MODESTO CITY COUNCIL
RESOLUTION NO. 2005-252

A RESOLUTION ADJUSTING RENTAL CHARGES AND FEES FOR ACTIVITIES AND SERVICES AT THE MODESTO CITY-COUNTY AIRPORT/HARRY SHAM FIELD, AND RESCINDING COUNCIL RESOLUTION NO. 2004-262

WHEREAS, Section 7-3.401 of the Modesto Municipal Code authorizes the Council, by resolution, to establish rental charges and fees for activities and services at the Modesto City-County Airport/Harry Sham Field, and

WHEREAS, Modesto City Council Resolution No. 2003-267 provides for Airport Rate increases based upon the Consumer Price Index (CPI) for All Urban Consumers for the western United States, and

WHEREAS, during the past year the Consumer Price Index (CPI) of the western United States increased at a rate of two and three-tenths percent (2.3%), and

WHEREAS, Modesto City Council Resolution No. 2004-262 establishes the current Airport Rental Charges and Fees and contains provisions for a rate increase to go into effect July 1, 2005 based upon an increase in the Consumer Price Index, and

WHEREAS, the Modesto City-County Airport Advisory Committee recommended adoption of the 2.3% rate increase at its meeting on March 16, 2005, and

WHEREAS, by an agenda report to the City Council from the Public Works Director dated April 12, 2005, City staff recommended a rate increase of 2.3% for aircraft hangars, office space, and tie-down rentals, and

WHEREAS, a duly noticed public hearing was held by the Council on May 10, 2005 at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing all interested persons were given the opportunity to
be heard relative to the proposal to increase the rates and charges for the Modesto City-County Airport’s aircraft hangars, office space, and tie-down rentals,

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

SECTION 1. HANGARS. Rental charges for the rental of hangars at the Modesto City-County Airport/Harry Sham Field are hereby established as follows, payable in advance:

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<thead>
<tr>
<th>(1)</th>
<th>T-Hangars</th>
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<tr>
<td></td>
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</tr>
<tr>
<td>Hangar A</td>
<td>End Units</td>
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<tr>
<td>Hangar B</td>
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<td>Hangar C</td>
<td>End Units</td>
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<td>Hangar D</td>
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<td>Hangar E</td>
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<td>Hangar F</td>
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<td>Hangar G</td>
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<td>Hangar H</td>
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<tr>
<td>Hangar I</td>
<td>End Units</td>
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<tr>
<td>Hangar J</td>
<td>End Units</td>
</tr>
<tr>
<td>Hangar K</td>
<td>End Unit</td>
</tr>
<tr>
<td>Storage</td>
<td></td>
</tr>
</tbody>
</table>
Portable Land Rent .......... $57 unit per month

* T-Hangars A – D with electrical service

A five percent (5%) discount will be made in any of the above rental charges when a year’s lease is entered into and the year’s rental charges are paid in advance.

(b) Storage Hangars:

<table>
<thead>
<tr>
<th>Hangar No.</th>
<th>Price</th>
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<tbody>
<tr>
<td>No. 1</td>
<td>$1,431.00 – (Sheriff Aero Squadron lease rate is discounted to $972.00 per month)</td>
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<tr>
<td>No. 2</td>
<td>$1,194.00 per month</td>
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<tr>
<td>No. 3</td>
<td>$629.00 per month</td>
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<tr>
<td>No. 4</td>
<td>$1,070.00 per month</td>
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<tr>
<td>No. 5</td>
<td>$1065.00 per month</td>
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<tr>
<td>No. 6</td>
<td>$624.00 per month</td>
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SECTION 2. TIE-DOWN FEES. Tie-down charges and fees at the Modesto City-County Airport/Harry Sham Field are hereby established as follows, payable in advance:

(a) Tail-in Tie-Down – Permanent, light single and multi-engine (under 12,500 lbs.) $36.00 per month

(b) Taxi-in Tie-Down – Permanent, light single and multi-engine (under 12,500 lbs.) $57.00 per month

(c) Taxi-in Tie-Down – Permanent, large multi-engine (over 12,500 lbs.) $.042 per square foot per month

(d) Taxi-in Tie-Down – Transient, helicopter/single-engine aircraft $6.00 per day
(e) Taxi-in Tie-Down – Transient, twin-engine aircraft (under 12,500 lbs.)
$8.00 per day

(f) Taxi-In Tie-Down – Transient, twin-engine aircraft (over 12,000 lbs.)
$12.00 per day

(g) Jets – $12.00 per day

A five-percent (5%) discount will be made in the rental charges set forth in
subparagraphs (a), (b), and (c), above when a year’s lease is entered into and the year’s
rental charges are paid in advance.

A volume discount may be given to Fixed Base Operators (FBO) that operate
flight schools for light single and multi-engine aircraft (under 12,500 lbs.) for tie-down
spaces as set forth in subsections (a) and (b) above. For every two tail-in spaces the FBO
agrees to lease, one taxi-in tie-down may be leased for the same price as a tail-in tie-
down.

Overnight tie-down of aircraft belonging to or in the custody or possession of a
lessee at the Modesto City-County Airport/Harry Sham Field shall be subject to the
normal tie-down charge as specified by this section.

SECTION 3. OFFICE SPACE. The monthly charge for office spaces at the
Modesto City-County Airport/Harry Sham Field are hereby established as follows:

(a) Old Administration Building .................. $.79 per square foot
(b) Office Building No. 1 .................. $.79 per square foot
(c) Office Building No. 2 .................. $.79 per square foot
(d) Hangar Office Space .................. $.356 per square foot
SECTION 4. TEMPORARY USE OF AIRPORT PASSENGER TERMINAL.

Organization and service providers desiring to temporarily use the passenger terminal will be charged a daily rate:

(a) Ticket counter ........................................ $0.069 per square foot
(b) Other areas .............................................. $0.069 per square foot

SECTION 5. NONSCHEDULED TRANSIENT AIRCRAFT CARRYING PASSENGERS AND/OR CARGO FOR HIRE. Aircraft landing at the Modesto City-County Airport/Harry Sham Field shall pay a landing fee as follows:

(a) All light single, multi-engine aircraft and helicopters - $10.00 per landing
(b) All large single and multi-engine aircraft - $.66 per 1,000 pounds of gross weight, but not less than $10.00 per landing
(c) All transient aircraft owned and operated by individuals, companies, and corporations carrying their own products shall not be charged for the first two (2) trips per calendar months. All other trips for the same calendar month shall be charged for at the same rates applied to nonscheduled aircraft carrying cargo for hire.
(d) No landing fee shall be charged for any aircraft, which lands at the airport due to any mechanical or other emergency, except weather, provided that such emergency is reported to the Airport Control Tower prior to landing.

SECTION 6. PASSENGER FACILITY CHARGE (PFC). Commercial air carrying passengers excluding “frequent flyers” or similar airline bonus award enplaning at Modesto City-County Airport/Harry Sham Field shall pay a PFC as approved by Federal Aviation Regulations (FAR) Part 158.

(a) Enplane passenger by airline $3.00 per ticket passengers.

SECTION 7. ADVERTISEMENT CALLBOARD. Firms wishing to advertise in the airport passenger terminal shall have an approved agreement with the City of
Modesto. A monthly charge shall be assessed for the use of the advertisement callboard as follows

<table>
<thead>
<tr>
<th>Display Size</th>
<th>Display Only</th>
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</thead>
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<td>7.5” x 9.5”</td>
<td>$30.00</td>
<td>$50.00</td>
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<tr>
<td>7.5” x 21”</td>
<td>$35.00</td>
<td>$55.00</td>
</tr>
<tr>
<td>19” x 21”</td>
<td>$40.00</td>
<td>$60.00</td>
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SECTION 8. FAX SERVICE. Persons wishing to use the airport administration office fax machine shall be charged for the service. Airport personnel is authorized to collect as follows:

(a) Incoming Service .......... $0.50 per page
(b) Outgoing Service .......... Area code 209 - $1.00 per page
                                Other area codes - $2.00 first page
                                $1.50 - all other pages

SECTION 9. PERMANENTLY BASED COMMERCIAL SERVICES. Any person engaging in a commercial enterprise permanently based at the Modesto City-County Airport/Harry Sham Field shall pay to the City a fee equivalent to the City Business License Fees set forth in Chapter 1 of Title 6 of the Modesto Municipal Code, except that a minimum fee of $100 will be paid for each aircraft sold, for the privilege of engaging in business in the City of Modesto and on the Airport. Said sum shall be payable at the time and in the manner provided for in Chapter 1 of Title 6 of the Modesto Municipal Code.

SECTION 10. FUEL FLOWAGE FEES. A fuel flowage fee of six cents ($0.06) per gallon of fuel sold or dispensed on the Airport shall be collected for the City of Modesto by the fuel vendors, except that reduced fuel flowage fees collected from scheduled air carriers can be negotiated for volume purchases.
SECTION 11. TEMPORARILY BASED COMMERCIAL SERVICES. Any person engaging in a commercial enterprise, temporarily based at the Modesto City-County Airport/Harry Sham Field, shall pay to the City a license fee in the sum of Two Hundred and no/100ths ($200.00) Dollars, payable in advance.

Each such operator shall also pay to the City as a minimum an additional sum of Ninety and no/100ths ($90.00) Dollars per month, or any portion thereof, payable in advance, for the privilege of using the Airport and its facilities.

SECTION 12. OFF-AIRPORT CAR RENTAL OPERATOR FEE. Off-airport operators picking up customers at the Modesto City-County Airport/Harry Sham Field will pay to the City of Modesto the greater of ten percent (10%) of gross on time mileage of vehicles rented or the monthly charge for passenger terminal advertisement space and callboard phone service. Additionally, the operators will be accessed a parking fee at the same rate on-airport car rental operators are charged for vehicles left in the public parking area overnight.

SECTION 13. MOTOR VEHICLE STORAGE CHARGES. Any person who parks a motor vehicle at the Modesto City-County Airport/Harry Sham Field for longer than thirty (30) days at a time shall pay to the City a parking fee of Twenty-five and no/100ths ($25.00) Dollars per month, payable in advance.

SECTION 14. PENALTIES. A five percent (5%) per month penalty charge shall be made on any of the charges and fees established by this resolution when such charges and fees are not paid within thirty (30) days after they are due and payable. No penalties will be collected on the PFC.

SECTION 15. ANNUAL ADJUSTMENT OF RENTS, FEES AND CHARGES.
Commencing July 1, 2005, the rents, fees and charges set forth in Sections 1, 2, and 4 of this resolution may be adjusted annually as of the first day of July.

Said rents, fees, and charges shall be adjusted in the following manner: The base for computing the adjustment is the National Consumer Price Index for the West Urban (all urban consumers), published by the United States Department of Labor, Bureau of Labor Statistics ("Index"), with a base year of 1982 - 1984 = 100 ("Beginning Index"). The Index published most immediately preceding the Adjustment Date in question ("Adjustment Index") is to be used in determining the amount of the adjustment. If the Adjustment Index has increased over the Beginning Index, the rents, fees and charges set forth in this resolution shall be set by multiplying the rents, fees and charges set forth in this resolution by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Beginning Index.

In no case shall the minimum rents, fees and charges be less than existing approved and adopted rents, fees and charges nor shall any increase in a year be greater than five (5%) percent. If the indexes change so that the base year differs from that in effect on July 1, 2005, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised at any time after the effective date of this resolution, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

SECTION 16. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on July 1, 2005.
SECTION 17. SUPERSEDE. This resolution rescinds Council Resolution No. 2004-262.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May 2005 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: None

APPROVED AS TO FORM:

By: Michael Milich
MICHAEL D. MILICH, City Attorney

Attest: Jean Zahr
JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-252A

A RESOLUTION ESTABLISHING A NEW NON-REFUNDABLE FEE FOR ISSUANCE OF AIRPORT KEYS AND AUTHORIZING REIMBURSEMENT BY KEYHOLDERS FOR EXPENSES RELATED TO LOST OR UNRETURNED KEYS ISSUED FOR USE AT THE MODESTO CITY-COUNTY AIRPORT/HARRY SHAM FIELD

WHEREAS, Section 7-3.401 of the Modesto Municipal Code authorizes the City Council, by resolution, to establish rental charges and fees for activities and services at the Modesto City-County Airport/Harry Sham Field, and

WHEREAS, the current practice of issuing airport keys requires setting up a refundable trust account for each key issued, which is refunded upon return of the key, and

WHEREAS, the process of creating and managing trust accounts for small amounts is labor intensive, necessitating a layer of bookkeeping that is not cost-effective or practical for small, long-term fee management, and

WHEREAS, lost or unreturned keys necessitate lock changes which are billed to the Airport by the City’s Building Maintenance Division, and

WHEREAS, the City of Modesto Fee Guide does not list a charge for collecting a trust deposit or a “cost-recovery” fee for maintenance of keys and locks at Modesto City-County Airport, and

WHEREAS, the Modesto City-County Airport Advisory Committee endorsed establishing a non-refundable fee for issuance of Airport keys and charging keyholders for expenses related to lost or unreturned keys at its meeting on March 16, 2005, and

WHEREAS, by an agenda report to the City Council from the Public Works Director dated April 12, 2005, City staff recommended establishing a non-refundable fee
for issuance of Airport keys and charging keyholders for expenses related to lost or
unreturned keys, and

WHEREAS, a duly noticed public hearing was held by the Council on May 10, 2005 at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing all interested persons were given the opportunity to be heard relative to the proposal to establish new fees for issuance and maintenance of airport keys and locks at the Modesto City-County Airport/Harry Sham Field,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the establishment of a non-refundable fee for issuance of Airport keys, and authorizes reimbursement by keyholders for expenses related to lost or unreturned keys issued for use at the Modesto City-County Airport/Harry Sham Field.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of Modesto 2005 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: None

Attest: ________________

APPROVED AS TO FORM:

By: ________________

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-253

A RESOLUTION APPROVING THE GUIDELINES FOR SMALL-LOT SINGLE-FAMILY RESIDENTIAL DEVELOPMENTS

WHEREAS, Urban Area General Plan Goal E seeks to provide and maintain attractive residential neighborhoods with a variety of dwelling types and prices affordable to all segments of the population, and

WHEREAS, Urban Area General Plan Goal I.E.5 promotes equal opportunity for all residents to reside in the housing of their choice, and

WHEREAS, Urban Area General Plan Policy II.B.1.a requires sufficient land be made available to support future expansion of the City, and

WHEREAS, Urban Area General Plan Policy III.B.1 recommends residential density of 7.5 dwelling units per gross acre, and

WHEREAS, new residential development in the City is typically occurring at between four and five dwelling units per gross acre, and

WHEREAS, allowing residential development to occur at increased density improves the efficiency of land consumption and improves the sufficiency of the existing land supply for City expansion, and

WHEREAS, Government Code Section 65850, et. seq. permits Cities and Counties to adopt ordinances that regulate the use of buildings, structures, and land, and

WHEREAS, Title 10 of the Modesto Municipal Code establishes regulations for the use of land and buildings and the purpose of Article 17, Planned Development Zone (P-D), is to encourage creative and efficient land uses, encourage mixed or multiple use...
projects, permit variations from the density, height and other standards in the various zones, and permit development based on a high standard of performance and design, and

WHEREAS, the proposed “Guidelines for Small-Lot Single-Family Residential Developments” was prepared in response to development proposals for single-family detached residences on lots of less than 5,000 square feet in order to identify problems that arise from development of small-lot developments and suggest solutions to those problems to assist in the design of small-lot single-family residential developments that will help achieve the City’s housing goals and policies, and

WHEREAS, the proposed “Guidelines for Small-Lot Single-Family Residential Developments” is intended to be implemented through the establishment of Planned Development Zones, and

WHEREAS, a public hearing was held by the Planning Commission at 7:00 p.m. on March 21, 2005, in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, the Planning Commission recommended by its Resolution No. 2005-14, that the City Council adopt the proposed “Guidelines for Small-Lot Single-Family Residential Developments”, and

WHEREAS, a public hearing was held by the City Council of the City of Modesto at 5:30 p.m. on May 10, 2005, in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby finds and determines as follows:

1. The “Guidelines for Small-Lot Single-Family Residential Developments” is consistent with the General Plan, because it allows the development of dwelling types not currently offered or in short supply; improves efficient use of land and extends the sufficiency of the existing land supply; encourages creative and efficient land uses; permits variations from the density, height, and other standards in the various zones; and provides guidance to the development community for high standards of performance and design.

2. The “Guidelines for Small-Lot Single-Family Residential Developments” is a policy document and therefore is not a project in accordance with Section 15378(b)(2) of CEQA Guidelines.

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that it hereby adopts the “Guidelines for Small-Lot Single-Family Residential Developments,” a copy of which is attached hereto as Exhibit A and incorporated herein by reference.

The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

Noes: Councilmembers: None

Absent: Councilmembers: None

Attest: JEAN ZAHN, City Clerk

By: MICHAEL D. MILICH, City Attorney
EXHIBIT A

GUIDELINES FOR
SMALL-LOT SINGLE-FAMILY RESIDENTIAL DEVELOPMENTS

Included in the City Council Packet
Acknowledgements

Modesto City Council

Mayor Jim Ridenour
Vice Mayor Denny Jackman
Council Member Bob Dunbar
Council Member Brad Hawn
Council Member Janice Keating
Council Member Garrad Marsh
Council Member Will O’Bryant

Modesto Planning Commission

Chair Alita Roberts
Vice Chair Kent Newswander
Commissioner Mary Arias
Commissioner R. Tom Berglund
Commissioner David Cogdill, Jr.
Commissioner Kristen Olsen
Commissioner John Sanders

City Staff

George W. Britton, Acting City Manager
Brad L. Kilger, Director of Community & Economic Development Department
George T. Osner, Planning Division Manager
Alison Barratt-Green, Senior Deputy City Attorney
Peter Cowles, Director of Public Works
Bill Sandhu, Senior Civil Engineer
Jim Alves, Assistant Civil Engineer
Eva Dankha-Kelly, Assistant Civil Engineer
Helen Wang, Transportation Planner
Jim Niskanen, Director of Parks, Recreation, and Neighborhoods
Doug Critchfield, Parks Planning and Development Manager
Loren Holt, Project Coordinator, Parks, Recreation, and Neighborhoods
Nathan Houx, Project Coordinator, Parks, Recreation, and Neighborhoods
Bill Dufresne, Forestry Superintendent, Public Works

City staff with primary oversight of the Design Guidelines:

Patrick Kelly, AICP, Principal Planner
Cindy van Empel, AICP, Senior Planner

Cover and Graphics by:
Katharine Martin, Planning Technician

Photograph Credits:
City of Modesto Staff; Dahlin Group, Inc.
Small Lot Site Development Guidelines

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I. Small Lot Single-Family Detached Houses  

A. Small Lot Single-Family Detached Houses  
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C. Lot Variation  
J. General Building Design  
K. Three-Story Houses  
F. Porches, Entries, and Courts  
G. Garage Frontage and Placement  
H. Driveways  
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N. Street Design Elements and Access  
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Guidelines for Small Lot Single-Family Residential Developments

PURPOSE
The purpose of the Guidelines for Small Lot Single-Family Residential Developments is to provide a clear set of design policies to project sponsors such as developers, property owners, architects and designers. These are the primary design issues that the planning staff, City Council and Planning Commission will use to evaluate project proposals. The goal is to expedite the planning review process by clearly stating the City’s desires for quality design of small lot residential projects. Safety, livability, and long-term viability will guide the evaluation of small lot developments.

