traffic Signal Modifications at 4 Locations.”
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 14th day of June 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

Attest: Jean Zahr

JEAN Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-311

A RESOLUTION AMENDING THE CLASSIFICATION PLAN TO REALLOCATE THE POSITION OF WATER QUALITY CONTROL OPERATIONS SUPERVISOR TO THE POSITION OF WATER QUALITY CONTROL SUPERINTENDENT, ELIMINATE A VACANT SENIOR WASTEWATER TREATMENT PLANT OPERATOR POSITION AND REVISE THE JOB SPECIFICATION FOR WATER QUALITY CONTROL SUPERINTENDENT

WHEREAS, historically the Public Works Department had two (2) superintendent positions, which were the Water Quality Control Superintendent and the Wastewater Collections Superintendent, and

WHEREAS, the Wastewater Collections Superintendent oversaw the wastewater and stormwater collections functions of the department, while the Water Quality Control Superintendent oversaw the treatment facilities (primary and secondary), water quality lab, composting and environmental services, and

WHEREAS, the Water Quality Control Superintendent position also functioned as the Chief Plant Operator for the City’s treatment facilities and was required to possess a Grade 5 Wastewater Treatment Certificate issued by the California State Water Resources Control Board, and

WHEREAS, as a Class V Plant, the City is required to have a Grade 5 operator on staff, and

WHEREAS, in November 2002 the Water Quality Control Superintendent position was reallocated to Deputy Director, which position continued to function as the City’s Chief Plant Operator, and
WHEREAS, the day to day operations of the treatment facilities were overseen by the Water Quality Control Operations Supervisor who also possessed a Grade 5 wastewater treatment certificate and could function as a backup to the Chief Plant Operator, and

WHEREAS, the Water Quality Control Operations Supervisor position was recently vacated, and

WHEREAS, to attract a quality candidate to the position, staff proposes reallocating the Water Quality Control Operations Supervisor position to the position of Water Quality Control Superintendent, which position requires the Grade 5 certificate and which certification is typically found at the Superintendent level, and

WHEREAS, funding for the reallocation is estimated at $21,898 annually and would come from elimination of a vacant Senior Wastewater Treatment Plant Operator position, and

WHEREAS, in keeping with recent amendments to job specifications at the Superintendent level, the job specification for the Water Quality Control Superintendent position should be amended to reflect possession of a Bachelor’s Degree or equivalent, as well as to incorporate other minor operational changes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Position Classification Plan to revise the job specification for the classification of Water Quality Control Superintendent. Said classification is being amended to update the Experience and Training Guidelines and License or Certificate Requirements, as well as to incorporate other minor operational changes to more accurately reflect the requirements of this classification. The revised specifications for
the classification of Water Quality Control Superintendent, as shown on the attached Exhibit “A”, which are hereby made a part of this resolution by reference, are hereby approved and made a part of the Position Classification Plan of the City of Modesto.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the reallocation of the position of Water Quality Control Operations Supervisor to the position of Water Quality Control Superintendent.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the elimination of one vacant Senior Wastewater Treatment Plant Operator position.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 14th day of June 2005, by Councilmember O’Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
Exhibit A

Revised Job Specification for Water Quality Control Superintendent

Mayor and Council
Water Quality Control Supervisor Reallocation to Water Quality Control Superintendent
June 14, 2005
WATER QUALITY CONTROL SUPERINTENDENT

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

DEFINITION

To plan, organize and supervise the maintenance, operation, modification, and improvement of the City's wastewater treatment plant facilities, sewer system, and related facilities to insure the quality of wastewater discharge from the sewerage system meets Federal and State requirements; and to perform a variety of technical tasks relative to assigned area of responsibility.

SUPERVISION RECEIVED AND EXERCISED

Receives general direction from the Assistant Utility Services Deputy Director of Public Works - Operations.

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

EXAMPLES OF DUTIES - Duties may include, but are not limited to, the following:

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

Essential Functions:

Manage, direct and organize wastewater division activities.

Recommend goals and objectives; assist in the development of policies and procedures.

Direct, oversee and participate in the development of the Division work plan; assign work activities, projects and programs; monitor work flow; implement policies and procedures; review and evaluate work products, methods and procedures.

Prepare the Division budget; assist in budget implementation; participate in the forecast of additional funds needed for staffing, equipment, materials, and supplies; administer the approved budget.
Participate in recommending the appointment of personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures; recommend employee terminations.

Oversee the operations of a biochemical testing laboratory; review plant operating data, including laboratory tests, to determine if operational changes are necessary.

Supervise the maintenance and repairs of the City sewer system; review sampling stations and sampling techniques to assure proper sampling results.

Inspect primary and secondary plants to ensure proper operation, cleaning and safety procedures.

Supervise public relations activities; conduct guided tours; speak at clubs and schools.

Make recommendations for improvement and construction of wastewater treatment facilities; evaluate new products and processes to determine applicability to system.

Supervise the preparation of a variety of reports required by regulatory agencies involved in the control of water pollution.

Supervise the preparation of payroll reports, employee evaluations, and other wastewater functions and activities for City officials.

Ensure an adequate inventory of supplies, parts, and equipment for the wastewater treatment plant and related facilities.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Wastewater treatment systems and plant operations.

Materials, methods, tools, and equipment used in the operation and maintenance of wastewater treatment plant sewer facilities.

Principles, objectives and tests used in a biochemical laboratory.
Design and engineering of wastewater treatment and sewage facilities.

Safety principles and practices.

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

Select, supervise, train and evaluate assigned staff.

Prepare and administer a budget.

Engineering principles and practices of sampling.

Ability to:

Plan, organize, direct and evaluate the work of a wastewater treatment plant, sewer system, and related facilities.

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

Maintain accurate operational records and prepare reports.

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

Prepare and administer a budget.

Read and interpret blueprints and understand diagrams.

Supervise, train and evaluate assigned staff.

Communicate clearly and concisely, both orally and in writing.

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

Experience and Training Guidelines

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

Six years of responsible experience in the operation and maintenance of a wastewater treatment plant, or major part thereof, including two years of supervisory or lead responsibility.