Small-lot development meets the needs of people who do not have the time or ability to maintain larger lots and houses. Properly located and with a well-designed street network, higher-density development reduces distances between homes and shopping, which can reduce driving and support increased transit use, and can help meet some of the goals of the General Plan.

OBJECTIVES
The Guidelines are intended to address the following objectives:

- Promote high quality development.
- Create residential neighborhoods that provide interest and are visually pleasing.
- Small-lot single-family projects that feature a variety of lot types, home sizes, housing types, designs, and building materials.
- Small-lot single-family developments that include interconnected, short blocks that diffuse traffic and provide easy, direct routes for pedestrians, bicyclists, and drivers around the neighborhood.
- Small-lot single-family developments that emphasize pedestrian-oriented streetscapes, not dominated by garages, that includes street systems designed for pedestrians and bicyclists as well as for automobile use.
- Small-lot single-family projects that are integrated and compatible with existing neighborhoods adjacent to them.

INTENT
The following design guidelines are to be used to assist developers, project applicants and City staff in producing a quality Planned Development. City staff and Planning Commissioners will use these Guidelines as a framework for evaluating development proposals and for commenting on the design aspects of proposed projects.

The Guidelines will be used to augment and reinforce the Planned Development zone, Modesto Municipal Code Title 10, Article 17. The small lot guidelines are general and may be interpreted with some flexibility in their application to specific projects. Variations may be considered for projects with special design characteristics during the City’s development review process to encourage the highest level of design quality while at the same time providing the flexibility necessary to encourage creativity on the part of project designers. The Guidelines are also intended to ensure that new development is compatible with existing neighborhoods.
APPLICABILITY
The Guidelines for Small Lot Single Family Residential Developments apply to single-family detached residential development proposals. Small lot development can only occur in Specific Plan areas and Planned Development zones; the minimum lot size in the R-1 zone is 5,000 square feet, therefore, these guidelines would not apply.

There is a minimum practical lot size that will accommodate one detached house and still meet the intent of these guidelines for small lot development. Rather than place a limit on lot size, these guidelines allow the project designer maximum flexibility to develop a quality project that meets the intent of the guidelines.

Lots will be evaluated in two size ranges: less than 3,000 square feet and between 3,000 and 5,000 square feet (Table 1). Lot frontage will suggest other siting criteria.

PLANNING COMMISSION AND CITY COUNCIL
A Planned Development is subject to review and approval by the Planning Commission and the City Council. Projects are assessed for conformance with the Guidelines by staff prior to consideration by these bodies. The Planning Commission shall hear and make recommendations on Planned Development applications to the City Council. A Planned Development requires final review and approval by the City Council (Title 10, Article 17, Modesto Municipal Code).

DISCRETIONARY DECISION MAKING
Every project is unique and requires a review on a case-by-case basis. This process depends upon the exercise of discretion. While some Guidelines include quantitative standards, some require qualitative interpretation. The City has the latitude to interpret the Guidelines so long as proposed projects meet the Guidelines’ intent.

OTHER APPLICABLE REGULATIONS
The Guidelines primarily address architectural and site design elements. In designing projects, designers must also reference other codes, standards and policies in effect, such as the City of Modesto Standard Specifications, Uniform Building/Fire Code, City of Modesto General Plan, etc.
I. Small Lot Single-Family Detached Houses

Conventional definitions of setbacks apply to most housing types, but not to all. Courthomes are a type of housing where houses on individual lots are arranged around a common driveway that takes access from a street. Because these houses have an unusual relationship to each other and to the street, Section II addresses courthomes specifically.

A. Relationship to Existing Neighborhoods

New small lot residential projects should be integrated with the existing neighborhoods adjacent to them. Designs should avoid the separation caused by high, solid fencing and walls, or blank walls of buildings.

Transitions between existing and new projects should be gradual. The height and mass of new projects should not create abrupt changes from those of existing buildings. Site setbacks should continue the prevailing setback patterns of adjacent buildings.

The perimeter areas of new projects should be planned to avoid disturbing existing adjacent residential uses. The protection of privacy of adjacent residents and minimization of environmental intrusions should be a major consideration in the design of new projects.

Where existing neighborhoods have architectural distinction and/or established functional or landscape patterns, new development should incorporate characteristics of the surroundings so that there is no disruption of the streetscape.

B. Setbacks/Open Space

Setbacks: The front setback establishes a relationship between the house and the surrounding neighborhood. If the house is too close, indoor privacy can be compromised. If the house is too far back, people inside the house cannot observe activity on the street. Additionally, a larger front yard setback leaves a smaller private rear yard. Each group of three adjacent houses should contain at least one house whose front setback to the living area differs from those of its neighbors by a minimum of feet (Fig. 1).
The side setback is primarily utilitarian. However, living areas of the house usually have windows that open into the side yard. Normal activity in the side yard, although "mitigated, tends to be irritating because the noise is concentrated in a small space and can be loud and irregular, such as moving trash cans or using storage sheds.

The rear yard is where most outdoor activity around the house occurs. The rear yard is where people typically expect to have privacy outdoors and is where children play and entertaining happens. These activities are expected and noisy, but the noise can be considered intrusive by neighbors; residents can feel as if their outdoor or indoor privacy is being invaded by rear-yard neighbors. Adequate space is necessary for residents to enjoy their yards while providing a sense of privacy.

Private open space, typically in the rear yard, provides a place for children to play and to entertain friends. It must be large enough to allow these activities while maintaining some sense of privacy on both sides of the fence. The design of private yards is of greater importance than in larger lots, given that most personal and limited outdoor area will be the private yard or courtyard. Model homes should display a variety of fencing and landscape design concepts including porches, patios, walkways, covered trellises, screens, and garden walls. Private open space can occur in the form of a rear yard, patio, balcony, and/or deck. Private open spaces should be contiguous to the units they serve, screened from view, and have usable configurations.

Common open space: Common open space is required for developments of 15 units or greater; the minimum size and dimensions of common open space is prescribed in Table 1. Common open space should be centrally located so that it is a focus for the neighborhood and must be easily viewed from the street and homes for informal surveillance and security (Fig. 2). Common open space must be usable, and only landscaping that enhances its utility is permitted. In addition to lawn area, common open space should contain up to 15% of the open space area dedicated to decorative landscaping. Open space elements include play equipment, and seating and tables in the larger play areas. Tot lots and parks should be designed to facilitate use by a number of different ages or activity groups concurrently.
such as for small gatherings and may include small barbecues and ample seating and tables. A reduction in common open space may be considered if the project is immediately adjacent to a public park. Where developments are very near or adjacent to a public park or trail, direct pedestrian access to the public park or trail is required. The requirements set forth for common open space will not alleviate the requirement for CFF and/or CFD fees for park development and maintenance; all current park fees will remain in effect. Common open space landscape design must be approved by a designated representative of the Parks, Recreation and Neighborhoods Department.

Table 1 displays the various setback and open space provisions for lots ranging in size from 3,000 to 5,000 square feet and those below 3,000 square feet. Variations to the following setbacks may be considered for projects with special design characteristics to achieve the highest level of design quality as noted above.

Table 1: Setbacks and Open Space (in feet, measured from property line)

<table>
<thead>
<tr>
<th>Lot Size</th>
<th>&lt;3,000 sq. ft.</th>
<th>3,000 – 5,000 sq. ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FRONT SETBACKS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Living (1st floor) (varies front setback by 3' as noted above)</td>
<td>12 minimum</td>
<td>12 minimum</td>
</tr>
<tr>
<td>Living Area (2nd floor)</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>Porches</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Attached Garage (b) (entry/non-entry side)</td>
<td>20/15</td>
<td>20/15</td>
</tr>
<tr>
<td><strong>REAR SETBACKS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Living Area</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>Attached Garage (no alley/allely access) (c)</td>
<td>10/4</td>
<td>10/4</td>
</tr>
<tr>
<td>Detached Garage (no alley/allely access) (c)</td>
<td>5/4</td>
<td>5/4</td>
</tr>
<tr>
<td>Patio Covers (d)</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td><strong>SIDE SETBACKS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Living Area first floor (interior side) (e)(f)</td>
<td>5 one side, 3 other side (g) or 10/0</td>
<td>5 one side, 3 other side (g) or 10/0</td>
</tr>
<tr>
<td>Living Area second floor (interior side)</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Living Area (corner side) (e)</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>Detached Garage (Int. Side)</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Attached/Detached Garages (Corner Side) entry side/non-entry side</td>
<td>20/10</td>
<td>20/10</td>
</tr>
<tr>
<td><strong>PRIVATE OPEN SPACE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum Area (sq. ft.) per unit</td>
<td>300</td>
<td>500</td>
</tr>
<tr>
<td>Minimum Dimension</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td><strong>COMMON OPEN SPACE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum Area (sq. ft.) per unit (j)</td>
<td>300</td>
<td>250</td>
</tr>
</tbody>
</table>

NOTES:

a. Dwelling unit and wall/fencing shall be located outside the "clear vision triangle area" at street intersections, per City Standards, Detail No. 711.

b. Garage setback measured from sidewalk, with roll-up doors.

c. Garages taking access off an alley are to provide a minimum 4' setback/apron.

d. Patio covers open on three sides should not exceed 30 percent of the size of the usable private open space.

e. Includes attached garages and patio covers.

f. The intent of "0 ft" side yard on one side is to encourage a larger or more useful side yard on one side of the house. The required dimensions apply to fenced yard sizes rather than actual building setbacks from the property line. "Zero Lot Line" or similar developments require maintenance easements.

g. 10' separation for 1- and 2-story units side-by-side or two 2-story units side-by-side; 8' separation for two 1-story units side-by-side.

h. Use of 0' side setback on one side is encouraged (other side setback doubled) in order to increase overall private yard area (this does not allow a reduction in open space requirements noted in the table).

i. Minor architectural projections, such as fireplaces and bay windows, may project into setback or separation by up to 2 feet for a length not to exceed 10 feet or 20 percent of the building elevation length, with minimum 3' clearance.

j. Fragments less than 15' will not be counted toward the common open space area.

** Accessory rental units/"Granny Flats" shall adhere to accessory dwelling unit ordinance (pending completion as of March 2005)

** Refer to Table 3 (page 5) for setbacks applicable to three-story houses.
Table 2 identifies setback standards for key project elements that are adjacent to existing and proposed perimeter streets.

<table>
<thead>
<tr>
<th>Table 2: Perimeter Setbacks (in feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Perimeter Street is:</strong></td>
</tr>
<tr>
<td>---------------------------</td>
</tr>
<tr>
<td>Balcony/Deck</td>
</tr>
<tr>
<td>Residential Bldg.</td>
</tr>
<tr>
<td>Detached Garage (entry face)</td>
</tr>
<tr>
<td>Detached Garage (other face)</td>
</tr>
</tbody>
</table>

C. Lot Variation

Single-family lot patterns should be varied to avoid monotonous streetscapes. This could be accomplished by the following:

**Encourage:**
- A variety of lot types and/or sizes on blocks with more than five lots. Lot sizes should vary enough to create a perceptible difference.
- Single-story buildings and larger lots on corners.
- Smaller lots surrounding common open space areas.
- Mix of single- and two-story units.

**Discourage/Avoid:**
- Streets with more than five consecutive lots of the same width frontage.
- Blocks more than 600 feet long.

D. General Building Design

Variation in residences, structures and buildings is achieved through the use of quality materials and detail in design, which lends visual interest, distinctive character and identity to a community. Quality in detail and design contributes not only to the long-term value of a home, but the neighborhood as well.

**Encourage:**
- Design diversity by providing front elevation variation throughout the plan. To accomplish this, one design should be repeated no more frequently than each fourth house. Veneer treatment where applied should turn corners and avoid exposed edges (Fig. 4).
- Provide four-sided architecture. In addition to the architectural design provided for the front elevation, design side and rear elevations to include treatments (e.g. window frames, shutters, planter boxes, window sills, etc.)
At corner lots, side yard facades should maintain the same architectural design as the front facade.

- Manipulation of building elements and massing to avoid visual monotony with particular emphasis on long streets.

- Vary roof forms and pitches when a project includes five or more homes. Incorporate home designs that rotate ridge lines both parallel and perpendicular to the street and utilize a variety of hips and gables. Other elements which add variety and break up the roof, such as dormers and turrets, are encouraged.

- Roof elements of a two story building that slope downward toward the side property lines, providing greater light and air between buildings, particularly when the separation between the floors of the two adjoining buildings would be less than 15 feet (Fig. 5).

- All houses along a block should share a common architectural theme, which creates visual continuity.

- Single-story homes distributed evenly throughout the neighborhood to provide for seniors, the disabled, and families who prefer or desire single-story homes. Single-story homes are also encouraged to improve the visual character of neighborhoods and minimize the perceived density of two-story neighborhoods.

Encouraged/ Avoid:

- Excessive repetition of identical floor plans and elevations throughout a neighborhood or subdivision with little differentiation.

- The use of low quality/grade materials that do not wear well or contribute to a sense of permanence.

- Roof-mounted heating and air conditioning.

- Keyhole entries (primary entrance hidden from view on the side or within deep recess of the building) should be avoided.

E. Three-Story Houses

If three-story houses are proposed, their number should be limited to a maximum of 20 percent of the subdivision, with placement adjacent to multi-family residential or commercial uses only and strongly discouraged adjacent to established single-family neighborhoods and/or single-story units within a small lot development. They should provide alley-loaded garages only, avoid monolithic walls in architectural design and massing, have minimum setbacks as prescribed in Table 3, be designed with consideration towards privacy of surrounding homes, and apply private/common open space, landscaping, and streetscape elements as illustrated by these Design Guidelines.

<table>
<thead>
<tr>
<th>Table 3: Three-Story House Setbacks (in feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Size</td>
</tr>
<tr>
<td>Front</td>
</tr>
<tr>
<td>1st Story</td>
</tr>
<tr>
<td>2nd Story</td>
</tr>
<tr>
<td>3rd Story</td>
</tr>
<tr>
<td>Side</td>
</tr>
<tr>
<td>1st and 2nd Stories</td>
</tr>
<tr>
<td>3rd Story</td>
</tr>
<tr>
<td>Rear</td>
</tr>
<tr>
<td>Living Area</td>
</tr>
</tbody>
</table>
F. Porches, Entries, and Courts
A clear sense of entry and design interest to a home is provided through the inclusion of porches, verandas, cocheres, and other architectural elements that contribute to a sense of place and activity.

Encourage:

- Fronts of houses and entries that face the street. Each house should have a clearly identified entry and have active use of windows (i.e. living room, kitchen) facing the street.
- Front porches large enough to accommodate chairs provide an opportunity for increased interaction among neighbors (minimum dimension of 6’x6’ plus circulation area).
- Porches that provide weather protection and shade are desired.
- Entries and porches that incorporate railings, short walls, trellises, and roofs to add architectural detail, character, and visual interest to homes.

Discourage/Avoid:

- Small entries not seen from the street.
  - Locating the porch or entryway in a location obstructed by the garage or side of the house.
  - Locating entryways and windows that are small and oriented to the interior or side of the site.
G. Garage Frontage and Placement

Conventional suburban development typically places the garage in a prominent location on the lot closer to the street with the house back farther from the street. The effects of garage-forward placement are to obstruct the view of the street from inside the house, to make the garage the most important feature of the house, to encourage the driver to enter the house through the garage door and prevent interaction with neighbors, and to decrease the appeal and safety of the street.

The following measures are suggested to minimize the visual impact of garages:

**Encourage:**

- For garages accessed from the street, the garage face should be recessed a minimum of 5 feet from the primary living area façade.
- Detached garages accessed from either an alley or a single-car driveway approach from the street.
- Alley-loaded designs particularly for narrow lots is strongly encouraged.

**Discourage/Avoid:**

- For garages accessed from the street, garage frontage comprising 50 percent or more of building frontage.

Recessing the garage from the primary living area reduces its impact to the front facade while maintaining ample parking space.

Homes with garages that dominate the front of the home are not encouraged.
H. Driveways
Driveways can consume a substantial amount of lot area. A typical automobile is approximately seven feet wide and one to two feet of space is needed on either side to allow access to car doors. In order for the house to relate to the street and to allow observation of the street from inside the house, the width of the lot helps dictate the width of driveway access from the street (one- or two-car approach) or whether the garage should be accessed from an alley at the rear of the lot.

Encourage:

- Different paving treatment to driveways, including colored concrete, stamped concrete, paver-stone insets, etc.
- Single-car width driveways that widen to 2-car aprons at recessed or detached garage.

I. Parking
Most transportation occurs through the use of the private automobile. Because of this, the Zoning Code requires a minimum of two parking spaces for every single family house. With the increasing number of automobiles in very household, there is an increased need for parking, which is typically provided on the driveway and on the street. At the same time, the current trend is toward an increase in homeownership among single adults and the future will likely see an increase in the use of transit, walking, and bicycling for transportation, particularly as density increases and daily needs are better integrated into the fabric of the city.

Two enclosed off-street parking spaces will be required for each housing unit. Tandem parking spaces will not be allowed to meet this requirement. Tandem parking may be provided, in addition to the two off-street (side-by-side) parking spaces. In addition, one on-street parking space will be required for each dwelling. Off-street parking spaces located within 150 feet of the unit served, may also be considered.
J. Walls, Fences and Entry Features
Perimeter residences which are part of new developments should be oriented to existing streets, minimizing the extent of sound walls or rear yard walls, except where necessary due to acoustical requirements. Frontage roads are preferred in lieu of soundwalls wherever possible. The design of walls and fences, as well as the materials used, should be consistent with the overall development's design. Fence and wall color should be compatible with the development and adjacent properties.

Wall design and selection of materials should consider maintenance issues, especially graffiti removal and long-term maintenance.

Encourage:

- Soundwalls should have a rhythm rather than a single monotonous design along the entire length, and periodic entries to minimize driving and walking distances and integrate bike paths along the major roads.
- Landscaping and berms to minimize the visual impact of long continuous soundwalls.
- Additional landscape setbacks, street trees and accent trees at entries to improve the appearance of soundwalls.
- Concrete capstones on stucco walls to help prevent water damage from rainfall and moisture.
- Fences and/or walls visible from streets should be architecturally integrated with adjacent buildings as a means of visually tying buildings together.
- Low walls or fences (3'-4' high) at front or side yard patios where desired in lieu of porch railings, provided the wall/fence design is compatible with the architectural style of the house.
- Accent landscaping and trellises to set off development entries are desirable.

Discourage:

- Long walls separating subdivisions front street access and other subdivisions. This type of development restricts movement between neighborhoods and creates "dead" spaces along pedestrian corridors, as well as increasing driving and walking distances.
- Back-up and side-on conditions requiring walled streets.
- Wood fencing along streets since it is not a long-term quality material.
• Gated subdivisions. Gates create a “fortress” feeling and discourage interaction among neighborhoods and neighbors, prevent integration into existing neighborhoods, and discourage walking and bicycling for purposeful trips.

K. Landscaping
New small lot single-family developments generally lack sufficient landscaping. The high lot coverage and minimal building separations create a harsher streetscape than houses on larger lots. Landscape design guidelines are intended to improve the appearance of the streetscape with landscaping and street trees to diminish the impact of the dense development and provide a softer appearance.

Encourage:

• Street trees or yard trees regularly spaced at approximately 20’ to 25’ on center along each side of the street (minimum 1 per lot; refer to Title 10, Chapter 2, Modesto Municipal Code, for additional standards).
• Separated sidewalks with “tree lawns” (min. 4’ wide) (i.e. “parkways”). These may be planted in lawns or other appropriate ground cover (irrigation is required).
• 24-inch box tree specimens for all street and yard trees (consult the Urban Forestry Division, Parks, Recreation, and Neighborhoods Department, regarding tree selection).
• Tree species which create a continuous canopy at 15 years’ maturity.
• Accent trees at special locations within the neighborhood.
• Variety of planting palettes for front yard landscaping to soften the development, reinforce the home design, and add variety to the streetscape.
• Front yard landscaping which reinforces other design elements of the home such as vines on trellises, hedges or low fences and walls.

Landscaping should incorporate a broad palette of trees and plants that are native or compatible to the region’s climate, provide a full canopy at fifteen years of maturity, and add variety to the streetscape.
L. Mailboxes
Mailboxes should be located in highly visible, heavy use areas for convenience, to allow for casual social interaction, and to promote safety.

Encourage:

- Incorporate design features, such as a built frame, consistent with the development’s architectural style.

Discourage:

- Pedestal-mounted cluster mailbox units.

M. Private Streets
Where private streets are used, they should incorporate design features such as special paving, neckdown intersections and separated sidewalks with street trees to indicate the change from public to private streets (Fig 7).

N. Street Design Elements and Access
A street serves as more than a place to drive or park a car. Besides its most basic function as a transportation conduit for bicyclists and pedestrians, as well as for cars, a street serves architectural and social functions. Houses date to the street on which they are located; streets serve to formalize the street edge and demarcate public and private space. Streets are where neighbors meet informally and neighborhood bonds are created. Minimal street connections within a subdivision and to the external street network increase the need to drive and the number of miles driven, discourage walking and bicycling, and reduce emergency access. The site shall be designed to provide accessibility for emergency vehicles.

Encourage:

- Residentially scaled street lights
- Separated sidewalks with street trees in planting strips or in tree wells; sidewalks shall be designed in compliance with ADA requirements.
- Accent paving at neighborhood entries and at crosswalks
- Multiple ingress and egress points into subdivisions, which allow more even dispersal of traffic through a neighborhood, decrease vehicle miles driven, and increase the ability to walk or bicycle for short trips.
- Blocks less than 600 feet long.
- Incorporate design features, such as a built frame, consistent with the development’s architectural style.
• “Neckdown” streets at intersections to facilitate pedestrian safety, enhance landscaping and reduce excessive speeding, subject to review and acceptance by the Public Works Department and Fire Department.

Discourage/Avoid:

• “Cobra head” street lights (see Section P, Lighting)
• Rollover curbs
• Sidewalks adjacent to street
• Large-radius corner
• Cul-de-sac and dead-end streets

O. Alley Design

Alleys are desirable because they eliminate the impact of the garage door and driveway apron on the streetscape and eliminate driveway access conflicts on streets with higher traffic volumes or speeds. Alleys also allow homes to front tot lots, parks, or open space without a road separating the homes from such features. Additionally, alleys provide a convenient placement for the unattractive activities of the City, such as garbage collection and utility maintenance, improve emergency access by creating two points of entry or access to each lot, and create a more walkable street while increasing the residents’ ability to survey activity on the street from inside the house.

Encourage:

• Alleys should be configured so that activity in the alley can be easily observed from a single point.
• Special accent paving at entries.
• Landscaping should be consistent with the development, with 4-foot landscape strips and a minimum of one tree per lot.
• Protection of trees in the form of tree guards or substantial double-staking to protect trees placed in the 4-foot landscape planting space. Attention should be directed to proper selection of tree species and forms that can prosper in these more limited conditions.
• Building or pedestal lighting should be provided from each lot.

Discourage/Avoid:

• Dead-end alleys. If dead-end alleys are necessary, they should be no more than 100 feet long.
P. Lighting
Lighting should relate to the pedestrian scale of residential neighborhoods and should be considered a design element, rather than simply utilitarian.

Encourage:

- Light standards less than 15 feet in height. Decorative Visco VI-X-1-OF standard or equivalent standard with the same bulb type as the Visco are encouraged.
- Bollard lighting is encouraged along walkways.
- Metal halide luminaries.

Discourage/Avoid:

- Overhanging “cobra head” light fixtures.

Q. Homeowners' Associations
A Homeowners' Association (HOA) is required to provide ongoing maintenance for any and all of the following project elements:

- Private streets
- Private utilities
- Alleys
  - Private common open space including recreation facilities (not maintained by a community facilities district (CFD)).
- Storm water drainage basins, and related facilities (catch basins, swales, etc.), (not maintained by a CFD).
- Common area landscaping and lighting
- All other common areas, utilities, and facilities

R. Utilities, Infrastructure & Easements
Any and all private infrastructure shall be constructed to City standards. Public Utility Easements shall be provided for all public utility connections, in compliance with City Standards.
II. COURTHOMES

INTENT

Courthomes are a type of housing where houses on individual small lots are arranged around a common driveway. These present a special challenge in site planning due to the tight arrangement of lots and the arrangement of houses on the court, as well as the shared driveway, which requires that cars be parked inside the garage in order to allow the residents driveway access and egress.

The following guidelines apply specifically to courthomes and will be considered in addition to the previous small-lot guidelines contained in Section I. When evaluating courthomes, where there is any apparent conflict, the guidance below supercedes that above.

A. Setbacks and Separations

Similar to setbacks in conventional development, setbacks and separations in courthomes are used to create access around a building, provide adequate space for utilitarian functions, allow the passage of light and air between buildings and create open space, while minimizing noise and intrusion and maximizing privacy. The following provisions are intended to serve those purposes.

The following guidance establishes siting and setback criteria that supplement Section I.

The minimum front setback for courthome units adjacent to streets should be:

<table>
<thead>
<tr>
<th>Table 4: FRONT SETBACKS (IN FEET)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Living Area</td>
</tr>
<tr>
<td>Porches (at least six feet deep)</td>
</tr>
<tr>
<td>Attached Garage (entry side)</td>
</tr>
<tr>
<td>Attached Garage (non-entry side)</td>
</tr>
</tbody>
</table>

a) such design (garage entry facing street, not accessed by private court) may only be considered for exceptional circumstances.
Courthome separations and perimeter setbacks are to be provided as follows:

- The minimum separation between building faces of units on one court and those on another court should be 14 feet (Fig. 8).
- Separations between adjacent buildings in the same court should be at least 10 feet.
- For privacy, second floor windows, except for clerestory windows, should be avoided on elevations which overlook private open space areas of adjacent units. In instances where second floor windows are unavoidable, they should be setback at least 15 feet from property lines and separated from adjacent open space areas by tall shrubs or trees.
- On corner sides, conform with the “clear vision triangle” area requirement at street intersections per City Standards, Detail No. 711.
- On sides that back up to a street, all buildings should be set back 15 feet from the property line.
- Minor architectural projections, such as fireplaces and bay windows, may project into setback or separation by up to 2 feet for a length not to exceed 10 feet or 20 percent of the building elevation length, with minimum three-foot clearance.

Encourage:

- Houses adjacent to a local residential street should face the street.
- All courthomes should take garage access from the court.

B. Courtyard Design
Courthomes with six units accessed from a single drive (courtyard) present site development issues and concerns. With respect to courthomes with drives serving six units, the ends of the courtyard visible from the adjoining street are dominated by garage doors. Typically, these units are the same model type and offer little or no architectural variation from one another.

Other issues surface with potential vehicular conflicts with internal units at the ends of the court. The following design provisions are recommended for courthome developments.

Homes adjacent to street should face the street with garage access from the courtyard.

Garages should be recessed behind the dwelling unit.
Encourage:

- The maximum number of units accessed from a single courtyard should be limited to five. Sites with unusual configurations may include an occasional courtyard which serves up to six units.
- Courtyards should not exceed 100 feet in length (Fig. 8).
- The paved circulation portion of the courtyard should have a minimum width of 16 feet, but larger dimensions are encouraged to foster the "courtyard" image. The entrance to the courtyard, at the street, should be at least 20 feet in width and 100' in depth (measured from the face of curb) (Fig. 8).
- Recess garages behind the main dwelling unit similar to typical lots, to minimize the visual impact of the garage door and parking apron. Use roll-up doors for garages.
- To discourage obstruction of the driveway, garage aprons should be either less than six feet deep or more than 18 feet deep.
- Parking aprons should be limited to the rear units not visible from the street.
- Paved areas in front of garage doors should have a minimum back out dimension of 26 feet.
- Trees and large landscape fingers between parking aprons are strongly encouraged to break up the expanse of paving and view of garages. An average of 200 square feet of landscaping per unit should be provided within the courtyard. Trees should be provided at the rate of one front yard tree at each interior lot minimum. No part of the access street setback area may be counted toward the 200-square-foot requirement.
- Decorative paving should be provided in the courtyard (Fig. 9).
- Green space should be placed at the end of court as a focal point.
- Variation of building types and elevations on end units is encouraged.

Discourage/Avoid:

- Terminating vistas from the street should not be garage dominated.
- In order to minimize paving within the courtyard, parking aprons accommodating parking in front of the garage are discouraged in the front of the "front" unit garages; parking aprons should be limited to the rear units.
- Asphalt concrete paving should be avoided in the courtyard.

### General Building and Open Space Design

Building design is a particularly important component of the courthome concept. Courtyards should be sharply defined by the near continuous faces of the buildings clustered around the perimeter. The following design provisions supplement those identified in Section 1.

Encourage:

- All units in a court should share a common architectural theme which visually links them.
- Enlarge entries with porches to accent corners and interior vista.
- 300 square feet of common open space per unit should be provided for projects with more than 15 units that are not adjacent to a public park (refer to common open space guidelines on page 3).
- 10' minimum dimension for private open space (rear yard area)

### Landscape Maintenance Requirements

A Homeowners Association must be established to maintain front yard, courtyard area and common area landscaping within the project.

Homes should have a similar architectural theme to visually tie the neighborhood, but also feature a variety of building materials and color palettes to avoid a “cookie-cutter” look to the development.

Spacious common areas are strongly encouraged. Also encouraged are interior courts, paseos, and large landscaped areas at private drive entries.
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-254

A RESOLUTION VACATING AND ABANDONING A PORTION OF ALMA AVENUE NORTH OF WEST ROSEBURG AVENUE (HORIZON CONSULTING SERVICES)

WHEREAS, Streets and Highways Code Section 8320 et seq. prescribes the procedures to vacate and abandon public streets, and

WHEREAS, Government Code Section 65402 requires that prior to abandoning a public street, the Planning Commission shall make a determination as to whether the abandonment is consistent with the General Plan, and

WHEREAS, Dennis Wilson, Horizon Consulting Services, on behalf of Howard Downing, Hart Floral, has filed an application to vacate and abandon a portion of Alma Avenue north of West Roseburg Avenue, and

WHEREAS, a title report was submitted with the abandonment request which vests fee title to this portion of Alma Avenue in an adjacent land owner who in turn has quit claimed his interest to the subject portion to the proponents of the abandonment, and

WHEREAS, the proposed partial street abandonment has been referred to affected City departments and local utility companies, and no objection to the abandonment has been received, and

WHEREAS, no utilities exist in the portion of Alma Avenue right-of-way to be abandoned, and

WHEREAS, a public hearing was held by the Planning Commission on October 15, 2001, in the Tenth Street Chambers, located at 1010 10th Street, Modesto, California, at which hearing both oral and documentary was received and considered regarding the proposed abandonment, and
WHEREAS, by Planning Commission Resolution No. 2001-62, the Planning Commission recommended approval of the proposed vacation and abandonment, and

WHEREAS, a duly noticed public hearing was held by the Council of the City of Modesto on Tuesday, May 10, 2005, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which time all persons interested in or objecting to the proposed vacation were afforded the opportunity to appear, and

WHEREAS, all things and acts necessary to be done as required by the State of California Streets and Highways Code, Section 8300 through 8363: Public Streets, Highways and Service Easements Vacation Law, in order to vacate and abandon the proposed area of Alma Avenue have been done and accomplished,

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

1. That the portion of Alma Avenue to be abandoned is unnecessary for present or future pedestrian or vehicular use.

2. That Environmental Assessment No. 2005-14 judged this project to be consistent with the City of Modesto General Plan Master Environmental Impact Report.

3. That the vacation and abandonment of a portion of Alma Avenue is in conformance with the City of Modesto General Plan.

BE IT FURTHER RESOLVED that the Council hereby orders and declares the vacation and abandonment of a portion of Alma Avenue north of West Roseburg Avenue. Said proposed vacation and abandonment is more particularly described in Exhibit “A” and Exhibit “B” attached hereto, and by this reference made a part hereof as though set forth in full herein.
BE IT FURTHER RESOLVED that the City Clerk shall cause a certified copy of this resolution, attested under seal of the City, to be recorded in the Office of the County Recorder of Stanislaus County, concurrent with a lot line adjustment adding the abandoned portion of Alma Avenue, to the adjoining land to the east.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: "Michael D. Milich, City Attorney"
Exhibit “A”
EXHIBIT “A”

All that portion of the NE 1/4 of Section 20, Township 3 South, Range 9 East Mount Diablo Base and Meridian, situated in the City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

The Southerly 100.00 feet of the Easterly 30.00 feet of Alma Avenue, a 60.00 foot wide public street as shown on the map of the Mensinger Tract No. 4, per map filed in Volume 14 of Maps at Page 68, Stanislaus County Records. The east line of said 30.00 foot wide strip of land is the West line of Parcel 1, as shown on the map filed in Volume 7 of Parcel Maps at Page 50, Stanislaus County Records.
PLAT TO ACCOMPANY
ABANDONMENT REQUEST
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-255

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): VACATION AND ABANDONMENT OF A PORTION OF ALMA AVENUE RIGHT-OF-WAY ExtENDING NORTH FROM WEST ROSEBURG AVENUE (HORIZON CONSULTING SERVICES)

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

WHEREAS, Dennis Wilson, Horizon Consulting Services, on behalf of Howard Downing, Hart Floral has proposed that a 30-foot-wide portion of Alma Avenue adjoining property at the northwest corner of McHenry and West Roseburg Avenue be vacated and abandoned (the “Project”), and

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

WHEREAS, the City’s Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2005-14 (“Initial Study”) reviewed the proposed Project to determine whether the Project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR, and made the determination that the proposed Project will have no additional significant effect on the
environment that was not identified in the Master EIR, and further, that no new or additional mitigation measures or alternatives are required, and that, therefore, the proposed Project is within the scope of the project covered by the Master EIR, and

WHEREAS, notices were posted in the proposed street right-of-way abandonment area for two successive weeks prior to the hearing, and notice was published in the Modesto Bee for two successive weeks prior to the hearing, per Streets and Highways Code Section 8323 and 8332 respectively, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on May 10, 2005, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed Project, a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference. Based on the substantial evidence included in said Initial Study, Council hereby makes the following findings:

1. The proposed project is within the scope of the General Plan Master EIR (SCH No. 1999082041) which analyzed the potential impacts of buildout of the Baseline Developed Area.

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

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

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

5. The Initial Study, EA/C&ED No. 2005-14, provides substantial evidence to support findings 1 through 4 above.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEN ZAHR

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2005-14
Abandon Portion of Alma Avenue North of W. Roseburg Avenue

EA/C&ED 2005-14
April 13, 2005

I. PURPOSE

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 1999082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

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

II. PROJECT DESCRIPTION

A. Project title:
Public Hearing – Application of Horizon Consulting Services, to abandon a portion of Alma Avenue right-of-way, located north of W. Roseburg Avenue and west of McHenry Avenue.

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

C. Contact person, address and phone number:
Robert S. Cannell
City of Modesto Community & Economic Development Department
Planning Division
P.O. Box 642
Modesto, CA 95353
(209) 577-5274

D. Project Location:
Within Alma Avenue right-of-way, north of W. Roseburg Avenue and west of McHenry Avenue.

E. Project Sponsor:
Dennis Wilson
Horizon Consulting Services
P.O. Box 1448
Modesto, CA 95353

F. General Plan Designation:
Residential (R)
G. **Current Zoning:**
Single Family Residential (R-1)

H. **Description of Proposed Project:**
This is an application to abandon a portion of Alma Avenue north of W. Roseburg Avenue and west of McHenry Avenue. The surrounding area is developed with the McHenry Avenue commercial corridor to the east, and residential uses to the west. The purpose of the proposed abandonment is to provide additional parking area for an adjacent commercial business.

I. **Surrounding land uses:** (See "H." above.)

J. **Other public agencies whose approval is required:** None.

III. **ANALYSIS OF CONFORMANCE WITH THE MASTER EIR**

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

A. **Traffic and Circulation**

The proposed project will likely contribute to increased traffic in the area. However, the proposed development is consistent with the Traffic and Circulation Needs section of the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages IV-1-1 through IV-1-38) are still valid.

B. **Degradation of Air Quality**

The air quality impacts for the proposed project are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, the proposed project will not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages IV-2-1 through IV-2-25) are still valid.

C. **Generation of Noise**

The proposed project is adjacent to and surrounded by urban development. The adjacent developed neighborhood contains a mixture of residential and commercial uses. Because a masonry wall will enclose the parking area, the Day-Night Average Sound Level (Ldn) for this neighborhood area can be ensured. No significant noise impacts will be generated as a result of the proposed parking lot use, nor will the adjacent neighborhood be impacted as a result of this use. It will not create additional significant effects and Mitigation Measures listed in the MEIR for Generation of Noise (pages IV-3-1 through IV-3-33) are therefore still valid.

D. **Loss of Productive Agricultural Land**

The project area is located in an urbanized portion of Modesto, and there are no agricultural lands affected by this project. Therefore, the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages IV-4-1 through IV-4-16) are still valid.
E. Increased Demand for Water Supplies

The proposed project is consistent with the General Plan in land use and intensity, and will provide the necessary infrastructure (if any) to provide water service to the site. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages IV-5-1 through IV-5-11) are still valid.

F. Increased Demand for Sanitary Sewer Services

The proposed project is consistent with the General Plan in land use and intensity, and will provide the necessary infrastructure (if any) to provide sanitary sewer service to the site. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages IV-6-1 through IV-6-9) are still valid.

G. Loss of Sensitive Wildlife and Plant Habitat

The proposed project is in a built-up urban area and will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in this section of the MEIR (pages IV-7-1 through IV-7-30) are still valid.

H. Disturbance of Archaeological and Historic Sites

Figure 8-1 of the MEIR indicates that the proposed project is not within the Archaeological Resource Study Area, which shows areas that may require additional site specific investigations. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages IV-8-1 through IV-8-21) are still valid.

I. Drainage, Flooding and Water Quality

The proposed project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures will reduce the impacts of increased runoff within the baseline developed area to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages IV-9-1 through IV-9-23) are still valid.

J. Increased Demand for Storm Drainage

The proposed project is consistent with the General Plan in land use and intensity, and will provide the necessary infrastructure to provide for adequate storm drainage. The mitigation measures contained in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages IV-10-1 through IV-10-8) are still valid.
K. Increased Demand for Parks and Open Space

The MEIR concluded that demand for parks and open space would be mitigated through the payment of Capital Facilities Fees (CFF) for new development, which would be used for the development of new parks. As a result, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages IV-11-1 through IV-11-11) are still valid.

L. Increased Demand for Schools

The MEIR concluded that demand for schools would be mitigated by collection of fees by the affected school districts. Since this project would be required to pay these fees, as applicable, the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for the Increased Demand for Schools (pages IV-12-1 through IV-12-11) are still valid.

M. Increased Demand for Police Services

The proposed project is consistent with the General Plan in land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Police Services (pages IV-13-1 through IV-13-8) are still valid.