Training:

Equivalent to an Associates degree a Bachelor’s degree from an accredited college or university with major course work in civil engineering, environmental science, construction technology or a major related to the wastewater treatment field.

License or Certificate

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

Possession of a valid Grade 5 certificate Grade V Wastewater Treatment Plant Operator Certificate issued by the State of California State Water Resources Control Board, as issued through procedures established by the California State Water Resources Control Board.

WORKING CONDITIONS:

Environmental Conditions:

Office and field environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time and travel from site to site.
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-312

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MODESTO CALLING AN ELECTION FOR THE PURPOSE OF
SUBMITTING THE LEVY OF THE CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE
ONE #2) SPECIAL TAXES TO THE QUALIFIED ELECTORS OF
THE TERRITORY PROPOSED TO BE ANNEXED TO THE
DISTRICT (ANNEXATION NO. 7)

WHEREAS, this Council did, on April 26, 2005, adopt its Resolution No. 2005-
182 (the "Resolution of Intention to Annex") to indicate its intention to annex certain
territory to the City's Community Facilities District No. 2004-1 (Village One #2) (the
"District") and authorize the levy of the District special taxes within the territory
proposed to be annexed (the "Annexed Territory"), pursuant to Chapter 2.5 of Part 1 of
Division 2 of Title 5 (commencing with Section 53311) of the California Government
Code, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the
"Act"), and set a hearing thereon; and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-
681, adopted on December 14, 2004, clarify the Rate and Method of Apportionment with
respect to the Maximum Special Taxes to be generated by a parcel that has been rezoned,
and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-
683, adopted on December 14, 2004 ("Resolution of Creation of Tax Zone #2), create
Tax Zone #2 within the District; and

WHEREAS, the One-Time Facilities Special Tax component of the special taxes
is higher in Tax Zone #2 than in Tax Zone #1, and
WHEREAS, the Annexed Territory will be annexed and subject to the taxes in Tax Zone #2, and

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

WHEREAS, a map of the Annexed Territory, entitled “Annexation Map No. 7 of Community Facilities District No. 2004-1 (“Village One #2) of the City of Modesto, County of Stanislaus, State of California,” was recorded on May 5, 2005, in the Office of the County Recorder of the County of Stanislaus, in Book 4 of Maps of Assessment and Community Facilities Districts, at page 12; and

WHEREAS, at the time and date set for the hearing (June 14, 2005) pursuant to the Resolution of Intention to Annex, this Council held the public hearing, as required by the Act, related to the proposed annexation and the levy of the District special taxes for Tax Zone #2 within the Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex; and

WHEREAS, at the hearing all persons desiring to be heard on all matters pertaining to the proposed annexation and the levy of the District special taxes for Tax Zone #2 within the Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex, including all interested persons for or against the proposed annexation to the District and the levy of the District special taxes for Tax Zone #2 within the Annexed Territory were heard and considered, and a full and fair hearing was held thereon; and

WHEREAS, at the hearing evidence was presented to this Council on the matters before it, and this Council, at the conclusion of the hearing, was fully advised as to all
matters related to the proposed annexation and the levy of the District special taxes for
Tax Zone #2 within the Annexed Territory, and all other matters set forth in the
Resolution of Intention to Annex; and

WHEREAS, written protests against the proposed annexation and the levy of the
District special taxes for Tax Zone #2 within the Annexed Territory have not been filed
with the City Clerk by 50 percent or more of the registered voters or six registered voters,
whichever is more, residing within the District or residing within the District or residing
within the Annexed Territory, or the owners of one-half or more of the land in the
District, or in the Annexed Territory; and

WHEREAS, the Stanislaus County Registrar of Voters has certified there are less
than 12 registered voters residing in the Annexed Territory; accordingly, the qualified
electors are the landowners; and

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

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. All prior proceedings taken with respect to the annexation of the
Annexed Territory to the District, and the levy of the District special taxes for Tax Zone
#2 within the Annexed Territory were valid and in conformity with the requirements of
the Act. This determination shall be final and conclusive upon all persons.
SECTION 3. The proposed annexation of the Annexed Territory to the District and the levy of the District special taxes for Tax Zone #2 within the Annexed Territory have not been precluded by majority protest pursuant to Section 53339.5 of the Act.

SECTION 4. As stated in the Resolution of Intention to Annex, it is the intention of this Council, subject to the approval of the qualified electors of the Annexed Territory, to annex the Annexed Territory to the District and levy the District special taxes for Tax Zone #2 within the Annexed Territory. Upon such approval the Council will be authorized to levy the District special taxes for Tax Zone #2 within the Annexed Territory.

SECTION 5. A special election is hereby called at which the question of levying the District special taxes for Tax Zone #2 within the Annexed Territory shall be submitted to the qualified electors of the Annexed Territory. The election shall be held in accordance with and subject to the Act, all of the terms of which shall, unless waived as herein provided, be applicable to such election. The ballot measure shall be substantially in the form attached hereto as Exhibit A.

SECTION 6. Fewer than 12 persons have been registered to vote within the Annexed Territory for each of the 90 days preceding the close of the hearing referenced herein. Accordingly, the vote shall be by the landowners of the Annexed Territory, and each such landowner shall have one vote for each acre or portion thereof that he or she owns within the Annexed Territory. The ballots shall be distributed by mail with return postage prepaid, or by personal service, to each landowner, all as provided in Section 53326 of the Act.
Since the City Clerk has received an appropriate waiver of time limits and other requirements pertaining to the conduct of the election by the owner of all of the land in the Annexed Territory (the "Landowner"), the election shall be held on the 14th day of June 2005. The election shall be conducted by the City Clerk in the manner required by this resolution, the Act and applicable laws.

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

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

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

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

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

SECTION 11. The City Clerk shall canvass the returns and certify the results of the election to this Council. If two-thirds or more of the votes cast are in favor of levying the District special taxes for Tax Zone #2 in the Annexed Territory, this Council may thereafter, order the annexation of the Annexed Territory to the District and levy the
District special taxes in the Annexed Territory in the amount and for the purposes specified in Resolution No. 2004-199 adopted by this Council on April 6, 2004 (the “Resolution of Formation”). The Special Tax will be levied only at the rate and apportioned only in the manner specified in the Resolution of Formation, as clarified by the City Council on December 14, 2004 (Resolution No. 2004-681) and at the rates set forth in Tax Zone #2 created by the City Council on December 14, 2004 (Resolution No. 2004-683).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th of June 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: Hawn, Jackman, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr

JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
SAMPLE

OFFICIAL BALLOT

BALLOT NO. _____

CITY OF MODESTO

COMMUNITIES FACILITIES DISTRICT NO. 2004-1
(VILLAGE ONE #2)

ANNEXATION NO. 7

SPECIAL TAX ELECTION

SECTION 12. June 14, 2005

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

INSTRUCTIONS TO VOTERS

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

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

MARK YOUR CHOICE IN THIS MANNER ONLY: ☐ YES ☐ NO

MEASURE SUBMITTED TO VOTE OF VOTERS

Proposition A. Shall special taxes for Tax Zone #2, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City’s Resolution No. 2004-683, entitled “A Resolution of the City Council of the City of Modesto Creating Tax Zone #2 in Community Facilities District No. 2004-1 (Village One #2), Approving an Increase in the One-Time Facilities Special Tax Therein, and Approving Updates of the Rate and Method of apportionment of Special Taxes for the District”, adopted by the City Council of the City of Modesto on December 14, 2004, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to Tax Zone #2 of the City of Modesto Community Facilities District No. 2004-1 (Village One #2) pursuant to the City’s Resolution No. 2005-182, entitled “A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special Taxes therein (Annexation No. 7)” adopted by the City Council of the City of Modesto on April 26, 2005, for the purposes set forth in Resolution No. 2004-199, entitled “A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 2004-1 (Village One #2), Authorizing the Levy of Special Taxes within the District, Preliminarily Establishing an Appropriations Limit for the District, and Calling an Election for the Purpose of Submitting the Levy of the Special Taxes and the Establishment of the Appropriations Limit to the Qualified Electors of the District”, adopted by the City Council of the City of Modesto on April 6, 2004, which is incorporated herein by this reference?

BALLOT NO. _____

___% of land in territory proposed to be annexed to District
THIS BALLOT HAS A VALUE OF ___ VOTES

WHEREAS, this Council is conducting proceedings pertaining to the annexation of certain territory to the City’s Community Facilities District No. 2004-1 (Village One #2) (the “District”) and the levy of the District special taxes (the “District Special Taxes”) within such territory, as described in its Resolution No. 2005-182, entitled “A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special Taxes therein (Annexation No. 7)” adopted on April 26, 2005, pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”); and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-681, adopted on December 14, 2004, clarify the Rate and Method of Apportionment with respect to the Maximum Special Taxes to be generated by a parcel that has been rezoned, and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-683, adopted on December 14, 2004 (“Resolution of Creation of Tax Zone #2), create Tax Zone #2 within the District, and
WHEREAS, the territory to be annexed will be subject to the tax rates in Tax Zone #2,

WHEREAS, the owner of all the property within the territory proposed to be annexed to the District waived those provisions related to the timing and conduct of the election referenced in Sections 5, 6, 7 and 8 of this Council’s Resolution No. 2005-312, adopted on June 14, 2005, and, as a result, this Council called an election within the territory proposed to be annexed to the District (the “Election”) for June 14, 2005, or as soon after there as practicable, relative to the foregoing; and

WHEREAS, on June 14, 2005, the Election was held; and

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

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

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

SECTION 2. The ballot proposition presented to the qualified electors of the territory proposed to be annexed at the Election received at least two-thirds (2/3) of the votes cast at the Election. A copy of the City Clerk’s certificate of election results is attached.
SECTION 3. Pursuant to Section 53339.8 of the Act, it is hereby ordered that the territory proposed to be annexed to the District pursuant to Resolution No. 2005-182 be annexed to and be a part of the District with full legal effect, and that the District Special Taxes be levied within the territory so annexed as set forth in the Resolution of Creation of Tax Zone #2.

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

SECTION 5. The City Clerk is further authorized and directed to record an amendment to the Notice of Special Tax Lien with the County Recorder of the County of Stanislaus, within 15 days from the date hereof, in accordance with the provisions of Sections 3114.5 and 3117.7 of the California Streets and Highways Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June 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: Hawn, Jackman, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

APPROVED AS TO FORM:

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

ATTEST: [Signature]
JEAN ZAHR, City Clerk
CERTIFICATE OF CITY CLERK

I, JEAN ZAHR, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2005-312, A Resolution of the City Council of the City of Modesto Calling an Election for the Purpose of Submitting the Levy of the City of Modesto Community Facilities District No. 2004-1 (Village One #2) Special Taxes to the Qualified Electors of the Territory Proposed to be Annexed to the District (Annexation No. 7) adopted on April 26, 2005, by the City Council of the City of Modesto, I did conduct the Special Tax Election on June 14, 2005, and that the election was conducted by mail or in person at the City Hall of the City of Modesto.

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

**Proposition A.** Shall special taxes for Tax Zone #2, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City’s Resolution No. 2004-683, entitled “A Resolution of the City Council of the City of Modesto Creating Tax Zone #2 in Community Facilities District No. 2004-1 (Village One #2), Approving an Increase in the One-Time Facilities Special Tax Therein, and Approving Updates of the Rate and Method of apportionment of Special Taxes for the District”, adopted by the City Council of the City of Modesto on December 14, 2004, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to Tax Zone #2 of the City of Modesto Community Facilities District No. 2004-1 (Village One #2) pursuant to the City’s Resolution No. 2005-182, entitled “A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special Taxes therein (Annexation No. 7)” adopted by the City Council of the City of Modesto on April 26, 2005, for the purposes set forth in Resolution No. 2004-199, entitled “A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 2004-1 (Village One #2), Authorizing the Levy of Special Taxes within the District, Preliminarily Establishing an Appropriations Limit for the District, and Calling an Election for the Purpose of Submitting the Levy of the Special Taxes and the Establishment of the Appropriations Limit to the Qualified Electors of the District”, adopted by the City Council of the City of Modesto on April 6, 2004, which is incorporated herein by this reference?