N. Increased Demand for Fire Services

The proposed project is consistent with the General Plan in land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages IV-14-1 through IV-14-9) are still valid.

O. Generation of Solid Waste

The proposed project is consistent with the General Plan in land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages IV-15-1 through IV-15-10) are still valid.

P. Generation of Hazardous Materials

The proposed project is consistent with the General Plan in land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages IV-16-1 through IV-16-15) are still valid.

Q. Landslides and Seismic Activity

The proposed project will result in no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity (pages IV-17-1 through IV-17-11) are still valid.
R. Energy

The proposed project is consistent with the General Plan in land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Energy (pages IV-18-1 through IV-18-6) are still valid.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

A. The proposed project is within the scope of the General Plan Master EIR (SCH No. 1999082041) which analyzed the potential impacts of buildout of the Baseline Developed Area.

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

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

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

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

Signature:

Robert S. Cannell
Senior Planner
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-255A

A RESOLUTION DENYING AN AMENDMENT TO SECTION 3-3-9 OF THE
ZONING MAP TO REZONE FROM SP-O (SPECIFIC PLAN-OVERLAY ZONE)
TO PLANNED DEVELOPMENT ZONE, P-D(572) PROPERTY LOCATED ON
THE NORTH SIDE OF MABLE AVENUE WEST OF OAKDALE ROAD AND
THE PROPOSED DEVELOPMENT PLAN (FLORSHEIM LAND COMPANY,
LLC)

WHEREAS, a verified application for an amendment to Section 3-3-9 of the
Zoning Map was filed by Florsheim Land Company, LLC, on June 4, 2004,
to rezone from Specific Plan Overlay Zone to Planned Development Zone, P-D(572), to allow the
development of small-lot and attached residences, property located on the north side of
Mable Avenue west of Oakdale Road, described as follows:

Rezone SP-O to P-D

All that certain real property situated in the southeast ¼ of Section 3,
Township 3 South Range 9 East, Mount Diablo Meridian, City of Modesto,
County of Stanislaus, State of California, more particularly described as
follows:

Beginning at the northwest corner of Parcel 3, as shown on that certain
map, filed for record on October 26, 1981 in Book 32 of Parcel Maps, at
Page 43, Stanislaus County Records, said corner being marked with a ¾”
iron pipe, tagged LS 2803; thence along the North boundary of said Parcel
3, South 89°49′35″ East, a distance of 852.61 feet to the northeast corner
of said Parcel 3 and a point on the West right-of-way line of Oakdale
Road, said point being 50.00 feet distant at right angles from the centerline
of said Oakdale Road, said centerline being also the East line of said
Section 3; thence parallel with said centerline and said East section line,
along the East line of said Parcel 3, South 00°33′56″ East, a distance of
806.50 feet to the southeast corner of said Parcel 3 and a point on the
North line of that certain property, described in a Quitclaim deed of
Jeffrey S. Martin and Victoria P. Martin as Exhibit “A-1”, and filed for
record on December 20, 2001 as Document No. 2001-0155946-00 and
corrected in document filed for record on October 1, 2002 as Document
No. 2002-0127225-00, Stanislaus County Records; thence along said
North line, North 89°59′40″ East, a distance of 30.00 feet to the northeast
corner of said Quitclaim deed property, said northeast corner being 20.00
feet distant at right angles from said centerline and said East section line;
thence along the East line of said Quitclaim deed property, parallel with said centerline and said East section line, South 00°33’56” East, a distance of 507.27 feet to the southeast corner of said Quitclaim deed property and the intersection of said West right-of-way line of Oakdale Road and the North right-of-way line of Mable Avenue, said intersection being 20.00 feet distant at right angles form the centerline of said Mable Avenue and the South line of said Section 3; thence along the South line of said Quitclaim deed property and said North right-of-way line, South 89°48’54” West, a distance of 879.34 feet to the southwest corner of said Quitclaim deed property; thence along the West line of said Quitclaim deed property and the West line of said Parcel 3, North 00°42’21” West, a distance of 1319.23 feet to the Point of Beginning.

WHEREAS, a public hearing was held by the City of Modesto Planning Commission on April 4, 2005, in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the City of Modesto Planning Commission, by its Resolution No. 2005-17, recommended to the Modesto City Council that the rezoning of the property as requested is consistent with the Modesto Urban Area General Plan because:

1. The proposed development is consistent with the purpose and intent of the Residential Land Use Designation;

2. The proposed development is consistent with the intent of the North Beyer Park Specific Plan, as amended; and

3. The proposed development will help the City of Modesto meet the goals of the City’s Housing Element by designating a site for multiple family attached dwellings.

WHEREAS, a public hearing was held by the City Council on May 10, 2005, in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and
WHEREAS, concurrent with the public hearing on the proposed rezoning, the Modesto City Council denied the requested Amendment No.2 to the North Beyer Park Specific Plan, based on inconsistency with the 1995 Modesto Urban Area General Plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby finds and determines that the rezoning of the property as requested is not required by public necessity and convenience and the general welfare for the following reasons:

1. The proposed storm water drainage basin to serve the proposed Planned Development zone does not comply with the City's dual-use park-basin policy. In consequence, the proposal does not conform to Sections V.E.3.e and V.E.3.f of the Modesto Urban Area General Plan.

2. The proposed Amendment #2 to the North Beyer Park Specific Plan, which would have allowed for the proposed rezone, was denied and therefore this proposed Planned Development zone is inconsistent with the North Beyer Park Specific Plan because the residential lots do not meet the requirements of the R-1 zone and streets do not conform to the street cross sections.

BE IT FURTHER RESOLVED by the City Council that, based on the above findings, it hereby denies without prejudice the application of Florsheim Land Company, LLC, to amend Section 3-3-9 of the Zoning Map to reclassify the property described above from SP-O Zone, to Planned Development Zone, P-D(572).
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 10th day of May 2005, by Councilmember Keating, 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, Ridenour

NOES: Councilmembers: Dunbar

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By
Community & Economic Development Department
Planning Division
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-255B

A RESOLUTION DENYING AMENDMENT NO. 2 TO THE NORTH BEYER
SPECIFIC PLAN FOR THE DEVELOPMENT OF SMALL-LOT SINGLE
FAMILY AND ATTACHED RESIDENCES (FLORSHEIM LAND COMPANY,
LLC)

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

WHEREAS, on November 26, 1996, the Modesto City Council by Resolution No.
96-641, adopted the North Beyer Park Specific Plan, and

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

WHEREAS, on February 25, 2003, by Resolution No. 2003-102, the City Council
of the City of Modesto approved Amendment No. 1 to the North Beyer Park Specific
Plan, and

WHEREAS, Florsheim Land Company, LLC, applied for an amendment to the
North Beyer Park Specific Plan to allow the development of small-lot single family and
attached residences on 26 acres located at the northwest corner of Oakdale Road and
Mable Avenue, and

WHEREAS, at 7:00 p.m. on April 4, 2005, the Planning Commission held a duly
noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street,
Modesto, California, at which hearing evidence both oral and documentary relating to
this proposed amendment to the North Beyer Park Specific Plan was considered, and
WHEREAS, after said public hearing held on April 4, 2005, the Planning Commission adopted Resolution No. 2005-16, recommending to the City Council an amendment to the North Beyer Park Specific Plan to allow the development of small-lot single family and attached residences, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on May 10, 2005, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby finds and determines that the proposed amendment to the North Beyer Park Specific Plan is inconsistent with the 1995 City of Modesto Urban Area General Plan for the following reason:

1. The Specific Plan as proposed does not comply with the City's dual-use park-basin policy. In consequence, the proposal does not conform to Sections V.E.3.e and V.E.3.f of the Modesto Urban Area General Plan.

BE IT FURTHER RESOLVED, that the City Council notes that the proposal has the following additional deficiencies which should be addressed for any further consideration:

1. The component comprising attached dwellings must be approved and constructed before the detached dwellings are constructed.

2. Different types of dwellings should be interspersed throughout the site, rather than being located in exclusive areas.

3. Improve circulation and access to surrounding streets.
BE IT FURTHER RESOLVED, that based on the above findings, the Modesto City Council hereby denies without prejudice the proposed Amendment No. 2 to the North Beyer Park Specific Plan.

The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, by Councilmember Keating, 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, Ridenour

Noes: Councilmembers: Dunbar

Absent: Councilmembers: None

ATTEST: [Signature]
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: [Signature]
MICHAEL D. MILICH, City Attorney
WHEREAS, the Local Cable Committee was reestablished on March 3, 2004, tasked with creating a non-profit corporation to manage the Public Access Channel and given a completion date of December 31, 2004, and

WHEREAS, on December 16, 2004, the Local Cable Programming Committee was granted an extension date of April 30, 2005, and

WHEREAS, the non-profit corporation was to be created specifically for the sole purpose of managing the Public Access channel and would assume responsibility for the management of Public Access once formed, and

WHEREAS, the non-profit corporation will seek private funding sources for the operation of the Public Access channel, and

WHEREAS, the Local Cable Programming Committee has formally requested by letter, a copy of which is attached as Exhibit “A”, that the operation of the Public Access by the City of Modesto Public Access Channel be managed by the newly created non-profit organization, Community Media Network (CMN), and

WHEREAS, the City of Modesto will provide the daily operational cost until June 30, 2005, and

WHEREAS, on July 1, 2005, Community Media Network will be responsible for all of the operational costs of the Public Access channel, and
WHEREAS, City staff recommends and the Council determines that $16,000 of funds in the Public Access budget should be made available to community Media Network in order to fund its continuing start-up expenses, and

WHEREAS, staff presented this item to the Finance Committee on April 25, 2005, and the Committee recommended taking the item to full Council for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of management of Public Access Channel 26 to the non-profit organization, Community Media Network.

BE IT FURTHER RESOLVED by the Council that the City will provide the daily operational costs of Public Access Channel 26, until June 30, 2005, and on July 1, 2005, Community Media Network will be responsible for all of the operational costs of Public Access Channel 26.

BE IT FURTHER RESOLVED by the Council that the remaining balance in the Public Access channel budget of approximately $16,000 shall be made available to CMN for payment of qualified expenses. The City Manager, or his designee, shall, in his or her sole discretion, determine whether or not any expenses submitted by CMN for payment would qualify for payment.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
April 11, 2005

Mayor Jim Ridenour
Councilmember Will O’Bryant
Councilmember Bob Dunbar
Councilmember Janice Keating
Councilmember Denny Jackman
Councilmember Garrad Marsh
Councilmember Brad Hawn
City of Modesto
1010 Tenth Street
Modesto, CA 95354

Dear Mayor and Councilmembers,

On behalf of the Local Cable Programming Committee, I am writing to you and the other members of the Modesto City Council to provide you with an update on the Committee’s task of forming a non-profit corporation to oversee the operation of the Public Access Channel, currently located on Channel 26 on the Comcast cable television system. This report is a follow-up to the Council’s Dec. 14, 2004 resolution approving extension of the City of Modesto’s support of the Public Access Channel through April 30, 2005.

After an extensive outreach and recruitment effort, the Committee is pleased to report that it has selected 13 citizens to serve on the board of directors of the Community Media Network (CMN.) The Committee took this action by a unanimous vote at its special March 31 meeting.

The board members are:
- President: Wes Reed, retired PG&E marketing and customer services manager
- Treasurer: Linda Wade, President and CEO, Mighty Women of Modesto
- Secretary: Amanda Evans, student, CSU Stanislaus, Organizational Communications
- Erik Buck Townsend, founding general director, Townsend Opera Players
- Carol Lancaster Mingus, Mass Communications Instructor, MJC
- Allen F. Clark, owner, Dinosaur TV Studio
- Regina Robinson, medical clerk, Alameda County Medical Center
- Don Langman, owner, Pathways
- Lynette Scott, registered nurse
- Nelly Paredes-Walsborn, director/producer, Walsborn Productions
- Claire Stevens, activities coordinator, Kindred Hospital
- Frank Azevedo, owner, KAZV-TV
- Chris Murphy, vice president, Sierra Pacific Warehouse Group.

We are in the process of informing the applicants of their selection. The Board will hold its first meeting on Wednesday, April 20, at 6:30 p.m. at the Stanislaus County Office of
Education and begin the process of transferring control of the Public Access channel from the City of Modesto to the CMN.

Since we last reported to you on Dec. 6, 2004, the Committee has been engaged in a considerable amount of activity. These highlights include:

- The Committee retained the consulting services of Ron Cooper, Executive Director of Access Sacramento. He has provided valuable insight into the formation of a non-profit, candidate selection and provided the Committee with various resources on Public Access.
- The Committee's Bylaws Subcommittee has met with the local accounting firm of Clendenin and Bird, which has indicated its willingness to assist in the creation of a non-profit. Additionally, the subcommittee has secured a pledge of pro bono work from Modesto attorney Bradley Post from the law offices of Borton, Petrini & Conron to assist in the setting up of the non-profit.
- An intensive outreach campaign was conducted to inform the public of the opportunity to serve as a director on the CMN. Press releases were sent to local media outlets, in addition to being posted to the City of Modesto website. This effort resulted in stories in the Modesto Bee, as well as appearances by Committee members Chris Murphy and Mark Looker on KAZV-TV shows as well as the Central Valley Report.
- The previously formed non-profit, Community Media Network, was reactivated by the California Secretary of State and transferred, ready for use by the new board of directors. This saved considerable time and resources.
- Development of selection criteria by the Board of Directors Recruitment Subcommittee and development of a Nominee Assessment Form to assess the unique skills of each applicant.
- A public informational meeting was held on Feb. 22, 2005, at the Stanislaus County Office of Education at which 36 members of the public attended. Those attending learned about the requirements and duties anticipated for board members. Applications were made available at the meeting, in addition to being posted to the City of Modesto website.
- Three interview sessions with applicants were held on March 28, March 31 and April 6.

As the non-profit becomes operational, one of its major tasks will be structuring a budget that includes underwriting and grant opportunities. The Committee anticipates the CMN Board will be developing a marketing and business plan in the near future. However, the Committee would like to strongly state its belief that the city of Modesto must continue with the commitment it has made to the Public portion of PEG by continuing to dedicate a portion of the current 3% franchise fee to Public Access. As you are aware, the Council at its Dec. 14, 2004 meeting adopted the following resolution: “Resolution approving extension of the City of Modesto’s support of the Public Access Channel through April 30, 2005 at a cost of $8,000 recommended.”
A review by the Committee of every successful Public Access Channel operation in California shows that a strong and viable Public Access Channel is possible only with the financial support of a portion of the franchise fee.

In conclusion, the Committee would request the Council take the following actions:

- Adopt a resolution congratulating the newly selected members of the Community Media Network and expressing the Council’s ongoing support for this effort to transfer control of the Public Access Channel from the City of Modesto to the Community Media Network. Suitable wording for the resolution can be provided upon request.
- Extend the remaining $8,000 budget to the Community Media Network to fund its continuing startup expenses and efforts.

On behalf of the Committee, I would like to thank the Council for its support to date of the efforts to form a non-profit organization to oversee Public Access. This effort faces many formidable challenges but the Committee is confident that the City will continue to be supportive of Public Access just as strongly as it supports the operation of the Education and Government channels.

Sincerely,

Mark Looker, Chairman
Local Cable Programming Committee

MODESTO CITY COUNCIL
RESOLUTION NO. 2005-257

A RESOLUTION UPHOLDING THE CAPITAL FACILITY FEE
EXEMPTION REQUIREMENTS FOR LOW-INCOME HOUSING

WHEREAS the City of Modesto has previously adopted Resolution 2004-527 which outlines reasons necessary for the exemption and deferral of Capital Facility Fees, CFF, and

WHEREAS, City development fees, as determined by the City in its Housing Element and Consolidated Plan, often serve as barriers to quality housing for those with special needs; the City is interested in further housing opportunities to all segments of our community and has adopted an exemption and deferral policy for housing units dedicated to low-income households, and

WHEREAS, the term “low income housing” shall mean: housing at rents affordable to households earning sixty percent (60%) or less of the Area Median Income as determined from time to time by the United States Department of Housing and Urban Development, and

WHEREAS, the City wishes to monitor and enforce the low income provisions for the exemptions and deferrals it grants, to ensure that low income housing is provided for a period of ten years after the date of the deferral, and

WHEREAS, the CFF exemption will be based on ten years of construction from the date of move in whereby development changes are restricted unless the CFF is paid,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby upholds its existing requirements for Capital Facility Fee exemptions and deferrals for low income housing.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF NANCY SMITH FROM THE COMMUNITY QUALITIES FORUM, EFFECTIVE SEPTEMBER 7, 2004

WHEREAS, NANCY SMITH was appointed a member of the Community Qualities Forum on February 25, 2003 and

WHEREAS, NANCY SMITH has tendered her resignation from the Community Qualities Forum, effective May 24, 2005; and

WHEREAS, NANCY SMITH 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 NANCY SMITH from the Community Qualities Forum be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to NANCY SMITH for her outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 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, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

ATTEST: 
JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-259

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, FOR IMPROVEMENTS ON ROSELLE AVENUE BETWEEN KODIAK AND FLOYD 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 on Roselle Avenue between Kodiak and Floyd, 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 $327,523.00, 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. 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 24th day of May 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, 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
A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE CITY OF MODESTO AND JONES AND STOKES ASSOCIATES FOR WORK ON AN ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED COMMERCIAL/OFFICE PROJECT, THE PROMENADE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 1 TO THE AGREEMENT IN AN AMOUNT NOT TO EXCEED $59,956

WHEREAS, Setrok Limited Partnership has applied for a general plan amendment and rezoning to a planned development zone to allow 202,225 square feet of specialty retail shops and restaurants, a 73,000 square foot multi-screen theater, 98,050 square feet of offices and a 108-room, three-story hotel on property located on the west side of Dale Road, north of the Vintage Faire Mall (The Promenade), and

WHEREAS, Section 21080.1 of the California Public Resources Code requires the City of Modesto, as lead agency, to make a determination of whether an environmental impact report is required for projects, and

WHEREAS, the City has determined that an environmental impact report is required for the proposed Promenade project, and

WHEREAS, on December 10, 2002, the City Council approved a list of environmental service providers, including the firm of Jones and Stokes, to assist with the preparation of environmental impact reports and other environmental documents, and

WHEREAS, City staff selected Jones and Stokes to prepare the environmental impact report for The Promenade because they had an organized project team at the time of the selection interviews and the sub-consultant they had selected to do the traffic analysis had just completed work in this quadrant of the City for the Kaiser Medical Center project, and
WHEREAS, on July 13, 2004, the City Council adopted Resolution No. 2004-349, approving an agreement with Jones and Stokes Associates for work on an environmental impact report ("EIR") for a proposed commercial/office project, the Promenade, in an amount not to exceed $173,552 ("Agreement"), and

WHEREAS, during preparation of the Draft EIR issues arose that required additional analysis and services beyond the scope of the Agreement, requiring an amendment to the Agreement in an amount not to exceed $59,956.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Amendment No. 1 to the Agreement between the City of Modesto and Jones and Stokes to perform additional tasks related to the preparation of the Draft EIR, in an amount not to exceed $59,956, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Amendment No. 1 to the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 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, 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. 2005-261

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO
FORMALLY SOLICIT A REQUEST FOR BIDS (RFB) FOR ROCK, SAND, AND
GRAVEL FOR A TWO-YEAR PERIOD, WITH THREE (3), ONE-YEAR
CONTRACT EXTENSION OPTIONS FOR AN ESTIMATED TOTAL ANNUAL
COST OF $200,000

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

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

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

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

WHEREAS, the Purchasing Division has coordinated the drafting of bid
specifications and the need for said materials through collaboration with Central Stores
staff and division personnel based upon usage over the last several years, and

WHEREAS, by soliciting competitive bids, the Finance Department-Purchasing
Division will comply with the Modesto Municipal Code, Section 8-3.204, and Formal
Bid Procedures,
NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is hereby authorized to solicit formal Request for Bids (RFB) for rock, sand, and gravel as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for rock, sand, and gravel to be opened in the office of the City Clerk, 1010 10th Street, in the City of Modesto. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May 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, 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. 2005-262

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR ONE (1), NEW, CURRENT YEAR/MODEL, SELF-PROPELLED PAVER TO HERRMANN EQUIPMENT INC. OF ROSEVILLE, CA. IN THE APPROXIMATE PURCHASE AMOUNT OF $281,027.91

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of one (1), new, current year/model, self-propelled paver, and

WHEREAS, the new paving machine will provide the Streets Division with a large paving machine that will meet the City of Modesto’s growing challenge to maintain and rebuild Collector and Arterial Streets in addition to the many residential streets and alleys, and

WHEREAS, the Public Works staff compiled the specifications for the new self-propelled paver after many hours of market research to try and incorporate the highest level of both performance and safety related features in a single bid specification, and

WHEREAS, Resolution No. 2004-377 authorized the Purchasing Supervisor to solicit Request for Bids (RFB) for vehicles and equipment, which included one (1), self-propelled paver, and

WHEREAS, the Purchasing Division solicited formal bids for one (1), new, current year/model self-propelled paver on RFB 0405-13, and

WHEREAS, out of twelve (12) vendors solicited, three (3) chose to respond to the RFB, and

WHEREAS, the City’s two (2%) local vendor preference was not a factor in determining the lowest responsive and responsible bidder for one (1), new, current year/model self-propelled paver, and
WHEREAS, Herrmann Equipment Inc. of Roseville, CA. was the only responsive and responsible bidder with a total approximate amount of $281,027.91, and

WHEREAS, the Herrmann Equipment Inc. self-propelled paver is the only unit bid which met the desired performance specifications of producing a crown of not less than three inches, is hydraulic adjustable by electric finger-tip control, and also complies with the performance and safety specifications listed below, and

WHEREAS, bids received for Nixon-Egli Equipment and Ingersoll-Rand Equipment are considered to be non-responsive because they did not meet the following performance and safety specifications as required in Request for Bid 0405-13:

- Both bids did not meet the specification for an oscillating truck hitch, and this hitch contributes toward the safe operations and a high quality road surface.