TOTAL VOTES CAST:  YES _5_  NO _0_

Jean Zahr
City Clerk of the City of Modesto

Dated: June 17, 2005

Exhibit A to 2005-313 (Annexation No 7 to CFD No 2004-1)
MODESTO CITY COUNCIL
RESOLUTION NO. 2005 -314

A RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT TO ISSUE A FORMAL REQUEST FOR QUALIFICATIONS/REQUEST FOR PROPOSALS (RFQ/RFP) FOR FORESTRY SERVICES

WHEREAS, the City has primarily used internal staff to perform Forestry Services, and

WHEREAS, in 1994 an external management auditing firm, Arroyo Seco and Associates, compared City costs/outputs with outside service contractor costs present in other similar California cities, and

WHEREAS, the recommendation of the auditing firm was to continue with internal staff as costs were deemed comparable and outputs were at acceptable levels, and

WHEREAS, the budget for the Forestry Division for tree-related services is approximately $3.2 million per year, and

WHEREAS, this budget will be significantly reduced for Fiscal Year 2005-06 due to shortfalls in the Gas Tax Fund and General Fund and, in light of these budget reductions, privatization options should be evaluated, and

WHEREAS, managed competition is a formally adopted and agreed upon process between the employee associations and City Council, and

WHEREAS, City staff is allowed to submit a proposal for services just as is done by private companies, and

WHEREAS, the managed competition process authorizes the City Manager to retain the services of a consultant to assist City staff in the preparation of a proposal, and
WHEREAS, the following services presently provided by City crews will be compared with private firms in the RFP/managed competition process:

- Brush removal
- Clearance pruning
- Cycle pruning
- Emergency response
- Mistletoe removal
- Request pruning
- Tree removal/stump grinding
- Watering of trees (optional)

and,

WHEREAS, employees are eligible to receive assistance from a consultant to prepare a proposal under the Managed Competition Policy, and

WHEREAS, the cost for the consultant is estimated at $15,000 and would be paid from the Forestry Budget, and

WHEREAS, total costs for a managed competition process are estimated at approximately $45,000, including staff time, and

WHEREAS, the Finance Committee approved this recommendation at its March 21, 2005 meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Public Works Department to issue a formal RFQ/RFP for Forestry Services.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jakckman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Jackman, Keating, Marsh, Mayor Ridenour

NOES: Councilmembers: O'Bryant

ABSENT: Councilmembers: Dunbar

ATTEST:  
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

BY:  
MICHAEL D. MILICH, City Attorney

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Police Management Association (MPMA) expires on June 27, 2005, and

WHEREAS, representatives of the CITY and the MPMA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, pursuant to an Agenda Report dated June 2, 2005, a copy of which report is on file in the office of the City Clerk, the CITY and MPMA have reached agreement on a new MOU which, upon execution, shall be attached hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. SALARY INCREASES. The current salary schedule effective September 21, 2004 shall remain in full force and effect through November 28, 2005. Across-the-board salary increases shall be effective as follows:

3% effective November 29, 2005
3% effective November 28, 2006
4.5% effective June 26, 2007
5.5% effective June 24, 2008

SECTION 2. HEALTH, DENTAL AND VISION BENEFITS. The City’s contribution to employees’ Health, Dental and Vision coverage shall be as follows:
The MOU provides that the City’s contribution for Family coverage effective July 22, 2008 will be based on a market survey pursuant to the Modesto Police Officers’ Association MOU, with a maximum increase to $957/month.

SECTION 3. UNIFORM ALLOWANCE. Effective January 2008, uniform allowance increases from $1100/year to $1128/year.

SECTION 4. COURT OVERTIME, CALL BACK AND ACTING PAY.

Effective June 28, 2005, the minimum Court Overtime pay increases to 4 hours on a duty day or a day off, with “call-in” pay to the Court Liaison reduced from 2 hours to 1 hour.

Call Back pay shall be a 4 hour minimum at time and one-half if the appearance time occurs with less than 48 hours advance notification. If the appearance time occurs with 48 hours or more advance notification, a 2 hour minimum at time and one-half shall apply. The exception shall be, that if the appearance date and time falls on a regular day off, compensation for call back duty shall be a 4 hour minimum at time and one-half if the appearance time occurs with less than 72 hours advance notification. A Sergeant temporarily assigned to act as a Watch Commander for 6 or more hours in a day, shall be credited with 0.7 hours compensatory time off per day.

SECTION 5. BI-LINGUAL CTO. Effective June 24, 2008, Sergeants who are proficient in designated languages shall receive three hours compensatory time off per pay period, once they have passed an oral examination.
SECTION 6. MANAGEMENT LEAVE. Effective December 2006, Lieutenants may cashout an additional 10 hours of Management Leave, followed by an additional ten hours in December 2007. Effective December 2008, all Lieutenants may cashout a maximum of 60 hours, regardless of assignment.

SECTION 7. DEFERRED COMPENSATION. Effective December 26, 2006, the City’s contribution to employees' deferred compensation plan shall increase by one-half (0.5%) percent. The City currently contributes either three-fourths (0.75%) percent or one (1%) percent, depending on years of service.

SECTION 8. MASTER’S DEGREE. Effective June 27, 2006, employees who possess a Master’s Degree from an accredited institution shall receive educational incentive pay of one and one-half (1.5%) percent, subject to criteria established by the City. Employees acquiring a Master’s Degree after that date shall not be eligible for the incentive pay until June 24, 2008.

SECTION 9. ADDITIONAL CHANGES. Changes to the MOU also include phasing out the use of negative vacation, reduction of the cap on compensatory time off, seniority shift and vacation bidding, adjustments to Outside Work agreements, the Association Time Bank and timing for deferred compensation increases. The parties also agree to a non-arbitrable re-opener on the issue of pensions if there should be significant legislated or statutory changes due to pension reform, as well as a re-opener on alternatives to the City’s current retiree health program.

WHEREAS, the Council considered this matter at its meeting of June 14, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Memorandum of Understanding (MOU) between
the City of Modesto and the Modesto Police Management Association (MPMA), which covers a term from June 28, 2005 through June 22, 2009, and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: [Signature]
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-316


WHEREAS, on June 14, 2005, the City Council adopted Resolution No. 2005-315 approving a Memorandum of Understanding (MOU) between the City of Modesto and the Modesto Police Management Association adopting salary and benefit changes for Police Management Classes including salary schedules, and

WHEREAS, Council desires to establish a Class Range Table for said classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Class Range Table for Police Management Classes, entitled “City of Modesto Class Range Table Police Management Classes Effective June 28, 2005” which is attached hereto as Exhibit “A” and made a part hereof as though set forth in full herein.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
CITY OF MODESTO  
CLASS RANGE TABLE  
POLICE MANAGEMENT CLASSES (Represented)  

Effective June 28, 2005

<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>601</td>
<td></td>
</tr>
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<td>602</td>
<td>Police Corporal</td>
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<tr>
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<tr>
<td>610</td>
<td>Police Sergeant</td>
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<tr>
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<td></td>
</tr>
<tr>
<td>617</td>
<td>Police Lieutenant</td>
</tr>
<tr>
<td>618-621</td>
<td></td>
</tr>
</tbody>
</table>

Exhibit "A"
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-317

A RESOLUTION AMENDING THE FISCAL YEAR 05-06 OPERATING BUDGET TO TRANSFER $112,000 FROM 0100-800-8000-8003, GENERAL FUND RESERVE, AND $10,800 FROM OTHER FUND RESERVES, TO THE POLICE DEPARTMENT OPERATING BUDGET, SALARY AND BENEFIT ACCOUNTS TO PROVIDE FUNDING FOR A NEW MEMORANDUM OF UNDERSTANDING WITH THE MODESTO POLICE MANAGEMENT ASSOCIATION

WHEREAS, representatives of the City of Modesto and the Modesto Police Management Association (MPMA) have reached agreement on a Memorandum of Understanding (MOU), and

WHEREAS, the term of the MOU is June 28, 2005 through June 22, 2009, and

WHEREAS, costs associated with the first year of the MOU are estimated at $122,800 and have not yet been budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2005-06 Operating Budget is hereby amended to transfer $112,000 from 0100-800-8000-8003, the General Fund Reserve, and $10,800 from other Fund reserves to the Police Department Operating Budget, Salary and Benefits accounts.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

APPROVED AS TO FORM:

Attest: Jean Zahr
JEAN ZAHN, City Clerk

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-318

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF DAVID L. GIANELLI FROM THE TUOLUMNE RIVER REGIONAL PARK CITIZENS ADVISORY COMMITTEE

WHEREAS, DAVID L. GIANELLI was appointed a member of the Tuolumne River Regional Park Citizens Advisory Committee on September 22, 1992, and

WHEREAS, DAVID L. GIANELLI has tendered his resignation from the aforementioned committee, and

WHEREAS, DAVID L. GIANELLI has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of DAVID L. GIANELLI from the Tuolumne River Regional Park Citizens Advisory Committee hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to DAVID L. GIANELLI for his outstanding service to the community.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June 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. 2005-319

A RESOLUTION APPROVING AN AGREEMENT BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 AND HASHEM NARAGHI, TRUSTEE OF THE NORA NARAGHI SEPARATE PROPERTY TRUST AND CENTEX HOMES, FOR CONSTRUCTION OF A STORM DRAIN LINE IN KODIAK DRIVE BETWEEN CADEN DRIVE AND BEAR CUB LANE AND FINDING THAT THE POTENTIAL ENVIRONMENTAL EFFECTS OF THIS AGREEMENT HAVE BEEN ADEQUATELY ADDRESSED BY THE PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM EIR AS MODIFIED BY THE 1994 FINAL SUPPLEMENTAL EIR (SCH No. 90020181)

WHEREAS, the City of Modesto desires to complete the core infrastructure needed to serve the Village One area, and

WHEREAS, Hashem Naraghi, Trustee of the Nora Naraghi Separate Property Trust ("Developer") has agreed to install certain improvements in Kodiak Drive between Caden Drive and Bear Cub Lane, and

WHEREAS, the City Council has considered the proposed Acquisition & Shortfall Agreement ("agreement") between City of Modesto Community Facilities District No. 2004-1 and Developer, and

WHEREAS, said agreement shall have a maximum reimbursement amount of $314,899.00, and

WHEREAS, the improvements for which the Developer will be reimbursed under the proposed agreement, is within the scope of the previously certified Village One Specific Plan Program EIR as modified by the 1994 Final Supplemental EIR (SCH No. 90020181), and that, pursuant to Sections 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required.

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

1
1. The proposed Acquisition and Shortfall Agreement between City of Modesto Community Facilities District No. 2004-1 and Hashem Naraghi, Trustee of the Nora Naraghi Separate Property Trust ("Project") is consistent with the Village One Specific Plan and the Modesto Urban Area General Plan.

2. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this Project is within the scope of the projects covered by the Village One Program EIR, as amended by the 1994 Supplemental EIR.

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

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

5. There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Program EIR, was adopted which shows any of the following:
a. one or more significant effects which is not discussed in the Program EIR; or,

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

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

d. mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the Project proponents decline to adopt the mitigation measure or alternative.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 28th day of June 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 ZAH, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-320

A RESOLUTION OF INTENTION TO ANNEX TERRITORY TO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES THEREIN (ANNEXATION NO. 8)

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

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

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-681, adopted on December 14, 2004, clarify the Rate and Method of Apportionment with respect to the Maximum Special Taxes to be generated by a parcel that has been rezoned, and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-683, adopted on December 14, 2004 (“Resolution of Creation of Tax Zone #2), create Tax Zone #2 within the District, and

WHEREAS, the One-Time Facilities Special Tax component of the special taxes is higher in Tax Zone #2 than in Tax Zone #1, and
WHEREAS, this Council hereby determines that the public convenience and necessity require the annexation of certain territory to the District, and

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

WHEREAS, it is intended that the territory be annexed to Tax Zone #2.

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

SECTION 1. The above recitals are true and correct.