- Both bids took an exception to specification for a Frame Rise Option, which allows the paver to move around paving obstacles quickly and safely and provides for safest operations for loading and unloading on trailers. This performance feature saves staff from having to manually compensate by actually having to build asphalt tramps to navigate around obstacles.

- Both paver bids will not adjust to pave 8 feet to 16 feet wide without additional attachments. The ability to move materials out to 16 feet wide without manual adjustments allows for increased productivity levels.
• Both pavers bid do not have a telescopic 12-inch Catwalk that extends in and out to the fill width of the screed automatically. This desired option enhances safety and increased productivity.

• The paver bid by Nixon-Egli and Ingersoll-Rand does not have a De-Track warning light with an electric over-ride switch. This option warns operator to stop the machine before a track is lost off of rollers and this feature reduces subsequent damage and increases productivity and safety, and.

WHEREAS, the City Council has appropriated funds in account 7210-480-5814-5228,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for one (1), new, current year/model, self-propelled paver from Herrmann Equipment Inc. of Roseville, CA. in the approximate amount of $281,027.91.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase order for one (1) new, current year/model, self-propelled paver as set forth herein.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 24th day of May 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, 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. 2005-263

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR VIDEO TELEPHONE HARDWARE TO PACIFIC BELL TELEPHONE DBA SBC DATACOMM, INC OF MODESTO, CA. IN THE APPROXIMATE AMOUNT OF $119,024.06

WHEREAS, the Information Technology Department had requested the purchase of video telephone hardware, and

WHEREAS, Resolution No. 2004-535 authorized the Purchasing Supervisor to solicit formal Request for Bids (RFB) for video telephone hardware, and

WHEREAS, as part of the City of Modesto’s Franchise Agreement with Comcast, Comcast is to develop a citywide fiber-based institutional network (INET) to be utilized by the City of Modesto and several participating school districts, and

WHEREAS, the construction of the INET is complete and is now in validation testing, and

WHEREAS, as stated in the Franchise Agreement, Comcast is scheduled to remove the existing coax-based INET, which will terminate the Modesto Fire Department’s (MFD) current video training and communications abilities, and

WHEREAS, during FY03/04 staff encumbered a portion of the total project cost in anticipation of purchasing the necessary pieces of equipment to replace this system, and

WHEREAS, specifically the MFD encumbered $150,000 in funding for the purchase of this equipment, and

WHEREAS, the City Council has appropriated funds in account number 0100-180-1802-5400 (FIRE SUPPORT SERVICES) for video telephone hardware, and
WHEREAS, the Modesto Municipal Code, MMC Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for materials, equipment, or contractual services to be formally bid. The code also states that purchases whose total maximum cost to the City exceeds $50,000 shall receive preliminary approval of Council (MMC (8-3.203 (a)). The video telephone hardware received said approval with Resolution No. 2004-535. This award of bid and contract will conform to code, and

WHEREAS, the Purchasing Division solicited formal bids for video telephone hardware on Request for Bid (RFB) 0405-32, and

WHEREAS, out of eight (8) vendors solicited, four (4) chose to respond to the RFB, and

WHEREAS, two bidders were deemed to be non-responsive because they only submitted one signed original bid document, and

WHEREAS, Pacific Bell Telephone dba SBC DataComm of Modesto, CA. is deemed to be the lowest responsive and responsible bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract to Pacific Bell Telephone dba SBC DataComm of Modesto, CA. in the approximate amount of $119,024.06.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase order to Pacific Bell Telephone dba SBC DataComm for video telephone hardware in the approximate amount of $119,024.06.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 24th day of May, 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, Keating, Marsh,
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: ____________________________
MICHAEL D. MILICH, City Attorney

ATTEST: ____________________________
JEAN ZAHN, City Clerk

05/24/05/Finance/T Reddish/Item No 13  3  2005-263
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-264

A RESOLUTION AUTHORIZING STAFF TO: 1) DECLARE A PORTION OF THE CITY-OWNED PROPERTY (APN 111-057-020) FORMERLY KNOWN AS THE JOHN MUIR SCHOOL AND THE ATTACHED PARKING LOT AREA AS SURPLUS PROPERTY; 2) REQUEST AND PROCESS A PARCEL SPLIT OF THE PROPERTY TO SEparate T.B. SCOTT PARK FROM THE BUILDING AND ITS PARKING LOT; AND, 3) PROCEED WITH AN APPRAISAL AND CONTRACT FOR REAL ESTATE SERVICES FOR THE SALE OF THIS PROPERTY

WHEREAS, the City of Modesto owns the property at 800 Morris Avenue (APN 111-057-020), and

WHEREAS, a portion of the property has been used as a Community Center for the City of Modesto and a portion of the property is T.B. Scott Park, and

WHEREAS, the Modesto Community Service Center building has been decommissioned because City staff has identified the building as being in very poor shape with asbestos and seismic problems, and

WHEREAS, City of Modesto staff is interested in splitting the parcel and maintaining the park property, and selling the portion of the property that contains the building and parking lot, and

WHEREAS, City of Modesto staff is interested in appraising the property and listing the property with a real estate firm for sale, and

WHEREAS, the Finance Committee met on April 25, 2005, and supported staff’s recommendation to sell the portion of the property that houses the Modesto Community Service Center building and the adjacent parking lot,
NOW, THEREFORE, BE IT RESOLVED, that the City Council of Modesto hereby authorizes staff to declare a portion of the City-owned property (APN 111-057-020) consisting of the former John Muir School and the attached parking lot as surplus property.

BE IT FURTHER RESOLVED that the Council hereby authorizes City staff to request and process a parcel split of the property to separate T.B. Scott Park from the building and its parking lot.

BE IT FURTHER RESOLVED that the Council hereby authorizes staff to proceed with an appraisal and contract for real estate services for the sale of this property.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May 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, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

Attest: JEAN ZAHR, City Clerk
RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO FORMALLY SOLICIT REQUEST FOR BIDS IN THE AMOUNT OF $250,000, TO BE UTILIZED FOR INET EQUIPMENT PURCHASES AND RELEASE OF RFP

WHEREAS, as part of the City of Modesto’s franchise agreement with Comcast, Comcast is to develop a citywide fiber INET to be utilized by the City of Modesto and several participating school districts, and

WHEREAS, the construction of the INET is complete and is currently undergoing validation testing, and

WHEREAS, the INET will not be functional until the City and its participants are able to acquire and install equipment that will allow communications to flow between facilities connected to the INET, and

WHEREAS, during FY03/04 staff encumbered a portion of the total project cost in anticipation of purchasing several of the necessary pieces of equipment, and

WHEREAS, On October 12th 2004, Council approved the use of this funding for the first phase of the INET implementation, which provides for service to all Fire Stations, and

WHEREAS, additional funding in the amount of $250,000 is required to “light-up” the remaining 26 City sites providing high-speed data connectivity and the framework for future advanced services, and

WHEREAS, the City will save $96,000 annually through the disconnection of voice and high speed data circuits, and
WHEREAS, this action is consistent with existing policies and the City's Strategic Plan, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Supervisor to formally solicit Request for Bids in the amount of $250,000, to be utilized for INET equipment purchases as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for INET equipment purchases to be opened in the offices of the City Clerk, 1010 10th Street, in the City of Modesto. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form and manner provided by law.

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

The foregoing resolution was introduced at a regular meeting of the Council held on the 24th day of May 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, 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. 2005-266

A RESOLUTION AMENDING RESOLUTION NO. 2004-341 AUTHORIZING
SEVERANCE PAY, HEALTH BENEFITS AND INTERVIEW LEAVE FOR
EMPLOYEES SUBJECT TO AN AUTHORIZED REDUCTION IN FORCE
THROUGH JUNE 30, 2006

WHEREAS, by Resolution No. 2004-341 which was adopted on July 6, 2004, the
City Council authorized Severance Pay, Health Benefits and Interview Leave for
Employees subject to an authorized reduction in force, and

WHEREAS, said Severance Benefits, as set forth in Resolution No. 2004-341 will
terminate effective June 30, 2005, and

WHEREAS, the City of Modesto continues to face a budget crisis which may
result in employee layoffs, and

WHEREAS, the City Council desires to extend the terms set forth in Resolution
No. 2004-341 to extend Severance Pay, Health Benefits and Interview Leave for
employees subject to an authorized reduction in force through June 30, 2006, and

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

WHEREAS, City staff is recommending to the Council that laid off employees
should receive Severance Pay equivalent to a minimum of four (4) weeks of the
employee's salary and City health contribution upon the effective date of the layoff and
thereby provide a limited cash payment to assist the laid off employee who is faced with
loss of job and income, and
WHEREAS, City staff is also recommending that employees who are notified of pending lay off should receive Interview Leave which would provide paid leave time for employees to seek other employment prior to their date of layoff, and

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

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

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

SECTION 2. Eligibility for One Hundred and Sixty (160) Work Hours of Severance Pay: All non-sworn employees in regular positions in the classified service who are laid off due to a reduction in force shall be entitled to receive upon separation from service, severance pay equivalent to One Hundred Sixty (160) work hours. Severance pay shall be calculated based upon the employee’s regular base pay, excluding acting pay, assignment pay, shift differential, or other special pays.
SECTION 3. **Eligibility for Additional Severance Pay:** All non-sworn employees in regular positions in the classified service who are laid off due to a reduction in force and who have six (6) or more complete years of continuous service are eligible for additional severance pay as follows:

A. Severance pay equivalent to forty (40) work hours of salary for each completed year of service in excess of five (5) completed years of service, up to a maximum of one hundred and sixty (160) work hours. Additional severance pay shall be calculated based upon the employee’s regular base pay, excluding acting pay, assignment pay, shift differential, or other special pays.

SECTION 4. **Severance Pay Options:** At the time of separation, an employee may elect to receive severance pay in a lump sum payment or in the form of a contribution to the employee’s deferred compensation plan or a combination thereof subject to all appropriate IRS regulations and limitations.

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

SECTION 6. **Eligibility for Counseling Benefit:** Employees who receive severance pay shall also be eligible for an extension of the City’s Employee Assistance
Program (EAP) benefit for a period of six (6) months from date of layoff. Said benefit shall provide for a maximum of six (6) EAP visits per family.

SECTION 7. Eligibility for Interview Leave: All non-sworn employees in regular positions in the classified service who are provided notice by his/her Department Director that the employee may be laid off due to a reduction in force shall be entitled, prior to separation, to a maximum of fifteen (15) work hours of paid leave time for purposes of participating in employment interviews or examinations with any other employer.

Authorized interview leave shall be subject to prior written approval of the employee’s supervisor and with consideration for the needs of the City. Written verification of scheduled interviews or examinations may be required by the employee’s supervisor. Interview leave in excess of fifteen (15) work hours may be granted with the prior written approval of the employee’s Department Director. Interview leave shall not be subject to cashout or conversion to any other benefit.

SECTION 8. Voluntary Layoff: The City Manager may authorize any non-sworn employee in a regular position in the classified service who volunteers to be laid off, and is in the classification or the approved bumping chain of a position authorized for layoff, to be laid off, with all rights to receive severance pay, health contributions and interview leave as provided herein.

SECTION 9. Term: Severance benefits, as set forth in this Resolution shall terminate effective June 30, 2006, unless extended by resolution of the Modesto City Council.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May 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, 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, Article 10 of Chapter 2 of Title 3 of the Modesto Municipal Code authorizes the City Council, by resolution, to establish angle parking in the City of Modesto, and

WHEREAS, City staff identified the south side of M Street between 9th and 13th Streets and the east side of 10th Street between L and M Streets as locations to install angle parking to create additional on-street parking, and

WHEREAS, staff evaluated the traffic volumes and the speeds for these sections of roadway and concluded that angle parking can be accommodated on the south side of M Street between 9th and 13th Streets and on the east side of 10th Street between L and M Streets without creating a hazard and without impeding traffic flow, and

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

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

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

SECTION 2. The Public Works Director is hereby directed to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May 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. 2005-268

A RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS 1 – 6

WHEREAS, Resolution No. 88-935, adopted by the Council of the City of Modesto on December 13, 1988, initiated proceedings for the formation of Landscape Assessment District No. 1 for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6, and

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

WHEREAS, Section 22623 of the Streets and Highways Code requires the City Engineer, the person designated by this Council as Engineer of Work for Assessment District No. 1, to prepare and file an annual report, and

WHEREAS, the City Engineer, said Engineer of Work, has prepared and filed said annual report with the City Clerk, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, Section 22623 of the Street and Highways Code requires the legislative body (the City Council) to adopt a resolution of intention which shall include the following:
a. Declaration of intention of the legislative body (the City Council) to levy and collect assessments within the assessment district for the fiscal year stated in the annual report.

b. General description of the existing improvements and proposed improvements and any substantial changes proposed to be made in the existing improvements.

c. Reference to the assessment district by its distinctive designation and indication of the general location of the district.

d. Reference to said annual report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.

e. Notice of the time, as fixed by the Streets and Highways Code Section 22625, and the place for hearing by the legislative body (the City Council) on the levy of the proposed assessment.

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

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 1 during the fiscal year 2005-06.

2. There are no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 1-6 and that
the existing improvements to be made in said assessment district are generally described as follows:

The City shall provide maintenance, in perpetuity, of landscaping and any and all improvements required for such maintenance including, but not limited to landscape irrigation systems in the following locations:

a. Street medians in Creekwood Drive
b. Areas adjacent to the access control walls along Creekwood Drive
c. Areas adjacent to the access control walls along Claus Road

3. Landscape Maintenance Assessment District No. 1 is located in the County of Stanislaus, within the City Limits of the City of Modesto and is more specifically located on the west side of Claus Road, between Modesto Irrigation District Lateral No. 2 and State Route 132 (Yosemite Boulevard).

4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance Assessment District No. 1.

5. On Tuesday, the 12th day of July, 2005, at the hour of 5:30 p.m., the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at the meeting place of the City Council
located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.

6. The City Clerk is authorized and directed to give the notice of hearing required by the “Landscape and Lighting Act of 1972”.

7. The levy and collection of assessments as set forth in this resolution are exempt from the procedural and substantive requirements of Proposition 218 pursuant to Article XIII, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May 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, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZAHR
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-269

A RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS
FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY
CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS
SUBDIVISION AND YOSEMITE MEADOWS SUBDIVISION UNITS 1 & 2

WHEREAS, Resolution No. 89-460 adopted by the Council of the City of
Modesto on April 4, 1989, initiated proceedings for the formation of Landscape
Assessment District No. 2 for the purpose of administering the maintenance of
landscaping in the public right of way within the street medians and adjacent to the
access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood
Meadows Subdivision and Yosemite Meadows Subdivision Units Nos. 1 & 2, and

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

WHEREAS, Section 22623 of the Streets and Highways Code requires the City
Engineer, the person designated by this Council as Engineer of Work for Assessment
District No. 2, to prepare and file an annual report, and

WHEREAS, the City Engineer, said Engineer of Work, has prepared and filed
said annual report with the City Clerk, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, Section 22623 of the Streets and Highways Code requires the
legislative body (the City Council) to adopt a resolution of intention which shall include
the following:
a. Declaration of intention of the legislative body (the City Council) to levy and collect assessments within the assessment district for the fiscal year stated in said annual report.

b. General description of the existing improvements and proposed improvements and any substantial changes proposed to be made in the existing improvements.

c. Reference to the assessment district by its distinctive designation and indication of the general location of the district.

d. Reference to said annual report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.

e. Notice of the time, as fixed by Streets and Highways Code Section 22625, and the place for hearing by the legislative body (the City Council) on the levy of the proposed assessment.

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

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 2 during the fiscal year 2005-06.

2. There are no proposed new improvements or any substantial changes in the existing improvements within the existing Landscape Maintenance
Assessment District No. 2, and the existing improvements to be made in said assessment district are generally described as follows:

The City shall provide maintenance, in perpetuity, of landscaping and any and all improvements required for such maintenance including, but not limited to landscape irrigation systems in the following locations:

a. Street medians in Creekwood Drive
b. Areas adjacent to the access control walls along Creekwood Drive
c. Areas adjacent to the access control walls along Claus Road

3. Landscape Maintenance Assessment District No. 2 is located in the County of Stanislaus, within the City limits of the City of Modesto and is more specifically located on the west side of Claus Road, between Modesto Irrigation District Lateral No. 2 and State Route 132 (Yosemite Boulevard).

4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance Assessment District No. 2.

5. On Tuesday, the 12th day of July, 2005, at the hour of 5:30 p.m., the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at the meeting place of the City Council
located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.

6. The City Clerk is authorized and directed to give the notice of hearing required by the “Landscaping and Lighting Act of 1972”.