SECTION 2. The boundaries of the District are shown on a map entitled “Proposed Boundaries of Community Facilities District No. 2004-1 (Village One #2) of the City of Modesto, County of Stanislaus, State of California” on file with the County Recorder of the County of Stanislaus, at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 85; the map entitled “Proposed Boundaries of Annexation #1 to City of Modesto CFD No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at page 86 (as amended by the map entitled “Annexation Map No. 1 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at page 90); the map entitled “Annexation Map No. 2 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 91; the map entitled “Annexation Map No. 3 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 96; the map entitled “Annexation Map No. 4 of Community Facilities District No. 2004-1 (Village
One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 99; and the map entitled “Annexation Map No. 5 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 4 of Maps of Assessment and Community Facilities Districts, at Page 2; and the map entitled “Annexation Map No. 6 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 4 of Maps of Assessment and Community Facilities Districts, at Page 7; and the map entitled “Annexation Map No. 7 of Community Facilities District No. 2004-1 (Village One #2), As Amended,” on file with the County Recorder at Book 4 of Maps and Assessment and Community Facilities Districts, at Page 12.

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

SECTION 4. The boundaries of the Territory are also shown on the map thereof, entitled “Annexation Map No. 8 of Community Facilities District No. 2004-1 (Village One #2), of the City of Modesto, County of Stanislaus, State of California,” on file in the office of the City Clerk, which map is hereby approved and adopted. Pursuant to Sections 3110.5 and 3113 of the California Streets and Highways Code, the City Clerk shall endorse her certificate on the original and one copy of the map evidencing the date and adoption of this Resolution, file the original in her office and, not later than ten days after the adoption of this Resolution, file a copy of the map with the County Recorder of the County of Stanislaus. The map shall contain the legends provided in Sections 3110 and 3110.5 of the California Streets and Highways Code, including a reference to the title, book, page and recording date of the original boundary map of the District.
SECTION 5. The public facilities and services to be provided for the District are set forth in the Resolution of Formation. It is intended that these same facilities and services be provided to the Territory.

SECTION 6. The special taxes to be levied in the District are set forth in the Resolution of Formation. It is intended that the same special taxes be levied in the Territory, except that the increase of the One-Time Facilities Special Tax component of the special taxes, as authorized by the Resolution of Creation of Tax Zone #2, shall be levied in the Territory.

SECTION 7. A public hearing on this Resolution will be held at 5:30 p.m., or as soon thereafter as practicable, on Tuesday, August 9, 2005, at the regular meeting place of the City Council, City Council Chambers, Basement Level, 1010 Tenth Street, Modesto, California 95353, such time being not less than 30 or more than 60 days following the adoption hereof.

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

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

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

SECTION 11. At the conclusion of the hearing, if the Council determines to annex the Territory to the District, it will submit the levy of the special taxes to the qualified electors of the Territory in a special election.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June 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: MICHAEL D. MILICH, City Attorney

ATTEST: JEAN ZAHR, City Clerk
EXHIBIT A

ANNEXATION NO. 8 TO
COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)

Proposed Boundary Map
ANNEXATION MAP NO. 8 OF
COMMUNITY FACILITIES DISTRICT NO. 2004-01
(VILLAGE ONE #2)

CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA


JEAN ZAHRI, CITY CLERK

PRINT NAME

I HEREBY CERTIFY THAT THIS MAP SHOWING THE PROPOSED BOUNDARIES OF ANNEXATION NO. 8 OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2, CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA) HAS BEEN APPROVED BY THE CITY COUNCIL OF THE CITY OF MODESTO AT A REGULAR MEETING THEREOF HELD ON THE __________, 2005, BY ITS RESOLUTION NO. __________.

JEAN ZAHRI, CITY CLERK

PRINT NAME


JEAN ZAHRI, CITY CLERK

PRINT NAME

FILZED THIS _______ DAY OF __________, 2005, AT THE HOUR OF ______ O'CLOCK __________, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA.

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

PRINT NAME

ASSOCIATED ENGINEERING GROUP, INC.

PRINT NAME

SHEET 1 OF 2
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-321

A RESOLUTION APPROVING A THIRD AMENDMENT TO AGREEMENT FOR WEB CONSULTING SERVICES WITH MICAHYNN RIVERA, IN AN AMOUNT NOT TO EXCEED $55,000; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT

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

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

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

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

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

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

WHEREAS, the City desires to extend Consultant’s contract through June 30, 2006, for an additional amount not to exceed $55,000 for services as set forth in Exhibit “A” attached hereto, and
WHEREAS, the Finance Committee recommended approval of this item at its June 27, 2005 meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Third Amendment to Agreement for website consulting services with Micahlynn Rivera through June 30, 2006, in an amount not to exceed $55,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Keating

ABSENT: Councilmembers: Marsh

ATTEST
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

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

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

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

- Presentation Design
  Duties: Design PowerPoint presentations as needed.

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

- Management of special projects
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-322

A RESOLUTION APPROVING TWO (2) ANNUAL RETAIL ADVERTISING CONTRACTS WITH THE MODESTO BEE (MCCLATCHY NEWSPAPER GROUP), TO COINCIDE WITH THE FISCAL YEAR CALENDAR, CONSISTING OF, ONE (1) CONTRACT FOR A 500-COLUMN-INCH "NO-COMMITMENT" ADVERTISING RATE OF $49.39 PER COLUMN INCH AND THE OTHER CONTRACT FOR A "12X COMMITMENT" BUSINESS PACKAGE ADVERTISING PLAN "D", AT A STANDARD AD SIZE AVERAGE RATE OF $29.46 PER COLUMN INCH AND AUTHORIZING THE CITY MANAGER TO EXECUTE BOTH CONTRACTS

WHEREAS, the City of Modesto is currently using the Modesto Bee (McClatchy Newspaper Group) as its primary advertising source for its advertising requirements, and

WHEREAS, the advertising services are required for classified and legal advertisements as required by law, and for retail advertisements for public information purposes, and

WHEREAS, in May of 2002 Council directed staff to consolidate the procurement of advertising through a central source in order to obtain the best contractual pricing available for the City, and

WHEREAS, Council has also requested that the annual retail advertising contracts be put in place to coincide with the fiscal year calendar, and