7. The levy and collection of assessments as set forth in this resolution shall follow the procedural and substantive requirements of Proposition 218 pursuant to Article 13D, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May 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, 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. 2005-270

A RESOLUTION APPROVING THE FINAL MAP AND ACCEPTING PUBLIC
IMPROVEMENTS, EXCEPT LANDSCAPING AND IRRIGATION AND
ROSELLE AVENUE IMPROVEMENTS, IN THE VILLAGE RANCH UNIT 1
SUBDIVISION OF THE CITY OF MODESTO AND AUTHORIZING THE CITY
MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH CENTEX
HOMES, A NEVADA GENERAL PARTNERSHIP

WHEREAS, CENTEX HOMES, A Nevada General Partnership, is possessed of a
tract of land situated in the City of Modesto, County of Stanislaus, consisting of 12.253
acres, known as the VILLAGE RANCH UNIT 1 SUBDIVISION (“SUBDIVISION”),
and

WHEREAS, an application for a vesting tentative subdivision map was deemed
complete by the Secretary of the Planning Commission on August 7, 2003, and

WHEREAS, a tentative map of said tract was approved by the Planning
Commission of the City of Modesto on the 25th day of August, 2003, and

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

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

WHEREAS, the Public Works Director has certified that all public improvements,
except Landscaping and Irrigation Improvements and the Roselle Avenue CFD
Improvements, required by the City of Modesto have been completed in said tract to the satisfaction of the Public Works Director, and

WHEREAS, the Subdivider has provided a security in the amount of $57,866.67 to secure faithful performance and payment for labor and materials for completion of the Landscaping and Irrigation Improvements, and

WHEREAS, the Subdivider is entering into a CFD agreement with the City of Modesto for the Roselle Avenue Improvements and pursuant to that agreement, has provided securities to secure faithful performance and payment for labor and materials for completion of the Roselle Avenue Improvements.

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

1. The final map is hereby approved.

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

3. The improvements, except Landscaping and Irrigation Improvements and Roselle Avenue Improvements, completed in the Village Ranch Unit 1 Subdivision are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements which are being accepted.

4. The City Clerk is hereby authorized to certify the map of said tract on behalf of the City of Modesto, after the fees and deposits required by the
Modesto Municipal Code in amounts determined by the City Engineer have been paid.

5. The City Manager and the City Clerk are hereby authorized to execute and attest, respectively, an agreement with subdivider as required by Section 4-4.604(c) of the Municipal Code.

6. The City Clerk is further authorized to release the warranty security to guarantee improvements in the amount of $92,292.22 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May 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, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr

JEAN ZAHIR, City Clerk

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-271

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE FLOYD AVENUE IMPROVEMENTS PROJECT, AWARDING THE BID AND APPROVING A $2,354,573.40 CONTRACT WITH GEORGE REED, INC., FOR THE PROJECT ENTITLED “FLOYD AVENUE IMPROVEMENTS,” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, on February 8, 2005, the City Council approved an update to the Village One Facilities Prioritization List; said update includes combining a portion of the Oakdale/Floyd intersection project with the proposed Floyd Avenue widening project, and

WHEREAS, City staff has reviewed the plans and specifications for the Floyd Avenue Improvements project and recommends approval to the City Council, and

WHEREAS, the bids received for the FLOYD AVENUE IMPROVEMENTS project were opened at 11:00 a.m. on April 5, 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 $2,354,573.40 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 Floyd Avenue Improvements project.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of $2,354,573.40, and hereby awards GEORGE REED, INC., the contract entitled “FLOYD AVENUE IMPROVEMENTS.”
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May 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, Hawn, 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
A RESOLUTION ACCEPTING THE WORK BY T & S CONSTRUCTION CO., INC., FOR THE “VILLAGE ONE STORM DRAINAGE IMPROVEMENTS” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $2,783,888.20 PER THE CONTRACT. TOTAL PROJECT COST IS $3,139,850.75

WHEREAS, a report has been filed by the Public Works Director that the project titled “Village One Storm Drainage Improvements” has been completed by T & S Construction Co., Inc., in accordance with the contract agreement dated June 10, 2003,

NOW, THEREFORE, BE IT RESOLVED by the Council that the “Village One Storm Drainage Improvements” project be hereby accepted from said contractor, T & S Construction Co., Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $2,783,888.20 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 24th day of May 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, Keating, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-273

A RESOLUTION ESTABLISHING LOCAL LIMITS IN THE FORM OF MAXIMUM ALLOWABLE HEADWORKS LOADING (MAHL) FOR DISCHARGE OF MOLYBDENUM INTO THE CITY’S WASTEWATER SYSTEM AND TO PROVIDE REGULATION THROUGH PERMITS AND ENFORCEMENT

WHEREAS, the City of Modesto is the owner of a Publicly Owned Treatment Works (POTW) for the treatment of wastewater discharged into the POTW system by users within the City of Modesto, and

WHEREAS, the City of Modesto is authorized by state and federal law, including but not limited to Chapter 40 of the Code of Federal Regulations, to enact Local Limits on discharge of pollutants and constituents of wastewater to the POTW, and

WHEREAS, the City of Modesto has an existing Sewage Collection and Disposal Ordinance which authorizes the City Council to adopt specific pollutant limitations regarding waste characteristics and constituent limits and prohibits any person from discharging wastewater to the City Sewer System which contains constituents in excess of any specific constituent level as may be set forth by the City Council pursuant to 40 CFR 403.5(b), (c) and (d), and

WHEREAS, the Regional Water Quality Control Board (Regional Board) issued a Cease and Desist Order (No. 5-01-121) to the City of Modesto on May 11, 2001 with regard to establishing an effluent limit in connection with the amount of molybdenum processed by the City of Modesto Public Works Wastewater Treatment Facility, and

WHEREAS, the Regional Board provided the City with a five-year time schedule
to develop source control measures to meet the established molybdenum effluent limitations, and

WHEREAS, a Maximum Allowable Headworks Loading (MAHL) not to exceed 1.0 pound per day of molybdenum is the recommended Local Limit, which was developed and based upon the Wastewater Treatment Facility’s operational ability to treat molybdenum to a level which will consistently meet the Regional Board’s imposed effluent limitations, and

WHEREAS, discharge permits will be issued by the City to all controllable sources of molybdenum to regulate these discharges in order to meet the Regional Board’s discharge requirements, and

WHEREAS, any permitted user which violates its local limit on molybdenum shall be subject to the penalties and enforcement procedures set forth in the City of Modesto Sewage Collection and Disposal Ordinance, and

WHEREAS, The Economic Development Committee considered this item at its meeting of May 9, 2005, and recommended forwarding this item to the full Council for its consideration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Publicly Owned Treatment Works owned by the City of Modesto shall issue discharge permits to all controllable sources of molybdenum, which will establish a local limit for each user in a permit issued to that user.

BE IT FURTHER RESOLVED that these discharge permits shall contain limits on the discharge of molybdenum to the main treatment plant in amounts such that
dischargers which comply with the permit limitations will not collectively discharge wastewater for treatment at the main treatment plant which will exceed 1.0 pounds per day of molybdenum from all permitted sources.

BE IT FURTHER RESOLVED that any permitted user which violates its local limit on molybdenum shall be subject to the penalties and enforcement procedures as set forth in the City of Modesto Sewage Collection and Disposal Ordinance.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May 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, 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. 2005-274

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE COMMUNITY GATEWAY PROJECT, AWARDING THE BID AND APPROVING A $396,907 CONTRACT WITH GROVER LANDSCAPE SERVICES, INC., FOR THE PROJECT TITLED, "COMMUNITY GATEWAY," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, the Community Gateway project was previously bid on August 17, 2004; the sole bidder was 44% over bid and said bid was rejected by the Council, and

WHEREAS, modifications were made to the plans, and the landscape architect’s estimate was adjusted to meet the current construction climate, and

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

WHEREAS, the bids received for “Community Gateway” were opened at 11:00 a.m. on April 19, 2005, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $396,907 received from Grover Landscape Services, Inc., be accepted as the lowest responsible bid and the contract be awarded to Grover Landscape Services, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Community Gateway project.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of $396,907, and hereby awards Grover Landscape Services, Inc, the contract titled “Community Gateway.”
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 24th day of May 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, 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

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-275

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT FY
2005 BUDGET TO RE-ESTABLISH THE ACCOUNT 2300-480-N489
COMMUNITY GATEWAY, FUNDED BY $305,020 FROM FEDERAL
TRANSPORTATION ENHANCEMENT ACTIVITIES PROGRAM; AND
$158,454 FROM OPERATING ACCOUNTS 0700-410-4120 (STREET
MAINTENANCE) AND 0700-430-4380 (SLURRY SEAL) TO FULLY FUND A
CONTRACT WITH GROVER LANDSCAPE SERVICES, INC., FOR THE
CONSTRUCTION OF THE COMMUNITY GATEWAY PROJECT

WHEREAS, a Capital Improvement account 2300-480-N489 needs to be re-
established for the Community Gateway project, and

WHEREAS, certain budgetary transactions are necessary to fully fund the
contract for said project, and

WHEREAS, $305,020 is to be transferred from Federal Transportation
Enhancement Activities Program, and

WHEREAS, $35,000 is to be transferred from operating accounts 0700-410-4120,
and

WHEREAS, $123,454 is to be transferred from operating accounts 0700-430-
4380,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of
Modesto hereby approves funding transfers as set forth herein to fully fund the $396,907
contract with Grover Landscape Services, Inc., for the Community Gateway project.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 24th day of May 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, Keating, Marsh,
O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By _________________________
MICHAEL D. MILICH, City Attorney

ATTEST: _________________________
JEAN ZAHR, City Clerk

05/24/05/PW/D. Phillips/Item No 24

2005-275
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-276

A RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT TO SOLICIT REQUEST FOR PROPOSALS FOR PROFESSIONAL ASSISTANCE FOR THE WASTEWATER TREATMENT PLANT (WWTP) NPDES PERMIT FOR DISCHARGE TO THE SAN JOAQUIN RIVER FOR A TWO-YEAR PROFESSIONAL SERVICES AGREEMENT, NOT TO EXCEED $242,000, WITH OPTIONS FOR TWO (2), ONE-YEAR RENEWALS, NOT TO EXCEED $100,000 EACH YEAR, SHOULD NPDES ISSUES WITH THE REGIONAL BOARD NOT BE RESOLVED

WHEREAS, the treated effluent from the City’s wastewater stream is discharged to the San Joaquin River and this discharge is regulated by the state through Federal National Pollutant Discharge Elimination System (NPDES) permit, and

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

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

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

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

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

WHEREAS, the Economic Development Committee considered this item at its May 9, 2005, meeting and recommended forwarding this item to the full Council for its consideration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Public Works Department, Water Quality Control Division to solicit proposals for professional assistance for the WWTP NPDES permit for discharge to the San Joaquin River for a period of two years, not to exceed $242,000.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes an option for two (2), one-year renewals, not to exceed $100,000 each year, should NPDES issues with the Regional Board not be resolved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May 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, 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 AMENDING PASSENGER FARES ON MODESTO AREA EXPRESS (MAX) AND RESCINDING RESOLUTION NO. 1999-193 AND AMENDING PASSENGER FARES ON MODESTO AREA DIAL-A-RIDE (MADAR) AND RESCINDING RESOLUTION NO. 2002-209

WHEREAS, passenger fares for Modesto Area Express (MAX) covers approximately 25% of the operating expenses for the urban bus route, and

WHEREAS, Modesto Area Dial-A-Ride (MADAR) passenger fares cover approximately 9% of the operating costs for Dial-A-Ride services, and

WHEREAS, Local Transportation Fund (LTF) monies cover 80% of the remaining costs and the balance of 20% is covered by Federal Transit Administration (FTA) funds, and

WHEREAS, MAX fares were last raised in July 1999 by Resolution No. 1999-193 and MADAR fares were last raised in June 2002 by Resolution No. 2002-209 to their current levels, and

WHEREAS, the Council Economic Development Committee recommended approval of a 5.9% increase for MAX and MADAR at it’s February 7, 2005 meeting, and

WHEREAS, after this action, it became apparent that Gas Tax funds projected in FY 2005/06 for street maintenance would be significantly lower than necessary to maintain even a minimum level of street maintenance, and

WHEREAS, increasing fare revenue is one way to reduce the amount of LTF funds used for Transit and increasing the funds available for street maintenance, and
WHEREAS, staff returned to the Council Economic Development Committee on April 11, 2005 with an revised fare increase proposal for MADAR cash fares and most MAX fare categories, and an increase of 42.3% for DAR ticket books respectively, and

WHEREAS, the Council Economic Development Committee recommended approval of this revised proposal at their April 11, 2005 meeting, and

WHEREAS, this revised proposal is projected to increase fare revenue by $240,000 annually, and

WHEREAS, approximately $192,000 of LTF funds become available for street maintenance as a direct result of this fare increase, and

WHEREAS, a duly noticed public hearing was held by the Council on May 10, 2005, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, at which public hearing all interested persons were given an opportunity to be heard relative to the proposed fare increases for the MAX and MADAR services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the following fare increases for MAX and MADAR services be approved:

<table>
<thead>
<tr>
<th>MODESTO AREA EXPRESS</th>
<th>Urban Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash Fares (one trip)</td>
<td></td>
</tr>
<tr>
<td>Regular</td>
<td>$1.00</td>
</tr>
<tr>
<td>Student</td>
<td>$0.85</td>
</tr>
<tr>
<td>Senior/Disabled</td>
<td>$0.50</td>
</tr>
<tr>
<td>Day Pass (unlimited trips)</td>
<td>$2.50</td>
</tr>
<tr>
<td>Student Field Trip</td>
<td>$0.45</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Monthly Passes (unlimited trips)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular Monthly Pass</td>
<td>$39.00</td>
</tr>
</tbody>
</table>
Student Monthly Pass $29.00
Senior/Disabled Monthly Pass $19.00
Ticket Books (50 Tickets)
Regular $50.00
Student $42.50
Commuter Eliminate
Senior/Disabled $25.00

MODESTO AREA DIAL-A-RIDE

Cash $2.00
Ticket Book (10 Tickets) $16.00

BE IT FURTHER RESOLVED by the Council of the City of Modesto that
this resolution shall go into effect on and after August 1, 2005.

BE IT FURTHER RESOLVED by the Council of the City of Modesto
that Resolutions No. 199-193 and 2002-209 are hereby rescinded effective July 31, 2005.

The foregoing resolution was introduced at a regular meeting of the
Council of the City of Modesto held on the 24th day of May 2005, by Councilmember
Jackman, who moved its adoption, which motion being duly seconded by Councilmember
Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____________________________
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: _____________________________
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-278

A RESOLUTION ADOPTING AN ANNUAL COST OF LIVING ADJUSTMENT
FOR BUILDING PERMIT FEES, AND AMENDING RESOLUTION NOS.
89-1003, 89-1004, 89-1005, 89-1006, 92-255, 93-263, AND 2003-446

WHEREAS, California Government Code Section 66014 authorizes fees for
zoning variances and changes, use permits, building inspections, building permits, and
filing and processing applications, and

WHEREAS, the City Council of the City of Modesto has adopted various
ordinances and resolutions authorizing the establishment of development user fees, and

WHEREAS, Section 9-1.08 of the Modesto Municipal Code authorizes the City
Council to establish building permit, plan checking and investigation fees in accordance
with a schedule approved by the City Council from time to time by resolution, and

WHEREAS, Section 4-3.08 of the Modesto Municipal Code authorizes the
Council to establish by resolution, investigation and permit fees relating to the moving of
houses, and

WHEREAS, collectively, the above fees are included in those fees referred to as
"Development User Fees", which are charged by the City of Modesto to pay for the cost
of various development services provided by City staff, and

WHEREAS, these fees are set forth in City Council Resolution Nos. 89-1003,
89-1004, 89-1005, 89-1006, 92-255, 93-263, and 2003-446, and

WHEREAS, Resolution 2003-446 adopted or amended current building permit fees and
other development user fees for the City of Modesto and included an annual cost of living
adjustment for some of those fees using 4th quarter figures of the Department of Labor’s
Employee Cost Index-Compensation Component for State and Local Government, and

WHEREAS, this annual cost of living adjustment was not adopted for building permit fees, and

WHEREAS, building permit fees have not been adjusted for inflation since August, 2003, and

WHEREAS, the Finance Committee recommended approval of the adoption of an annual cost of living adjustment for building permit fees on April 18, 2005, and

WHEREAS, the Finance Committee also recommended that the annual cost of living adjustment for building permit fees become effective July 1, 2005 and include the cost of living increase implemented on July 1, 2004, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on May 24, 2005, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held for the purpose of receiving public comments, and

WHEREAS, on May 24, 2005, by Resolution No. 278 the City Council adopted a policy of automatic annual adjustment for building permit fees, based on the increased cost of providing the service brought on by inflation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an annual cost of living adjustment for building permit fees, and that Resolution Nos. 89-1003, 89-1004, 89-1005, 89-1006, 92-255, 93-263, and 2003-446 be amended as follows:

All Building Permit Fees shall be automatically adjusted annually, in accordance with changes in the Department of Labor’s Employee Cost Index-Compensation
Component for State and Local Government. The adjustment shall be made and
published annually on or before July 1st of each year, by the Finance Department.

BE IT FURTHER RESOLVED that the Council finds that the California
Environmental Quality Act (CEQA) does not apply to the adoption of this resolution
pursuant to Sections 15378(b)(4).

BE IT FURTHER RESOLVED that the Council finds that should any fee,
provision, clause, paragraph or subparagraph be held invalid or unconstitutional, that
invalidity or unconstitutionality shall not affect other provisions or applications thereof
which can be given effect without the invalid fee, provision, clause, paragraph, or
subparagraph, and to this end, the provisions are declared severable. By adopting this
resolution, the City Council hereby declares that it would have adopted this resolution
without that fee, provision, clause, paragraph or subparagraph.

BE IT FURTHER RESOLVED by the City Council that this resolution shall take
effect in accordance with the law sixty (60) calendar days from the date of adoption of
this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May 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, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-279

A RESOLUTION APPROVING THE CITY OF MODESTO DRAFT 2005-2006 HUD ANNUAL ACTION PLAN, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SIGN THE REQUIRED CERTIFICATION AND DOCUMENTS FOR SUBMITTAL TO THE DEPARTMENT OF HOUSING AND URBAN DEPARTMENT (HUD)

WHEREAS, the City of Modesto receives the Community Development Block Grant (CDBG), HOME Investment Partnership Grant (HOME), and Emergency Shelter Grant (ESG) from the U. S. Department of Housing and Urban Development (HUD), and

WHEREAS, the City receives these grants annually because of its population size, number of households living below the poverty line, and the number of housing units that are considered substandard, and

WHEREAS, submittal of an Annual Action Plan is required to receive the City’s entitlement grants from HUD, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) recommended support of this item at its May 6, 2005, meeting, and

WHEREAS, a duly noticed public hearing was held by the City Council at its meeting of May 24, 2005, to consider submission of an application to the U.S. Department of Housing and Development (HUD) pertaining to the 2005-2006 HUD Annual Action Plan, which describes how the City intends to spend Federal assistance received from HUD in the areas of Community Development, Housing Production and Homeless Assistance,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2005-2006 HUD Annual Action Plan as presented to the Council for the
Community Development Block Grant (CDBG), HOME Investment Partnership Program (HOME) and the Emergency Shelter Grant (ESG), a copy of which is on file in the Office of the City Clerk, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute any and all documents necessary in relation to grant agreements, and City staff is hereby authorized to submit an application to the U.S. Department of Housing and Urban Development (HUD) pertaining to the 2005-2006 Annual Action Plan which describes how the City intends to spend Federal assistance received from HUD in the areas of Community Development, Housing Production and Homeless Assistance.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May 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, Marsh, O’Bryant, Mayor Ridenour

NOES:     Councilmembers: None

ABSENT:   Councilmembers: Keating

Attest:   JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
WHEREAS, Priority One Medical Transport has submitted an application to provide non-emergency medical transport within the City of Modesto, and

WHEREAS, Priority One Medical Transport has paid the required $1,000.00 filing fee and has provided all necessary information as outlined in Modesto Municipal Code Section 3-9.03, and

WHEREAS, a duly noticed public hearing was held by the Council of the City of Modesto on May 24, 2005, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider authorizing the issuance of a permit to Priority One Medical Transport for a non-emergency medical transport within the City of Modesto, and

WHEREAS, Modesto City Council approval is required for Priority One Medical Transport to function as a non-emergency medical transport service within the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED that based on the testimony in the public hearing and the investigation by the Modesto Police Department, that the Council finds as follows:

(a) That the vehicles described in the application and proposed to be used are appropriate for the purpose of nonemergency transport.
(b) That the color scheme, insignia, name, monogram or other distinguishing characteristics proposed to be used upon such nonemergency transport vehicles is not in conflict with and do not imitate any color scheme, insignia, name, monogram or other distinguishing characteristics used by any other person, in such manner as to mislead or tend to mislead, deceive, or defraud the public.