WHEREAS, the City’s Purchasing Supervisor annually meets with the Modesto Bee and based on advertising volume commitments over the prior year identified two (2) retail contract options which would best meet the City’s retail advertising needs, and

WHEREAS, in August of 2004 staff went before Council with a recommendation to approve two (2) annual retail advertising contracts with the Modesto Bee to coincide with the fiscal year calendar, and
WHEREAS, in August of 2004, by Resolution No. 2004-578, Council approved both contracts and authorized the City Manager to sign the retail advertising contracts, and

WHEREAS, both retail contracts will expire on June 30, 2005, and

WHEREAS, staff once again met with the Modesto Bee to discuss what contract renewal options would be available to the City, and

WHEREAS, the Modesto Bee has agreed to renew both retail advertising contracts for another year based on the fiscal year calendar, and

WHEREAS, a price increase associated with the contract renewal would put the “non-profit no-commitment” contract rate at $49.39 per column inch, and

WHEREAS, this year the “12x-commitment business package” rate would include a single insertion in the Saturday Shopper and Vida for an average per column inch rate of $29.46, and

WHEREAS, the Purchasing Supervisor has determined that a process other than the formal bid procedure will result in a procurement of advertising for the City at the lowest cost commensurate with the desired quality, as provided for in MMC 8-3.204(d), and

WHEREAS, once signed, both advertising contracts shall be implemented and tracked by the City’s Purchasing Supervisor, and with the City’s Public Information Technician assisting departments with their advertising needs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves two (2), twelve (12) month retail advertising contracts with the Modesto Bee (McClatchy Newspaper Group), to coincide with the fiscal year calendar,
one for a 500 column inch “no-commitment” non-profit rate at $49.39 per column inch and the other for a “12x-commitment” business package advertising plan “D” at an average rate of $29.46 per column inch, based on a standard 2x5 inch ad size run three (3) times in the Bee, combined with one-time insertions in both the Saturday Shopper and Vida as outlined in plan “D”.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 28th day of June 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
**Attachment “A”**

Modesto Bee Advertising
Commitment Contracts - Pricing Summary

**CURRENT PRICING- COMMITMENT CONTRACT**

<table>
<thead>
<tr>
<th>Commitment 12x Retail Package Plan “D” 2004 rate is based on a $34.28 pci rate for a standard 2x5 inch ad size, run two (2) weekdays, and one (1) Sat. or Sun. for a total of three (3) insertions.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Package Plan “D” Rate of $102.83 per inch, x 10 inches (2x5=10” ad size)=$1028.30 cost of a $1028.30 divided by 30” (#of times ad ran (3), x ad size (10”)) = $34.28 pci</td>
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</tbody>
</table>

**RECOMMENDED COMMITMENT CONTRACT FY 05/06**

<table>
<thead>
<tr>
<th>Sign a commitment Retail Package Plan “D” contract for a 12x ad package insertion commitment. The new Retail Package Plan “D” contract 2005 rate will be based on a $29.46 pci rate for a standard 2x5 inch ad size, run two (2) weekdays, and one (1) Sat. or Sun. for a total of three (3) insertions in the Bee combined with one-time insertions in both the Sat. Shopper and Vida all within a seven (7) day period.</th>
</tr>
</thead>
<tbody>
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<td>Package Plan “D” Rate of $117.83 per inch, x 10 inches (2x5=10” ad size)=$1178.30 $1178.30 divided by 40” inches (#of times ad ran in full circulation (4), x ad size (10”)) = 29.46 pci</td>
</tr>
</tbody>
</table>
Your success is our business

<table>
<thead>
<tr>
<th>Plan A</th>
<th>1st day</th>
<th>2nd day</th>
<th>3rd day</th>
<th>4th day</th>
<th>Sat/Sun/Holiday</th>
<th>Sat Shopper</th>
<th>Vida</th>
<th>Total per column inch</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open</td>
<td>$52.86</td>
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<td>$5.00</td>
<td>$10.00</td>
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<table>
<thead>
<tr>
<th>Plan B</th>
<th>1 Weekday + 1 Weekend Day (or Holiday)</th>
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<tbody>
<tr>
<td>Open</td>
<td>$39.44</td>
</tr>
<tr>
<td>6X</td>
<td>$36.29</td>
</tr>
<tr>
<td>12X</td>
<td>$33.14</td>
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<table>
<thead>
<tr>
<th>Plan C</th>
<th>2 Weekdays: 1 Weekday + 1 Weekend Day (or Holiday)</th>
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<tbody>
<tr>
<td>Open</td>
<td>$49.44</td>
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<tr>
<td>6X</td>
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<td>12X</td>
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<table>
<thead>
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<th>Plan D</th>
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<table>
<thead>
<tr>
<th>Plan E</th>
<th>4 Weekdays: 1 Weekday + 1 Weekend Day (or Holiday)</th>
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</thead>
<tbody>
<tr>
<td>Open</td>
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<tr>
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<td>$63.14</td>
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<tr>
<td>24X</td>
<td>$60.00</td>
</tr>
</tbody>
</table>

For more information contact your Account Manager or Bee Advertising at (209) 578-2030

2002 Package Plan Rate Card No. 29 - Revised Effective July 1, 2021
Modesto Bee Retail Advertising (209) 578-2030 or Fax (209) 578-2271 www.modbee.com
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 28th day of June 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 votes:

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

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

ATTEST:  
JEAN ZAHN, City Clerk

06/28/05/Finance/G Bailey/Item No 10  1  2005-323
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Julie Hendee
Telephone No.: 342-2241
Department: Public Works Department
Fund Title: Gas Tax Fund

DEPARTMENTAL REVENUES

<table>
<thead>
<tr>
<th>Fund-Agcy-Org-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
<th>Description of Object</th>
</tr>
</thead>
<tbody>
<tr>
<td>FROM</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>05-0700-160-1612-8122R</td>
<td></td>
<td></td>
<td>$28,771</td>
<td>$28,771</td>
<td>Refunds, Damages &amp; Cost Recovery</td>
</tr>
<tr>
<td>TO</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