(c) That the applicant is fit, willing and able to perform nonemergency transport service and to conform to the provisions of the Modesto Municipal Code.

(d) That the proposed nonemergency transport service is required by the public convenience and necessity.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the issuance of a permit to Priority One Medical Transport for non-emergency medical transport within the City of Modesto.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May 2005 by Councilmember O’Bryant, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-281

A RESOLUTION ACCEPTING THE FORESIGHT CONSULTING REPORT ON WATER CONNECTION FEES AND APPROVING REEVALUATION OF CONNECTION FEES NO LESS OFTEN THAN EVERY THREE YEARS

WHEREAS, on November 23, 2004 Council adopted Resolution 2004-627 which rescinded all previous water fee resolutions, established a single-rate base and established fees associated with water operations and management, and

WHEREAS, as part of the November 23, 2004 action, Council directed staff to move forward with an analysis of the City’s water connection fees in order to ensure equity across the system so that current ratepayers are not unfairly burdened with the costs of providing water to future customers, and

WHEREAS, on January 18, 2005, Foresight Consulting made an oral presentation to the Council Finance Committee on the proposed connection fee components and fees, and

WHEREAS, Foresight presented a draft report which included three components: 1) Buy-In; 2) Phase II Treatment Plan, Downstream Improvements and Other Facilities; and 3) Additional future Capital Improvements and a draft fee structure, and

WHEREAS, City staff met with representatives from the Building Industry Association (BIA) to discuss their concerns with the proposed fees and methodology, and

WHEREAS, City staff also held a general stakeholders meeting with interested parties on the proposed connection fees, and
WHEREAS, based on feedback provided by BIA and other parties, Foresight Consulting and City staff recommended adoption of the following new connection fees to the Council Finance Committee on April 25, 2005:

<table>
<thead>
<tr>
<th>Meter Size</th>
<th>Connection Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/8 inch</td>
<td>$1,960</td>
</tr>
<tr>
<td>1 inch</td>
<td>$4,900</td>
</tr>
<tr>
<td>1.5 inch</td>
<td>$9,800</td>
</tr>
<tr>
<td>2 inch</td>
<td>$15,680</td>
</tr>
<tr>
<td>3 inch</td>
<td>$31,360</td>
</tr>
<tr>
<td>4 inch</td>
<td>$49,000</td>
</tr>
<tr>
<td>6 inch</td>
<td>$98,000</td>
</tr>
<tr>
<td>8 inch</td>
<td>$156,800</td>
</tr>
<tr>
<td>10 inch</td>
<td>$225,400</td>
</tr>
<tr>
<td>12 inch</td>
<td>$421,400</td>
</tr>
</tbody>
</table>

, and

WHEREAS, Foresight Consulting further recommended an annual inflator tied to the Engineering Construction Cost Index as utilized by the Capital Facilities Program and reevaluation of the connection fees every three (3) years, and

WHEREAS, the Council Finance Committee accepted the Foresight report on Water Connection Fees, the inflator and associated reevaluations no less often than every three years and recommended this be forwarded to the City Council at its April 25, 2005 meeting, and

WHEREAS, Council has adopted the foregoing fees as part of a separate resolution amending and restating Resolution No. 2004-627,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Foresight Consulting report on water connection fees.

BE IT FURTHER RESOLVED that these water connection fees will be reevaluated every three (3) years in conjunction with the City’s Water Rate Analysis.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 24th day of May 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, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-282

A RESOLUTION AMENDING SECTIONS 10 AND 14 OF RESOLUTION NO. 2004-627 ENTITLED “A RESOLUTION RESCINDING ALL PREVIOUS WATER FEE RESOLUTIONS, ESTABLISHING A SINGLE RATE BASE, AND ESTABLISHING FEES FOR THE PROVISION OF WATER AND ALL FEES ASSOCIATED WITH WATER OPERATIONS AND MANAGEMENT”

WHEREAS, Section 11-1.04 of the Modesto Municipal Code (MMC) authorizes the Council, by resolution, to establish charges for water service installation, and MMC Section 11-1.05 authorizes the Council, by resolution, to establish charges for water main connection charges, and MMC Section 11-6.05 authorizes the Council, by resolution, to establish charges for metered water services, and MMC Section 11-6.06 authorizes the Council, by resolution, to establish charges for unmetered water services, and

WHEREAS, MMC Section 11-6.02 authorizes the Council, by resolution, to establish charges for deposits for utility services, and MMC Section 11-6.08 authorizes the Council, by resolution, to establish charges for use of fire hydrants, and

WHEREAS, on November 23, 2004, the City Council adopted Resolution No. 2004-627 rescinding all previous water fee resolutions, establishing a single rate base, and establishing fees for the provision of water and all fees associated with water operations and management, and

WHEREAS, on April 26, 2005, the City Council adopted Resolution No. 2005-204 amending Sections 3 and 14 of Resolution No. 2004-267 to clarify that water connection charges are actual hookup fees and are not land based, and
WHEREAS, a study of water system connection fees by Foresight Consulting has been completed, and

WHEREAS, the study proposes new fees in order to ensure equity across the system so that current ratepayers are not unfairly burdened with the costs of providing water to future customers, and

WHEREAS, Resolution No. 2004-627 is hereby amended solely with respect to Sections 10 and 14, and

WHEREAS, Resolution No. 2004-627 is reaffirmed in every other respect and repeated in its entirety herein for the sake of administrative convenience,

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

DEFINITIONS:

A. Connection Charge - A one-time prorata charge to be paid by or on behalf of a prospective ratepayer for facilities existing in, or planned to be added to the City water system, minus deficiencies (previously known as Water System Fee).

B. City Water System ("System") - The City's physical assets dedicated to the provision of water to the public for human consumption, including assets for the collection, treatment, pumping, storage and distribution of water under the control of the City's operator.

C. Connection - The attachment of pipe facilities to the City water System for one or more water service uses.

D. Costs of Service - All costs appropriately borne by the entire rate base, calculated on a consumption basis to the extent practicable, and consisting of a fixed component, and a
variable component including the distribution of estimated costs of service obligations allocated
to the System by the City Council on a System-wide basis. Such costs shall exclude all capacity
charges, and include all deficiency charges.

E. Deficiencies - Water facilities required by law or recommended by generally
recognized authority as being necessary to the provision of a modern, safe, adequate, water
system of the City's size, with prudent reserves of quantity, pressure and transmission
infrastructure to meet reasonably foreseeable contingencies that are absent from the City water
System at any particular point in time.


G. Standard Billing Cycle - A standard period of time, usually consisting of one 28-
35 day month commencing from date of initiation of water service, and continuing until water
service termination. The Finance Director, or designee, shall have the authority to, from time to
time, redefine the standard billing cycle to better fit the needs and requirements of the City.

H. Water Acquisition Costs - All direct and indirect costs to the City for water
purchase, treatment and transmission to a connection with the System.

SECTION 1. WATER CHARGES BASED SOLELY ON COST OF SERVICES TO
THE RATEPAYER. In accordance with law, the charge for all water delivered by the System
shall be based solely on the cost of service to the ratepayer. Costs of service, in turn, shall
consist of two components: fixed costs, such as those for billing, meter reading where applicable,
and other general overhead, and variable costs, such as proportionate costs of the acquisition and
transmission of water, removal of deficiencies, higher operating and maintenance costs
apportioned to ratepayers with service demands requiring larger meters, and the costs of the
commitment of the System to high-quality maintenance, and the provision of clean water at adequate pressure under all circumstances under the System's control, or as mandated by agencies outside the City as elaborated more fully below.

The City Council has evaluated the costs of service, including the costs of correcting existing deficiency in its water System and of growth, and of underwriting certain commitments to its rate base on a System-wide basis. The City's water utility is regional in nature, and its revenue requirements, or cash needs, have been attributed to the System as a whole. In certain cases, costs of only the engineering characteristics of the System may vary with a ratepayer's location. Nevertheless the Council believes the cost of service exceeds asset costs, because the Council has committed to intangible service elements in addition to fixed asset costs. These are:

1. To provide high-quality maintenance at cost.
2. To plan for and provide adequate future supplies of water for the metropolitan area.
3. To act promptly to assure a clean water supply in light of the likelihood that unpredictable and possibly dramatic changes in the regulatory climate will occur.
4. To provide clean water at adequate pressures under all reasonable circumstances.

The Council is advised that some, or perhaps many, of the assets planned to insure its promises will be located geographically apart from existing System components because different areas of a large regional System will have differing physical asset requirements through time. Thus, the primary benefit of the System to any individual ratepayer will be in the fulfillment of the Council's commitments, in contrast to the ratepayer's proximity to any specific existing or planned physical asset. In sum, the principal service of the System is and shall be the keeping of its commitments, not the geographical distribution of its physical components, or their physical effects on the water commodity those assets provide.
SECTION 2. COST OF DELIVERED WATER BASED ON QUANTITY USED IN BILLING CYCLE. It is the policy of the City of Modesto that all charges for water delivered by the System shall be determined by the quantity of water used in a standard billing cycle as determined from metered water usage for metered services, and estimated usage of unmetered (flat-rate) services, where services are metered and said meters are read for billing purposes. All estimated flat rate services will be a metered rate as services are converted and/or as funds become available.

SECTION 3. PAYMENT OF CONNECTION CHARGES. In the case of new subdivisions or parcel maps the fee shall be collected upon the issuance of the building permit.

SECTION 4. DEFICIENCY CHARGES. System modernization and improvement, as opposed strictly to expansion, benefits all of the rate base. Accordingly, the cost of removing deficiencies shall be borne by the entire rate base as a component of the variable cost per 100 cubic feet of delivered water.

SECTION 5. ALLOCATION OF WATER ACQUISITION AND TRANSMISSION COSTS. Water acquisition and transmission costs for the System are appropriately apportioned between existing deficiencies and growth requirements. Accordingly, an engineering determination has been made in the West Yost "Justification and Cost Allocation for Proposed Water System Improvements Study", accepted by Council on September 14, 2004, that 74.2% of the City's water acquisition costs be included in deficiency charges, and that the remaining 25.8% be attributed to growth, and apportioned to and collected in connection charges.

SECTION 6. DETERMINATION OF FIXED AND VOLUME BASED CHARGES FOR DELIVERY OF WATER TO RATEPAYERS. The charge for all water delivered through
a metered service where the meters are read for billing purposes, as practical, and as determined by the Finance Director, or designee, with the concurrence of the Public Works Director after December 31, 2004, set forth in the *Water Utility Cost of Service Rate Study* prepared by Foresight Consulting, accepted by Council on September 14, 2004, shall be:

<table>
<thead>
<tr>
<th>Proposed Monthly Metered Water Rates (by meter size)</th>
<th>Year 1 1-Jan-05</th>
<th>Year 2 1-Jul-05</th>
<th>Year 3 1-Jul-06</th>
<th>Year 4 1-Jul-07</th>
<th>Year 5 1-Jul-08</th>
</tr>
</thead>
<tbody>
<tr>
<td>Volume-based Rate ($/hcf)</td>
<td>$0.84</td>
<td>$1.01</td>
<td>$1.16</td>
<td>$1.22</td>
<td>$1.28</td>
</tr>
<tr>
<td>Fixed Monthly Meter Charge (in addition to volume-based charges)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5/8&quot;-3/4&quot; meter</td>
<td>$9.01</td>
<td>$10.82</td>
<td>$12.44</td>
<td>$13.06</td>
<td>$13.71</td>
</tr>
<tr>
<td>1&quot; meter</td>
<td>$12.78</td>
<td>$15.34</td>
<td>$17.64</td>
<td>$18.52</td>
<td>$19.45</td>
</tr>
<tr>
<td>1-1/2&quot; meter</td>
<td>$22.13</td>
<td>$26.55</td>
<td>$30.53</td>
<td>$32.06</td>
<td>$33.66</td>
</tr>
<tr>
<td>2&quot; meter</td>
<td>$33.38</td>
<td>$40.06</td>
<td>$46.06</td>
<td>$48.37</td>
<td>$50.79</td>
</tr>
<tr>
<td>3&quot; meter</td>
<td>$63.43</td>
<td>$76.12</td>
<td>$87.53</td>
<td>$91.91</td>
<td>$96.51</td>
</tr>
<tr>
<td>4&quot; meter</td>
<td>$97.19</td>
<td>$116.6 3</td>
<td>$134.13</td>
<td>$140.83</td>
<td>$147.88</td>
</tr>
<tr>
<td>6&quot; meter</td>
<td>$190.9 5</td>
<td>$229.1 4</td>
<td>$263.51</td>
<td>$276.68</td>
<td>$290.51</td>
</tr>
<tr>
<td>8&quot; meter</td>
<td>$303.4 9</td>
<td>$364.1 9</td>
<td>$418.82</td>
<td>$439.76</td>
<td>$461.75</td>
</tr>
<tr>
<td>10&quot; meter</td>
<td>$434.8 4</td>
<td>$521.8 0</td>
<td>$600.07</td>
<td>$630.08</td>
<td>$661.58</td>
</tr>
<tr>
<td>12&quot; meter</td>
<td>$809.9 5</td>
<td>$971.9 5</td>
<td>$1,117.7 4</td>
<td>$1,173.6 2</td>
<td>$1,232.31</td>
</tr>
</tbody>
</table>

hcf = Hundred cubic feet
The above listed fixed meter charges shall be charged to all ratepayers in every billing cycle. This fixed cost will be charged whether or not any water is actually used by a ratepayer in a given billing cycle until such time as water service is terminated by the customer.

The proposed rate increase(s) are based on currently available information. The actual bills are rounded and may be slightly different than listed above.

SECTION 7. CHARGES FOR UNMETERED WATER SERVICES. The charge for all water delivered from an unmetered service after December 31, 2004, has been cost-estimated as closely as possible to average metered rates as follows: Until such time as the subject residential property is billed at a metered rate:

<table>
<thead>
<tr>
<th>Proposed Monthly SFR Flat Water Rates*</th>
<th>Year 1 1 Jan-05</th>
<th>Year 2 1-Jul-05</th>
<th>Year 3 1-Jul-06</th>
<th>Year 4 1-Jul-07</th>
<th>Year 5 1-Jul-08</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-5,000 sq. ft. lot</td>
<td>$24.47</td>
<td>$29.36</td>
<td>$33.77</td>
<td>$35.45</td>
<td>$37.23</td>
</tr>
<tr>
<td>5,001-7,000 sq. ft. lot</td>
<td>$27.81</td>
<td>$33.37</td>
<td>$38.38</td>
<td>$40.30</td>
<td>$42.31</td>
</tr>
<tr>
<td>7,001-11,000 sq. ft. lot</td>
<td>$33.00</td>
<td>$39.60</td>
<td>$45.54</td>
<td>$47.82</td>
<td>$50.21</td>
</tr>
<tr>
<td>11,001-17,000 sq. ft. lot</td>
<td>$35.03</td>
<td>$42.04</td>
<td>$48.34</td>
<td>$50.76</td>
<td>$53.30</td>
</tr>
</tbody>
</table>
* If a SFR property has a water meter that is read, then the appropriate Metered Water Rate will be used.

The proposed rate increase(s) are based on currently available information. The actual bills are rounded and may be slightly different than listed above.

When water service is turned on or off anytime between the beginning and end of a billing cycle, the amount charged to an unmetered (flat-rate) service shall be pro-rated.

SECTION 8. RESCISSION OF ALL PREVIOUS RESOLUTIONS RELATING TO WATER DELIVERY OR WATER OPERATIONS AND MANAGEMENT. All resolutions of the City Council setting any rates or fees whatsoever for the delivery of water, or for costs associated with operation or management of the water System, are hereby rescinded; except that water rates established by the rescinded resolutions shall remain in effect until the rates established in this resolution take effect on January 1, 2005. This resolution shall be the sole basis for determining any water fee to be charged to a ratepayer or potential ratepayer, or paid on behalf of a potential ratepayer by the City on and after January 1, 2005.

SECTION 9. COST OF METERS AND INSTALLATION. The cost of meters and of meter installation and repair for existing ratepayers when this resolution is enacted has been included in the fixed cost assigned to the rate base for water consumption, since metering has been determined to benefit the rate base as a whole.
SECTION 10. CONNECTION FEES. The law requires that charges attributable purely to growth (new connections) be borne solely by those new connections. Accordingly, the planned infrastructure cost for deficiencies in the existing System, and for costs associated with new growth have been apportioned as follows: 74.2% attributable to existing deficiencies and 25.8% attributable to new growth. These percentages have been applied to anticipated capital costs on a going forward basis for the five-year period following the date of this resolution. Combined with the growth-induced component of water acquisition costs and the apportioned cost of “buying-into” the existing system, this will result in the establishment of connection charges.

SECTION 11. WATER DISCOUNT FOR LOW INCOME SENIOR CITIZENS AND LOW INCOME DISABLED. The law prohibits all such cross-category subsidies requiring one ratepayer to subsidize the costs of another. Accordingly, the City Council may from time to time, by separate resolution, enact subsidies for certain categories of ratepayers, as the City Council may see fit, provided that the source(s) of funds to implement such subsidies are source(s) separate from the water enterprise fund.

SECTION 12. INFLATOR INDEX AND REASSESSMENT OF COST OF SERVICE. The costs of service set forth above shall be re-examined every two years by engineers, consultants, and professionals competent in the field. Such engineers, consultants and professionals shall provide a report to the City updating both fixed and volume based costs as appropriate and as recommended to the Council by the Finance Director and the Public Works Director. After June 30, 2009, the Finance Director, or designee, with the concurrence of the Public Works Director, shall have the authority, on an annual basis, to raise either fixed or
variable costs, or both, as appropriate, by an amount not to exceed the percentage increase in the Consumer Price Index (CPI), Urban Wage Earners and Clerical Workers Series for the San Francisco CMSA, as prepared by the California Department of Finance Demographics Research Unit.

SECTION 13. WATER CHARGES FOR WATER USED DURING BUILDING CONSTRUCTION.

(a) The water service charge furnished to single-family residences, duplexes, and triplexes that are under construction will be a flat rate charge based on the formula below. This charge will be assessed and paid at the time of building permit issuance.

120 Day Residential Construction Water Rate:
Current Flat Rate for Smallest Lot Area +
Current City Utility Tax x 4 months

(b) The water service charge specified in the first paragraph provides for water service for 120 days. Subsequent to that time, the water service fee shall be collected on a regular monthly billing based on the full size of the lot unless the owners request the water to be turned off at the end of 120 days.

(c) In the event construction ceases before the building is completed, the water to the building site will be turned off unless the property owner has made arrangements for regular service.

(d) In the event a structure is occupied before final inspection of the structure, or water is used for other than normally required for construction, the water service charge will be made at the established rate for regular service.

(e) Charges for water services during the construction of apartments, commercial buildings, and industrial buildings will be at the regular metered water service charge.

SECTION 14. Fixed fees for all System operations and management services have been calculated and are hereby imposed as follows:
### USER FEES

<table>
<thead>
<tr>
<th>USER FEES</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deposit</td>
<td>Not to exceed 3 times the estimated average bill or 2 times the normal monthly bill.</td>
</tr>
<tr>
<td>Disconnect</td>
<td>$10.00</td>
</tr>
<tr>
<td>Reconnect</td>
<td>$10.00</td>
</tr>
<tr>
<td>Late Payment Penalty</td>
<td>$4.35</td>
</tr>
<tr>
<td>Returned Check</td>
<td>$10.00</td>
</tr>
<tr>
<td>Collection Agency</td>
<td>$16.50</td>
</tr>
<tr>
<td>Water Disconnection Notice (final notice mailed or doorhangers)</td>
<td>$10.00</td>
</tr>
<tr>
<td>Unauthorized Reconnect (illegal on)</td>
<td>$25.00</td>
</tr>
<tr>
<td>Lock Breakage/Lock Replacement</td>
<td>$75.00</td>
</tr>
<tr>
<td>Disconnect Waterline at Main for Non-payment (line cut)</td>
<td>$375.00</td>
</tr>
</tbody>
</table>

### DEVELOPMENT FEES

<table>
<thead>
<tr>
<th>DEVELOPMENT FEES</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Connection Charge <em>1</em>3</td>
<td></td>
</tr>
<tr>
<td>5/8&quot; Service *2</td>
<td>$1,960.00</td>
</tr>
<tr>
<td>1&quot; Service</td>
<td>$4,900.00</td>
</tr>
<tr>
<td>1.5&quot; Service</td>
<td>$9,800.00</td>
</tr>
<tr>
<td>2&quot; Service</td>
<td>$15,680.00</td>
</tr>
<tr>
<td>3&quot; Service</td>
<td>$31,360.00</td>
</tr>
<tr>
<td>4&quot; Service</td>
<td>$49,000.00</td>
</tr>
<tr>
<td>6&quot; Service</td>
<td>$98,000.00</td>
</tr>
<tr>
<td>8&quot; Service</td>
<td>$156,800.00</td>
</tr>
<tr>
<td>10&quot; Service</td>
<td>$225,400.00</td>
</tr>
<tr>
<td>12&quot; Service</td>
<td>$421,400.00</td>
</tr>
<tr>
<td>Water Main Installation Charge</td>
<td>$18.00 per lineal foot of lot frontage</td>
</tr>
<tr>
<td>Water Service Installation Charge</td>
<td></td>
</tr>
<tr>
<td>1&quot; Service</td>
<td>$1,108.00</td>
</tr>
<tr>
<td>Service Size</td>
<td>Service Fee</td>
</tr>
<tr>
<td>--------------</td>
<td>-------------</td>
</tr>
<tr>
<td>1-1/2&quot; Service</td>
<td>$1,130.00</td>
</tr>
<tr>
<td>2&quot; Service</td>
<td>$1,156.00</td>
</tr>
<tr>
<td>4&quot; Service</td>
<td>$2,131.00</td>
</tr>
<tr>
<td>6&quot; Service</td>
<td>$2,131.00</td>
</tr>
<tr>
<td>8&quot; Service</td>
<td>$2,347.00</td>
</tr>
<tr>
<td>10&quot; Service or larger</td>
<td>At Cost</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Water Meter Fee</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1&quot; Meter/New Service - pedestrian lid</td>
<td>$115.00</td>
</tr>
<tr>
<td>1&quot; Meter/New Service - traffic lid</td>
<td>$176.00</td>
</tr>
<tr>
<td>1&quot; Meter/Retrofit Service - pedestrian lid</td>
<td>$520.00</td>
</tr>
<tr>
<td>1&quot; Meter/Retrofit Service - traffic lid</td>
<td>$600.00</td>
</tr>
<tr>
<td>1-1/2&quot; Meter with pedestrian lid</td>
<td>$484.00</td>
</tr>
<tr>
<td>1-1/2&quot; Meter with traffic lid</td>
<td>$545.00</td>
</tr>
<tr>
<td>2&quot; Meter with pedestrian lid</td>
<td>$520.00</td>
</tr>
<tr>
<td>2&quot; Meter with traffic lid</td>
<td>$582.00</td>
</tr>
<tr>
<td>4&quot; Meter</td>
<td>$1,820.00</td>
</tr>
<tr>
<td>6&quot; Meter</td>
<td>$2,400.00</td>
</tr>
<tr>
<td>8&quot; Meter</td>
<td>$3,350.00</td>
</tr>
<tr>
<td>10&quot; Meter or larger</td>
<td>At Cost</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Pavement</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pavement</td>
<td>$439.00 for each trench</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fee Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parcel Reduction</td>
<td>$37.00</td>
</tr>
<tr>
<td>Water Connection for Main extension</td>
<td>$2,820.00</td>
</tr>
<tr>
<td>Reimbursement Agreement Preparation</td>
<td>$175.00</td>
</tr>
<tr>
<td>Outside City Limits Agreement</td>
<td>$35.00</td>
</tr>
<tr>
<td>Fire Hydrant Installation (each)</td>
<td>$2,635.00</td>
</tr>
<tr>
<td>Fire Hydrant Line from Main per Lineal Foot</td>
<td>$3.00</td>
</tr>
<tr>
<td>Pavement Replacement</td>
<td>$439.00</td>
</tr>
<tr>
<td>Fire Main Test</td>
<td>$90.00</td>
</tr>
<tr>
<td>Deposit to Install Meter on Fire Hydrant for Construction Water</td>
<td>$500.00</td>
</tr>
<tr>
<td>Fire Hydrant Meter Use Deposit</td>
<td>$500.00</td>
</tr>
<tr>
<td>Fire Service Installation Inspection/Test</td>
<td>$90.00</td>
</tr>
<tr>
<td>Install 4&quot; Single Check Valve</td>
<td>$390.00</td>
</tr>
</tbody>
</table>
Install 6" Single Check Valve $479.00
Install 8" Single Check Valve $688.00
Voluntary Installation of Fire Sprinklers, Apartments 8.3% of normal charge
Voluntary Installation of Fire Sprinklers, SFD, Duplexes, Townhouses $50.00

*1 Connection charges effective 7/25/05. These charges will be reviewed and updated annually after fiscal year 2005-06 for inflation adjustments based on the engineering construction cost-index beginning July 1, 2006.

*2 Single family residences qualify for the 5/8" connection fee only under the following conditions:
   - Single story, single family residences on a lot of 4,000 square feet or less.
   - Two-story single family residences on a lot of 4,000 square feet or less, provided the request for such a service is accompanied by a report from a licensed professional engineer (and approved by the Public Works Director) that certifies that the 5/8" service is adequate to meet the needs of the proposed dwelling.
   - A 5/8" "service" shall not be allowed for single family dwellings of greater than 2 stories on lots less than 4,000 square feet.

*3 Service upgrades shall be subject to the connection charge set forth in this resolution, less the amount of the connection charge set forth in this resolution for the size of the initial installation.

All Development fees shall be due and may only be paid at the time a building permit is issued. Development fees shall be calculated and collected based on the proportionate area of the parcel for which the building permit is being issued and/or the parcel is being developed and only for those connections required for actual issuance of the building permit. No other Development fees for the remainder of the parcel may be paid until further building permits are issued. For purposes of this paragraph the Public Works Director, or designee, shall determine the proportionate area of the parcel being developed. The decision of the Public Works Director in this regard shall be final.

SECTION 15. For purposes of supporting an exemption from CEQA pursuant to Section 15273(4) of the CEQA Guidelines, the City Council finds with respect to the water rates and connection charges set forth above, that they are for the following purposes:

(a) Meeting operating expenses;
(b) Purchasing or leasing supplies, equipment, or materials;
(c) Meeting financial reserve needs and requirements; and

(d) Obtaining funds for capital projects necessary to maintain service within existing service areas.

SECTION 16. This resolution shall become effective on and after July 25, 2005.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 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, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: ________________

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: ____________________

MICHAEL D. MILICH, City Attorney
A RESOLUTION APPOINTING DOUG MOORE TO BOARD OF BUILDING APPEALS

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

WHEREAS, the Economic Development Committee met on May 9, 2005, and recommended appointment of DOUG MOORE to the Board of Building Appeals.

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

SECTION 1. DOUG MOORE is hereby appointed to the Board of Building Appeals with a term expiration of January 1, 2007.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Board of Building Appeals, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 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

06/07/05/CM/E Puckett/Item No 3 1 2005-283
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-284

A RESOLUTION APPOINTING DIANE L. HERNANDEZ
TO THE COMMUNITY QUALITIES FORUM

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

WHEREAS, the Economic Development Committee met on May 9, 2005, and recommended appointment of DIANE L. HERNANDEZ, a southwest area resident, to the Community Qualities Forum.

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

SECTION 1. DIANE L. HERNANDEZ, a southwest area resident, is hereby appointed to the Community Qualities Forum with term expirations of January 1, 2008.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the Community Qualities Forum and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 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

APPROVED AS TO FORM:

By: ____________________________
MICHAEL D. MILICH, City Attorney

ATTEST: ______________________
JEAN ZAHR, City Clerk

06/07/05/CMI/Packet/Item No 3 1 2005-284
A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN EMPLOYMENT AGREEMENT WITH JUDITH E. RAY TO SERVE AS DEPUTY CITY MANAGER AT AN ANNUAL SALARY OF $122,400

WHEREAS, Judith E. Ray has been serving in the acting capacity of Assistant to the City Manager since October 5, 2004, and as Acting Finance Director since April 12, 2005, and

WHEREAS, Section 900 of the City's Charter provides that the City Manager of Modesto, California, shall appoint the Deputy City Manager, in the Unclassified Service, to serve at the pleasure of the City Manager for an indefinite term, and may remove the Deputy City Manager at his pleasure, and

WHEREAS, the City desires to enter into an employment agreement with Judith E. Ray to serve as Deputy City Manager of the City of Modesto and to provide the terms and conditions by which City shall retain the service of Judith E. Ray at an annual salary of $122,400.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager to sign an employment agreement with Judith E. Ray to serve as Deputy City Manager of the City of Modesto at an annual salary of $122,400. Said employment agreement is attached hereto as Exhibit A and incorporated herein by this 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: Jhan Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
EMPLOYMENT AGREEMENT

This Agreement, made and entered into this 7th day of June, 2005 by and between the CITY OF MODESTO, State of California, a municipal corporation, hereinafter called, "CITY" and JUDITH E. RAY, hereinafter referred to as "EMPLOYEE," both of whom understand as follows:

RECITALS:

WHEREAS, EMPLOYEE has been continuously employed by the CITY in the Classified Service, since June 8, 1982, and currently retains the classification of Deputy Director of Public Works, and

WHEREAS, EMPLOYEE has been serving in the acting capacity of Assistant to the City Manager since October 5, 2004, and as Acting Finance Director since April 12, 2005, and

WHEREAS, Section 900 of the CITY's Charter provides that the City Manager of Modesto, California, shall appoint the Deputy City Manager, in the Unclassified Service, to serve at the pleasure of the City Manager for an indefinite term, and may remove the Deputy City Manager at his pleasure, and

WHEREAS, it is the desire of the parties hereto to provide the terms and conditions by which CITY shall retain the service of EMPLOYEE and to provide for her to remain in such employment.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1. Duties

CITY hereby agrees to employ said Judith E. Ray as Deputy City Manager of said CITY to perform the functions and duties specified in the attached job description.

Section 2. Term

a. Effective June 7, 2005, EMPLOYEE shall be promoted to Deputy City Manager in the Unclassified Service, at the salary set forth herein and shall serve in this capacity until such time as EMPLOYEE terminates or resigns from the position of Deputy City Manager.

b. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the City Manager to terminate the services of EMPLOYEE at any time, subject only to the provisions set forth in Section 3, below.

c. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of EMPLOYEE to resign at any time from her position as Deputy City Manager, subject only to the provisions set forth in Section 3, below.
Section 3. **Termination**

a. Notwithstanding any contrary provision of the Modesto Municipal Code and/or Personnel Rules of the City of Modesto, in the event the City Manager elects to terminate this agreement on or before October 5, 2006, said EMPLOYEE shall have reinstatement rights to the classification of Deputy Director of Public Works, provided that such termination is for reasons other than good cause.

b. In the event EMPLOYEE voluntarily resigns from the position of Deputy City Manager on or before October 5, 2006, EMPLOYEE shall have reinstatement rights to the classification of Deputy Director of Public Works.

c. Termination of this agreement by either party after October 5, 2006 shall not provide for reinstatement to the classification of Deputy Director of Public Works or to any other position in the Classified Service.

Section 4. **Salary and Benefits**

a. CITY agrees to pay EMPLOYEE for her services rendered pursuant to this agreement a monthly base salary of $10,200.00, payable in the installments at the same time as other employees of the CITY are paid. In addition, EMPLOYEE shall be granted salary increases within the salary range established by the City Council, based on merit and fitness as determined by the City Manager.

b. EMPLOYEE shall be eligible for all benefits currently authorized by the City Council for non-sworn Executive employees, and as such benefits may be amended from time to time by Council.

Section 5. **Notices**

Notices pursuant to this agreement shall be given by deposit in the custody of the United States Postal Service, postage pre-paid, addressed as follows, or as such address may be changed from time to time upon notice to the other:

**CITY:**
City Manager
City of Modesto
1010 Tenth Street
P. O. Box 642
Modesto, CA 95353

**EMPLOYEE:**
Judith E. Ray
924 Gina Court
Escalon, CA 95320

Alternatively, notices required pursuant to this agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed
given as of the date of the personal service or as of the date of deposit of such written notice in the course of transmission in the United State Postal Service.

Section 6. General Provisions

a. The text herein shall constitute the entire agreement between the parties.

b. This agreement shall be binding upon and inure to the benefit of the heirs at law and executors of EMPLOYEE.

c. This agreement shall become effective commencing the 7th day of June, 2005.

d. If any provision, or any portion thereof, contained in this agreement is held unconstitutional, invalid or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

IN WITNESS WHEREOF the CITY OF MODESTO, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2005-285, adopted by the Council of the City of Modesto on the 7th day of June, 2005, and EMPLOYEE has caused this Agreement to be duly executed.

CITY OF MODESTO

By: ____________

GEORGE W. BRITTON
City Manager

ATTEST:

By: ____________

JEAN M. ZAHR, City Clerk

APPROVED AS TO FORM:

By: ____________

MICHAEL D. MILICH, City Attorney

EMPLOYEE:

JUDITH E. RAY
CITY OF MODESTO
No. 1530
APRIL, 1988
DEPUTY CITY MANAGER

DEFINITION
To assist the City Manager in planning, organizing and directing the overall administrative activities and operations of the City; to coordinate activities among and with other departments; and to provide staff assistance to the City Manager and City Council.

SUPERVISION RECEIVED AND EXERCISED
Receives administrative direction from the City Manager.
Exercises direct and indirect supervision over professional and clerical staff

EXAMPLES OF DUTIES - Duties may include, but are not limited to, the following:
Assist the City Manager in developing, planning, implementing and administering City-wide goals and objectives as well as policies and procedures necessary to provide City services; approve new or modified programs, systems, policies and procedures.
Provide direction and advice to City Department management; coordinate interdepartmental activities as well as City activities with outside agencies and organizations.
Assist the City Manager in directing the development and administration of the City's budget; analyze and forecast City revenue and expenditures; monitor and approve expenditures.
Participate in the City's labor relations activities; assist in developing labor relations objectives and strategies.
Direct, oversee and participate in a variety of activities within the City Manager's Office; assign work activities, projects and programs; monitor work flow; review and evaluate work products, methods and procedures.
Perform or supervise comprehensive management analyses in a wide range of municipal policies, organization, procedures, budgetary and finance areas; prepare and present staff reports and other necessary correspondence.
Meet with members of the public including members of the business community and citizen groups to explain City policies, procedures, goals and objectives; negotiate agreements and resolve difficult City administration related problems and questions.
EXAMPLES OF DUTIES (Continued)

Provide staff assistance to the City Council, committees, commissions and the City Manager in matters related to a wide variety of City administration activities and programs.

Review and respond to citizen complaints or requests for information; oversee the preparation of City publications.

Train, motivate and evaluate staff; establish and monitor employee performance objectives; prepare and present employee performance reviews; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures.

Assume overall administrative responsibility for all City activities in the absence of the City Manager.

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Modern and highly complex principles and practices of municipal government administration; departments, organization, and economic development functions and services.

Principles of personnel administration, supervision and training.

Methods and techniques of public administration research, analysis and report preparation.

Principles and practices of municipal budget preparation and administration.

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

Ability to:

Select, supervise, train and evaluate professional staff.
Ability to: (Continued)

Interpret applicable laws, rules and regulations. Prepare and analyze fiscal and organizational reports, statements and correspondence.

Analyze, interpret, summarize and present administrative and technical information and data in an effective manner.

Develop, prepare and administer a large municipal budget.

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

Communicate clearly and concisely, both orally and in writing.

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 increasingly responsible municipal administrative experience including significant administrative and personnel management responsibilities.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in public or business administration or a closely related field. A Master's degree in public administration is highly desirable.
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-286

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND MCHENRY-MODESTO, A CALIFORNIA LIMITED PARTNERSHIP, BEING A PORTION OF ASSESSORS PARCEL NO. 120-033-024, FOR THE WELL #21 EXPANSION PROJECT

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with the McHenry-Modesto, a California Limited Partnership for the Well #21 Expansion Project to purchase the necessary real property for the expansion of the Well site to construct wellhead treatment facilities, and

WHEREAS, real property needs to be acquired for this expansion project, and

WHEREAS, an agreement is needed for the acquisition of the needed real property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that an agreement between City of Modesto and McHenry-Modesto, a California Limited Partnership for the Well #21 Expansion Project, being a portion of Assessors Parcel No. 120-033-024, is hereby approved.

BE IT FURTHER RESOLVED THAT the execution of said Agreement by the City Manager on behalf of the City of Modesto is hereby 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 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

Approved as to Form:

MICHAEL D. MILICH, City Attorney

ATTEST: 

JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-287

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN
ACCEPTANCE FORM FOR A GRANT DEED FOR THE ACQUISITION OF
PROPERTY OWNED BY MCHENRY-MODESTO, A CALIFORNIA LIMITED
PARTNERSHIP, BEING A PORTION OF ASSESSORS PARCEL NO. 120-033-
024, FOR THE WELL #21 EXPANSION PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to
accept real property prior to the recordation of a deed or adopt a resolution accepting real
property, and

WHEREAS, the City of Modesto desires to acquire right of way from McHenry-
Modesto, a California Limited Partnership, being a portion of Assessors Parcel No. 120-
033-024 for the Well #21 Expansion Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the City Manager is hereby authorized to sign an acceptance form on behalf of the
City of Modesto for a Grant Deed for the acquisition of property owned by McHenry-
Modesto, a California Limited Partnership, being a portion of Assessors Parcel No. 120-
033-024 for the Well #21 Expansion 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: [Signature]
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

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

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

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