APPROPRIATIONS

<table>
<thead>
<tr>
<th>FROM</th>
<th>TO</th>
<th>Object</th>
</tr>
</thead>
<tbody>
<tr>
<td>05-0700-160-1612-0110</td>
<td>1612-A</td>
<td>$672,848</td>
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<tr>
<td>05-0700-160-1612-0365</td>
<td>1612-C</td>
<td>$292,213</td>
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<td>05-0700-160-1612-0365</td>
<td>1612-C</td>
<td>$263,442</td>
</tr>
<tr>
<td>0700-480-L116-6041</td>
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</tr>
</tbody>
</table>

TRANSFERS BETWEEN FUNDS

<table>
<thead>
<tr>
<th>FROM</th>
<th>TO</th>
<th>Object</th>
</tr>
</thead>
</table>

COMMENTS/JUSTIFICATION

This budget amendment is being made to 1) Recognize revenue received in excess of those programmed in Organization 0700-160-1612-8122 (Refunds, Damages and Cost Recovery) in the amount of $28,771 and to program offsetting expenses in object 0365 of the operating budget. AND 2) Transfer one-time salary savings in organization 0700-160-1612-0100 in the amount of $35,000 and an additional $28,771 from object 0365 to CIP project 0700-480-L116-6041. This transfer of funds is needed to provide the necessary funding to cover costs associated with the completion of the new Traffic Operations building.

DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT

(Allocation of Dept Appr to Line-Item Level)

FINANCE DIRECTOR

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

CFF/CFD ADMINISTRATOR

When necessary for CIP

CITY MANAGER

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

AUTHORIZATION (check if required) SIGNATURE DATE

DEPUTY DIRECTOR (Public Works Dept) Authorized up to threshold of $50k w/o Director Approval

DEPUTY DIRECTOR (Public Works) * Authorized up to threshold of $50k w/o Director Approval * second signature required for movement of funds between CIP orgs & line items controlled by different divisions (e.g. Water and E&T)

DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT

(Allocation of Dept Appr to Line-Item Level)

FINANCE DIRECTOR

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

CFF/CFD ADMINISTRATOR

When necessary for CIP

CITY MANAGER

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

Contact Person: Julie Hendee
Telephone No.: 342-2241
Department: Public Works Department
Fund Title: Gas Tax Fund

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

<table>
<thead>
<tr>
<th>Fund-Agency-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
<th>Description of Object</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>DEPARTMENTAL REVENUES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FROM</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TO</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| **APPROPRIATIONS** |
| FROM | 05-0700-480-4622-0110 | 4622-A | $251,568 | ($55,000) | $196,568 | Salaries & Wages Regular |
| TO | 0700-480-L116-6041 | | $290,209 | $55,000 | $345,209 | City EE Labor (OH) Intrafund |

| **TRANSFERS BETWEEN FUNDS** |
| FROM | | | | | |
| TO | | | | | |

| **COMMENTS/JUSTIFICATION** |

This budget amendment is being made to transfer one-time salary savings in Organization 0700-480-4622-0110 in the amount of $55,000 to CIP project 0700-480-L116-6041. This transfer of funds is needed to help provide the necessary funding to cover costs associated with the completion of the new Traffic Operations building.

<table>
<thead>
<tr>
<th>AUTHORIZATION (check if required)</th>
<th>SIGNATURE</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEPUTY DIRECTOR (Public Works Dept)</td>
<td></td>
<td></td>
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<tr>
<td>Authorized up to threshold of $50k w/o Director Approval</td>
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</tr>
<tr>
<td>DEPUTY DIRECTOR (Public Works)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Authorized up to threshold of $50k w/o Director Approval  *</td>
<td></td>
<td></td>
</tr>
<tr>
<td>* second signature required for movement of funds between CIP org &amp; line items controlled by different divisions (e.g. Water and E&amp;T)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DEPARTMENT DIRECTOR or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Items Level)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FINANCE DIRECTOR (Transfers to/from Internal Service Charges)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(All items requiring City Manager's Approval)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CFF/CFD ADMINISTRATOR (When necessary for CIP)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Appropriation of Unbudgeted Dept Revenues)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Transfers into Personnel Services)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

PW: AT w/interfund Template 5/3/05  0038_4622 Budget Adj_061705.xls
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Julie Hendee  Council Action Date: 
Telephone No.: 342-2241  Resolution Number: 
Department: Public Works  Transfer No. 
Fund Title: 6510-Bus Service Fund-Fixed Route  

<table>
<thead>
<tr>
<th>Fund-Agency-Org-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
<th>Description of Object</th>
</tr>
</thead>
</table>

DEPARTMENTAL REVENUES

FROM

TO

APPROPRIATIONS

FROM

6510-800-8000-8003  6510-R  ($45,000)  ($45,000)  Bus Service Fund - Fixed Route

TO

6510-165-1678-5700  1678-C  $45,000  $45,000  Non-CIP Vehicle

TRANSFERS BETWEEN FUNDS

FROM

TO

COMMENTS/JUSTIFICATION

This budget amendment is being made to appropriate funding in the amount of $45,000 from Transit Fund balance reserve to Organization 6510-165-1678-5700 Federal Equipment for the purchase of a shop truck for Modesto Area Express (MAX). This vehicle will replace an existing shop truck that is old and has exceeded its useful life. Funding for this purchase was identified in Decision Package 020-01 and was approved for appropriation with the adoption of the operating budget for FY 2004-05. While funding was appropriated for all of the other items included in this same Decision Package, it recently came to our attention that actions were never taken to appropriate the funding for replacement of the shop truck. This action would correct this oversight by appropriating the necessary funding for the replacement of this vehicle. Federal funding will cover 80% of the total cost with 20% match coming from Local Transportation Funds.

DEPARTMENT DIRECTOR or 
AUTHORIZED ASSISTANT 
Allocation of Dept Appr to Line-Item Level)

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

CITY MANAGER 
(Transfers between Budgeted Activities of Departments within Funds)
(Appropriation of Unbudgeted Dept Revenues)
(Transfers into Personnel Services)

AUTHORIZATION (check if required) 
SIGNATURE  DATE  

6/17/05